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THE ACTS OF THE EARLS OF DUNBAR RELATING TO SCOTLAND c.1124 - c.1289: A STUDY OF LORDSHIP IN SCOTLAND IN THE TWELFTH AND THIRTEENTH CENTURIES

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University of Glasgow

A thesis submitted for the degree of Doctor of Philosophy,
University of Glasgow, October 2003

The acts of the earls of Dunbar relating to Scotland c.1124-c.1289: a study of Lordship in Scotland in the twelfth and thirteenth centuries.

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The thesis seeks to analyse the nature of the Dunbar lordship, uncovering its particular and essential features, yet placing and assessing it in the context of twelfth and thirteenth-century Scottish aristocratic society.

The House of Gospatric was established in Scotland by Malcolm III after 1072 and endowed with lands surrounding the stronghold of Dunbar, in Lothian. The descendants of Gospatric accumulated vast estates in Lothian and the Merse, assuming the title 'earl of Dunbar' by c.1200. Their charters, of which the earliest surviving dates to the earldom of Gospatric, brother of Dolfin (died c.1138), belong to the mainstream of European charter culture and exemplify many of the changes in diplomatic observable elsewhere. They are rich in evidence which can be used with that of the chronicles, and of the English and later Scottish public records, concerning the extent of the Dunbar estate in south-east Scotland. They indicate a variety of forms of lay tenure, with land used flexibly by the earls to endow the family, to install associates as tenants and dependants, and to elicit service and revenue; and they show these patterns of land use to have been replicated by those to whom Dunbar land was granted. Women were part of the process, making and assenting to grants. Links with the religious orders were forged and re-forged through benefaction, but dispute settlement and control mechanisms lay at the heart of much of the charter production of the period. Patterns of witnessing varied, according to the context of the charter. The people who served the earl – his family and his dependants, his employees in his estate and household, his associates in aristocratic society – can be identified, grouped and analysed through studies of the witness lists, and the origins and offshoots of their families explored. These formed a network of both dependency and support which was crucial to the functioning of the Dunbar lordship. Whether the structure can be termed feudal is more problematic.

The comital economy was based on arable and pastoral farming, and in the charters there are land management agreements which suggest a heavy involvement in the wool trade. The importance of the maritime economy is glimpsed in arrangements linking to fishing and shipping, and ancillary industries such as salting. There are references to an infrastructure sophisticated enough to sustain extensive trade and commerce. Moreover, the developing sense of the cohesiveness of the earldom to which aspects of

the Dunbar charters testify connects well with the impression of an active lordship with a coherent economic strategy at a time of growth and expansion.

In an era of change also in the relationship between the Church and lay society, the charters tell of issues of patronage and the control of teinds, of the foundation and endowment of religious houses with land and churches, the competing jurisdiction of lay and ecclesiastical courts. When its power was challenged, the Dunbar lordship responded flexibly, standing its ground in some areas, yielding or seeming to yield in others.

Similarly on the national stage the earls played a prominent role, but one which had to be adapted to the growth of royal justice and the evolution and systematisation of judicial processes. They intermarried with the royal house and from earliest times were close associates of the Scottish kings whose charters they witnessed. Though cross-border lords with extensive English lands and particular frontier responsibilities, they undoubtedly played primarily on the Scottish stage.

There are six appendices to the thesis. The calendar of the ninety-two acts of the earls thus far identified lists seventy-five acts for which a charter text exists, and seventeen lost acts. Three of the former are addressed to laymen, the remainder to the religious houses of Coldstream, Dryburgh, Kelso, May, Melrose, Newbattle, Paisley and the monks of Durham at Durham and Coldingham. Thirty-eight acts survive as original charters, and, of these, six are printed for the first time. Thirteen original Dunbar charters, and ten seals and five counterseals are reproduced. Genealogical tables of the Dunbars, the Frasers and the Edgars, and maps of Dunbar lands are included. A short description of the Dunbar lands in Northumberland is given, with maps.

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Preface and Acknowledgements

I must record my thanks to the staff of the various archives and libraries where I have researched over the last several years. These include the National Library, the British Library, the libraries of the Universities of Glasgow and Edinburgh, the Royal Commission on Ancient and Historic Monuments; and the National Archives, where the Historical Search Room front-of-house desk staff have been outstandingly helpful and courteous. I am particularly indebted to Mr Alan Piper of Durham Cathedral Archive for the quiet efficiency of their service and for the provision of negatives of the earls' charters and digital images of their seals at Durham, some of which have been reproduced in this study.

Mr Geoffrey Stell of the RCAHM has given me much helpful advice and has generously loaned me xerox copies of Coldstream and Melrose original charters, which have greatly expedited the making of the calendar of the earls' acts. Sir Malcolm Innes of Edingight, formerly Lord Lyon King of Arms, guided me through the unfamiliar world of heraldry and provided invaluable background information. Dr Pat Dennison of the Centre for Scottish Urban History kindly gave me early access to the information on Historic Dunbar, since published. I have been given a warm welcome and ready assistance by members of the Dunbar and District History Society and by Mr Tom Goodall, formerly manager of Hirsel Estates. Belhaven Brewery sent literature on the history and location of the brewery and maps of The Monks' Croft.

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To my family, I can only express my heartfelt thanks for support in a multiplicity of ways which cannot be listed here. Without that support, this study would never have been started; it would never have continued; and it most certainly would never have been completed.

Author's declarations

The length of this thesis, including references, all but one of the appendices and bibliography, does not exceed 120,000 words; the length of the Calendar of Acts does not exceed 40,000. These limits have been agreed with the Higher Degrees Committee of the Faculty of Arts of the University of Glasgow.

Except where otherwise indicated in the text, the thesis is my own work and does not include the outcome of any work undertaken in collaboration.

The thesis has not been and will not be submitted for a degree at any other university.

Conventions

Throughout the thesis document 'villa' is translated as 'toun', 'prepositus' as 'grieve', 'decima' as 'teind', 'carucata' as 'ploughgate'. 'In feodo et hereditate' is translated as 'in feu and heritage', 'ferme' is a money-rent. The terms 'merk' and 'brieve' (writ) have been preferred. 'Anent' (relating to) is an invaluable word which appears occasionally. 'Ecclesia', however, is translated 'church', rather than 'kirk'.

Charters and seals are measured in millimetres and inches. Distances are measured in miles, though some maps also show kilometres.

In the Calendar (Appendix 1), the acts have been grouped under separate religious houses and numbered within that section. Footnotes refer to the charters in the Calendar as 'Charters to...' There is a short introduction to each section, explaining the features of the charters in that section. Abstracts introduce the charters, and notes and comments follow the text. A very short calendar of the Charters of the Heirs has been printed for reference.

With one exception, only texts not previously published have been printed in the Calendar. The exception is Patrick II's charter of confirmation to the Papedy family (Charters to Laymen, no 5), which was printed in *RMS*, i, no 251 and which has here been re-united with the other Dunbar charters. These texts are printed in Latin, with all extensions, where certain, shown in italics. Those which are uncertain are indicated by means of a suspension mark. This also applies to witness lists, and to endorsements and rubrics.

Personal and place-names are capitalised, as are forms of 'Deus'. Otherwise the spelling and punctuation is as faithful a copy as possible of the originals or cartulary entries. The capitalisation of 'E' in east Lothian has been avoided so that there will be no confusion with the modern adminstrative division. Where the place-name is identified, it is printed in modern form in the abstract. In the charter text, however, there is no standardisation of place-names or personal names.

Except where original text is printed, and in the abstracts heading the acts, the name of the earls before Patrick I are spelled 'Gospatric' and 'Waldeve'. In personal names 'de' is used with a recognisable surname, but not with a name which is primarily a place.

In Chapter 3 only ('The diplomatic of the charters'), where Latin text is quoted, the use of 'v' and 'u' has been standardised, punctuation removed, and the modern 'et' substituted. This is because so many examples of different practice were being conflated for quotation that it proved impossible to represent each accurately. In the charters the original spelling has been retained as accurately as possible. 'I' is used instead of 'j', but an attempt has been made to choose accurately 'c' or 't', though these are often difficult to distinguish. Grammatical errors in the witness lists are usually ignored, unless there is an important reason to indicate them with 'sic'.

References and Abbreviations

As far as possible, abbreviations conform to the *List of Abbreviated Titles of the Printed Sources of Scottish History to1560* published as a supplement to the *Scottish Historical Review*, October 1963. In some cases, however, full citations are given for the first appearance of a work in the text, followed by 'hereafter..' and the abbreviated form. If there is no accepted abbreviation, a form has been devised, following the criteria of the *List*. In the Bibliography, a number of abbreviations have been inserted at the start of the line, on an alphabetical basis, so that works may be located more easily.

Some abbreviations should be added to the *List*

NAS = National Archives of Scotland

NLS = National Library of Scotland

DCM, MC = Dean and Chapter Muniments, Miscellaneous Charters (Durham)

RRAN = *Regesta Regum Anglo-Normannorum* (4 vols, Oxford, 1913-69)

RRS = *Regesta Regum Scottorum* , vols i, ii, v

RS = Rolls Series

SS = Surtees Society

Paris, *Historia* = *Historia Anglorum sive Historia Minor*, ed. F. Madden (Rolls Series, 1866-69)

Paris, *Chronica Majora* = *Matthaei Parisiensis Monachi Sancti Albani, Chronica Majora*, ed. H. Luard (Rolls Series, 72-83)

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

Barrow, *Kingdom* = G.W.S. Barrow, *The Kingdom of the Scots* (Edinburgh, 2003)

Cowan, *Parishes* = I.B.Cowan, *The Parishes of Medieval Scotland* (SRS, 1967)

David I Charters = *The Charters of 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)

Introduction

The thesis is an enquiry into the nature of the lordship of the earls of Dunbar in Scotland in the twelfth and thirteenth centuries, using the evidence of ninety-two of their acts, which have been collected and calendared. For seventy-five of the acts, a charter text exists; thirty-eight of these survive as original charters, six of which are printed for the first time. The calendar, with the printed acts, is printed in Appendix 1, but it forms an integral part of the thesis.

This is not a history of the Dunbar family, still less a study of their genealogy. Nevertheless the Dunbar lordship was intensely familial, and so the narrative of the generations of the earls whose charters appear in the calendar is sketched in the opening chapter. The charters span about 160 years, from two charters of Gospatric, brother of Dolfin, who was earl under David I and who died in 1138, to the charters of his great-great-great-grandson, Patrick III who died in 1289, three years after the death of Alexander III. This chapter also serves to contextualise the charter evidence, placing it against a political background and linking it to movement and change at national as well as individual level.

The documents are categorised, and a detailed explanation of their whereabouts given. The physical appearance of the extant charters, the handwriting, and the seals are described, with accompanying illustrations. A study is made of the diplomatic of the charters, comparing features with those found in similar private charter collections. The themes which emerge from the earls' acts are explored, emphasising evolution and development within the period. The earls' lands in Scotland, including those temporarily in their possession, are identified using the charters and additional sources, and are shown on maps which accompany the text. The process of accumulating their estate and their involvement in particular disputes are described. A discussion of the disposition of these lands by the earls, the different forms of land tenure and of service leads into a consideration of the issue of feudalism in the earls' lands. There is a study of the people who held of the earls, and of those who served in their estate and household. An examination of the earls' commercial

links, their strategies of land exploitation, inluding arable and livestock farming, and the infrastructure of their lands, gives some insight into the economics of lordship. Charter evidence also forms the basis for an analysis of the relationship of the Dunbar earls and a Church engaged in reform, focussing on issues of patronage, and benefaction, but also on conflict and dispute. In conclusion, the characteristics of the Dunbar lordship elicited from the findings in the preceding chapters are brought together. Their role as cross-border lords is fitted into the overall picture, using additional evidence relating to their English lands. The study concludes with a description and some analysis of the essential features of the Dunbar lordship.

Several appendices are used for reference. A calendar of the acts of the earls relating to Scotland contains charters and references to lost acts to Coldstream Priory, Dryburgh Abbey, Kelso Abbey, May Priory, Melrose Abbey, Newbattle Abbey, Coldingham Priory, Durham Priory and Paisley Abbey. In addition, there are the texts of three charters to laymen, among seven recorded acts. Full abstracts are given, and where the charter has not previously appeared in print, Latin text is provided.

Facsimiles of thirteen Dunbar charters and fifteen of the seals of the collection, maps and genealogical tables of the Dunbar family and of others within the earldom are included in four further appendices. A short study of their lands in England, with maps, completes the supplementary material.

The approach to the charters has been an inductive one. From the documents, questions and themes have emerged, and the information and insights they provide have been woven into a study of the lordship of the earls which opens up, but does not exhaust, many lines of enquiry. Material from other charter collections, from chronicles, maps, and 'the archive of the foot', visits to many of the former lands of the earls in Lothian and the Merse, and from a wide range of secondary reading have been used to confront the findings from the charters, to offer insights and challenges and comparisons.

The Dunbar family were not of Anglo-French origin. Nor were they a branch of the native aristocracy as unambiguously as the twelfth-century earls north of the Forth. They do not fit either model, and the purpose of this study has been to assemble a collection of their charters, and, through them, to identify the essential features of their lordship in twelfth and thirteenth-century Scotland.

Chapter 1

The Context of the Charters: an outline of the careers of the earls whose charters appear in this collection

Gospatric brother of Dolfin (d. probably 1138)

One of the two earliest charters in the Dunbar collection is the grant or cession of the touns of Edrom and Nisbet and of Edrom church to the monks of Durham by Earl Gospatric brother of Dolfin.[1] The chroniclers state that Dolfin, Waldeve (who also was styled 'brother of Dolfin') and Gospatric were sons of that Gospatric to whom, after 1072, King Malcolm granted Dunbar and the lands adjoining, so that he might provide for himself and those belonging to him until more favourable times returned.[2] The grant has a temporary ring, but was the foundation of a new dynasty which was to settle and prosper in Scotland, accumulating a vast estate which sprawled over Lothian and the Merse and playing a prominent role in national and international affairs until its abrupt end in the fifteenth century.[3]

As earl, Gospatric endowed the new community at Melrose, though there is no surviving charter.[4] Two only of his charters regarding lands in Scotland survive. One, probably the earlier, records the dedication of the parish church of St Nicholas at Hume which he endowed. It was a family affair, his wife and three sons Gospatric, Edward and Edgar granting with him.[5] The other, mentioned above, relates to the long saga of the dispute with Durham over the Berwickshire touns of Edrom and Nisbet. His grant or surrender of the touns may have occurred in 1138, perhaps under pressure from David I as they

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[1] Charters to Durham, no 1

[2] Symeon of Durham, *Symeonis Monachi Opera Omnia*, ed. T. Arnold (RS, 1882-5), ii, 199; *Chronica Magistri Rogeri De Hovedene*, ed. W. Stubbs (RS, 1868), i, 59. This presents some chronological problems, requiring Gospatric brother of Dolfin to be at least sixty-five when he fought at the Standard – not an impossibility, since William I led a campaign in the north when he was about sixty-eight years of age (*RRS*, ii, 19).

[3] See Appendix 1, Map 1.

[4] Acts for which no charter is recorded, no 1. He may also have been the donor of the saltpan referred to in Malcolm's confirmation charter, but it is as likely to have been his son's gift (Charters to Melrose, no 1; *RRS*, i, nos 132 and 133).

[5] Charters to Kelso, no 1. It is not entirely clear whether it is the earl's wife or his son Edgar's wife, Alice, who is party to the grant, but the probability is that it was his wife.

came south during the invasion of Northumberland (when he was certainly with the king), perhaps later.[6] The reference to the grant of Edrom and Nisbet by their rightful boundaries 'as Gospatric brother of Dolfin held them on the day of his death', though not uncommon, may in the particular circumstances suggest that the grant was made at his death, and that both grant and charter date very near to 22 August 1138, when he was killed at the Battle of the Standard.[7]

It may be he who is the 'Earl Gospatric' buried at Durham, his body brought about thirty miles north to the priory after the battle.[8] He cannot, however, be the Gospatric 'earl and monk' whose death about 15 December was commemorated at Durham.[9] After his death his son Gospatric succeeded him as earl and thereafter the succession of the eldest son seems clearly established and articulated in the chronicles and in the styles adopted by the earls in their charters. Thus Waldeve (1166-1182) his son was succeeded by his son Patrick I (1182-1232) who in turn was succeeded by his son Patrick II (1232 -1248). Two charters of the latter's son Patrick III (1248-1289) adapt text of an earlier charter to style him *Patricius comes filius Patricii filii Patricii Comitis de Dunbar*, a tidy recital of the dynasty in the thirteenth century.[10]

Gospatric father of Waldeve (probably 1138-1166)

After the Standard the new earl seems to have become embroiled immediately in the dispute with Durham, refusing to recognise his father's cession of Edrom and Nisbet and seizing the monks' cattle.[11] But respectability, perhaps even piety, overtook him, and when he died, Reginald of Durham praised him for his

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[6] He witnessed David's writ of protection to Tynemouth on 11 June 1138 (*David I Charters*, no 66).
[7] *David I Charters*, nos 68, 102
[8] There is no record of what happened to his body after the battle. It is possible that he was brought to Durham to die and that the charter he gave to Durham regarding Edrom and Nisbet (Charters to Durham, no 1) was given there by him on his deathbed.
[9] In the 'obits', *Liber Vitae Ecclesiae Dunelmensis* (SS, 1841), ii, 147. His ~~grand~~son Edward's name is in the Liber Vitae, with his family (*ibid*, 102).
[10] Charters to Coldingham, nos 9-10
[11] See p 136 below.

good works.[12] His grants of property in Dunbar and Biel and of harbour access at Belhaven were vitally important for the survival of the priory of May.[13] He confirmed but did not augment his father's grant of Hartside and Spott to Melrose, and it may have been he, rather than his father, who gave the monks a saltpan which was confirmed to them by King Malcolm.[14] In the 1150s he bestowed on Kelso Abbey three churches – Hume, founded probably by his father, and Fogo and Greenlaw.[15] There is the strong likelihood that he founded or re-founded Eccles nunnery in 1156.[16] St Bothans has also been seen as a Dunbar foundation in the reign of William I; if indeed a 'Countess of Lothian' was responsible, as Spottiswoode alleges, it may have been Gospatric's wife Deirdre.[17] More certainly, he and his wife Deirdre founded the priory of Coldstream, bringing nuns from the as yet unidentified 'Withou' which may have been simply White Hill, or alternatively Witton, land given to his sister Juliana and her husband Ranulf de Merlay as a marriage portion near to Morpeth where they had founded the Abbey of Newminster in 1138.[18] Perhaps Coldstream was intended as a retirement home for Deirdre, who personally granted to the nuns from her lands at Hirsel. It was founded over a number of years, and by 1166 at the latest.[19]

Gospatric occurs as witness to five, perhaps six, charters of King David and at least two of Earl Henry, witnessing at Newcastle, Bamburgh, Edinburgh and Traquair.[20] He may be the 'Gospatric son of Gospatric' who witnessed the charter of King David and Earl Henry at Edinburgh to Kelso and of Earl Henry

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[12] *Reginaldi monachi Dunelmensis libellus de admirandis beati Cuthberti virtutibus quae novellis patratae sunt temporibus* (SS, 1835), 226
[13] Charters to May, no 1; Acts for which no charter is recorded, no 2
[14] Charters to Melrose, no 2; *RRS*, I, nos 132, 133. The earl's charter confirms Hartside and Spott but does not mention the saltpan which may therefore have been gifted separately to the monks by him.
[15] Charters to Kelso, nos 2-4
[16] *Chron. Melrose,* 35, s.a.1156; *Chron. Howden,* i, 215. The fact that Patrick I, his grandson, was buried there (*Chron. Melrose,* 82, s.a. 1232) suggests that it was a Dunbar foundation. See A. McDonald, 'The Foundation and Patronage of Nunneries by Native Elites' (hereafter McDonald, 'Nunneries') in *Women in Scotland* (East Linton, 1999), 7.
[17] See below p 253.
[18] *RRAN,* ii, no 1848; *Cal. Docs. Scot.*, i, no 1712
[19] Charters to Coldstream, nos 1-2
[20] *David I Charters,* nos 79, 96, 120,143, 144, 167, 201; *ESC,* no 182

to Melrose.[21] He further witnessed sixteen charters of King Malcolm, a tenth of a total of 161 surviving texts and possibly also a charter of his third king, William I, to Coupar Angus.[22] Between 1153 and 1164 he witnessed three charters of King Malcolm at Roxburgh, three at St Andrews, and another three at Edinburgh and also single charters at Jedburgh, Brechin, Linlithgow, Berwick, and Dunfermline.[23] He may have been one of the six Scottish earls who in 1160 put on a show of strength in Perth and Galloway as a protest against King Malcolm's participation in the expedition to Toulouse.[24] Before 1162 he was much in evidence at the royal court but less so thereafter. In three charters of King Malcolm of the 1160s his son Waldeve is named as a witness, twice at Roxburgh in 1161, on one occasion with his father, and at Perth between 1161 and September 1164.[25]

He died in 1166 and was succeeded by his son Waldeve.[26] Roger of Howden adds that he died 'in Albania', or Scotland, casting doubt on the possibility that he could be the Gospatric buried at Durham.[27] Yet towards the end of his life he gave two charters to Durham confirming his father's grant of Edrom and Nisbet, perhaps a symbolically conciliatory gesture, perhaps in response to the anxieties of the monks.[28] These charters may signal that he was the earl who became a monk at Durham and even that the remains discovered in the coffin are his.[29]

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[21] *David I Charters,* nos 70, 121. The second witness list of no 121 is that accompanying King David's original grant to Melrose, now lost, and the place date Earlston refers also to the 1136 grant.
[22] *RRS,* ii, no 12. Professor Barrow suggests (p 129) that this may be a brieve of Malcolm IV, wrongly attributed.
[23] *RRS,* i, nos 114, 118 (no place-date), 132, 133, 157, 161, 170, 174, 178, 181, 184, 193, 197 (no place- date), 198, 213, 239 ; *RRS,* ii, no 12. As this last act of William dates to Perth (1165 x 1166) at the beginning of his reign and very soon before Gospatric's death, the earl, though named as a witness, may well not have been present.
[24] *Chron. Melrose,* 36, s.a. 1160; *Chron. Howden,* i, 217; *Chron. Fordun,* i, 256; ii, 251. The only name given in *Gest. Ann.* is that of Ferteth, earl of Strathearn. Professor Barrow thinks Earl Gospatric's involvement unlikely in view of the family's consistent loyalty to the Crown (*RRS,* i, 12).
[25] *RRS,* i, nos 183, 184, 215
[26] *Chron. Melrose,* 37, s.a. 1166
[27] *Chron. Howden,* i, 253; *Chron. Bower* (Watt), iv, 285
[28] Charters to Durham, nos 2-3
[29] See discussion in *ESSH,* ii, 264.

Waldeve (1166-1182)

Waldeve was probably the son of Earl Gospatric given as a hostage to Stephen after the Battle of the Standard.[30] He appears as earl in the witness list of a charter of Robert Avenel before his father's death.[31] About the time of his father's death also, as Waldeve, son of the earl, he gave a charter confirming to Kelso all the possessions which his father had given them.[32] These perhaps suggest that Earl Gospatric, his father, had become infirm, and that Coldstream was indeed founded in the 1160s as a retirement home for Countess Deirdre.[33]

We do not know if Waldeve was present at William's inauguration in December 1165. Jordan Fantosme, who probably knew him, portrays as a strong personality, forthright, loyal but canny, counselling William against war in 1173.[34] After the debacle of 1174, with Earl David and the earls of Fife, Menteith and Angus, he swore allegiance to King Henry and took an oath to uphold the Treaty of Falaise.[35] In 1175 the Treaty was confirmed at York and Waldeve was given temporarily as a hostage, along with the other four earls, until they could supply a son or a nephew as a substitute.[36]

He witnessed a considerably higher percentage of royal acts than his father had done in a comparable period – thirty (almost one-sixth) of the surviving acts of William I during the period of Waldeve's earldom.[37] He seems therefore to have been close to the king. The geographical spread of the place-dates of the acts in which he appears as a witness is striking, though he may not have been invariably present. In the first five years of his earldom he witnessed some fifteen surviving royal charters, four at Perth and two at Edinburgh, but

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[30] Chronicle of Richard, prior of Hexham, *De Gestis Regis Stephani, Et De Bello Standardi* in J. Raine, *The Priory of Hexham* (SS, 1863), 106
[31] *Melrose Liber,* no 39. Professor Barrow suggests that the ascription may be proleptic (*RRS,* i, 283).
[32] Charters of the Heirs, no 1
[33] Charters to Coldstream, nos 1-2
[34] *Chronique de la guerre entre les Anglois et les Ecossois en 1173 et 1174*, ed. R. C. Johnston (Oxford, 1981), 28-31; Lawrie, *Annals,* no. XXI
[35] *Gesta Regis Henrici Secundi Benedicti Abbatis* (RS, 1867) i, 96
[36] *Ibid.,* i, 98; *Cal .Docs. Scot.,* i, no 139; *Foedera*, i, 30; E.L.G. Stones, *Anglo-Scottish Relations* (London, 1970), 6, Doc. 1
[37] The figure is slightly higher if the three acts of Malcolm IV he witnessed are included.

also charters singly surviving from Berwick, Linlithgow, Selkirk, Northumberland, Lanark, Stirling, St Andrews, Forfar and Elgin.[38] In the later 1170s and until his death in 1182 he witnessed thirteen or fourteen charters, dated at places as widespread as Inverness, Carlisle, Kinghorn and Jedburgh.[39]

His own charters testify to a period of consolidation and cautious expansion of past benefaction to Coldstream and Kelso and the confirmation of Durham's title to Edrom and Nisbet.[40] He confirmed and augmented the grants of arable and pastureland to Melrose, in one case laying down fairly stringent conditions for the use of the land.[41] His charter regarding the settlement reached over Renton hints at ongoing complications over this toun and its territory and lands.[42] There is a sense in this earl's charters of developments within the family and the estate, with Hirsel and Greenlaw passing to his younger brother Patrick. At the same time we glimpse the complex economic and demographic movements of the twelfth century with consequent changes in land use and settlement. Few of his acts can be dated precisely. His charter confirming Edrom and Nisbet, unusually, is given a year date, 1166, the first year of his earldom, perhaps when he was with King William at Stirling.[43]

His wife Aelina died on 20 August, 1179.[44] He died in 1182 and was succeeded by his son Patrick.[45]

Patrick I (1182 – 31. 12 1232)

In 1182 Patrick I succeeded his father Waldeve and, remarkably, remained as earl until his death in December 1232. In 1184 he married Ada, the natural

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[38] *RRS,* ii, nos 8, 9, 10, 105; 37, 42; 45, 59, 72, 79, 85, 106, 109, 114, 116, 140. No 140 may be later, 1172 x 1174.
[39] *RRS,* ii, nos 142, 144, 171; and 81 and 194 (both at Jedburgh)
[40] Charters to Coldstream, no 3; to Kelso, no 5; to Durham, no 4
[41] Charters to Melrose, nos 3-4
[42] Charters to Coldingham, no 1
[43] *RRS,* ii, no 106; Charters to Durham, no 4, which was witnessed by the king's clerk, Richard
[44] *Chron. Melrose,* 42, s.a. 1179
[45] *Chron. Melrose,* 44, s.a. 1182; *Chron. Bower,* iv, Book 7, 340-1

daughter of William I.[46] Ada may have been the founder of the nunnery at St Bothans though there is scant evidence to support the claim.[47] They had sons and daughters [48] including Ada whose charter granting land to Kelso the earl confirmed.[49] The earl lived long and his eldest son Patrick, the future Patrick II, was much in evidence in his father's latter years.[50] Other sons were William and Robert. William witnessed several charters of his father[51] and William and Robert charters of their elder brother Patrick before and after his accession to the earldom.[52] After the Treaty of 1209 with King John, William was a hostage in England, recorded as such in the summer of 1213.[53] After Ada's death in 1200 Earl Patrick married the widow of William Bruce, Christina, with whom he issued a charter in 1218.[54]

Patrick I was very prominent on the national stage. He is described as *summus justiciarus totius regni Scottorum* in 1199 and also *custos* of Berwick.[55] What exactly the chronicler meant is uncertain. There is some evidence of different levels and rankings among justiciars and Earl Patrick may have occupied a superior or senior position at least for a period.[56] He may have been keeper of Berwick castle, a position which would sit well with his possible inherited role as guardian of communications between England and Scoland.[57] It would therefore fall to him to have the bridge over the Tweed rebuilt after it had been destroyed.[58]

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[46] *Chron. Melrose,* 44, s.a.1184; *Chron. Bower,* iv, Book 8, 348-9, 474, 477. Another entry in Bower mis-names Ada 'Margaret' (*ibid* 368-9).
[47] See below, p 253.
[48] Charters to Melrose, no 10; *Chron. Melrose,* 82, s.a. 1232
[49] Charters to Kelso, no 10
[50] Charters of the Heirs, nos 2-14
[51] Charters to Melrose, no 13; to Newbattle, nos 2-4
[52] William witnessed Charters of the Heirs, nos 2-3, before 1232. Both brothers witnessed Charters to Coldstream, no 10, to Melrose, nos 15-17. Robert acted for some time as steward to his brother Patrick II. He witnessed (though not as steward) Charters to Laymen, no 5. He also witnessed two charters of his nephew Patrick III (Charters to Coldingham, nos 9-10).
[53] *Cal. Docs. Scot.,* i, no 574, 13 June 1213
[54] Ada's death is recorded in *Chron. Bower,* iv, Book 8, 424-5. Patrick and Christina's charter is printed in *Cal. Docs. Scot.,* i, no 700.
[55] *Chron. Howden,* iv, 98, cf *SP,* iii, 239, which states that the Dunbars never held high office. Patrick I is described as Justiciar in three royal charters possibly spanning mid-1195 to mid-1206, i.e. *RRS,* ii, no 381 (29.07. 1195), no 431 (7.07.1196 x 1203), no 460 (16.05.1205 or 1206).
[56] Barrow, 'The Justiciar', *The Kingdom of the Scots* (2nd edition, Edinburgh, 2003) (hereafter Barrow, *Kingdom)*, 69-70
[57] The old Roman road, later called the Devil's Causeway, which ran through the earls' lands in Northumberland, went to Berwick and joined the coastal route to Dunbar.
[58] This was the bridge built by William I and Bishop Hugh le Puiset (*Chron. Howden*, iv, 97-8).

Roger of Howden says that Patrick I spoke forcefully against William I's plan in 1195, some years before the birth of his son Alexander in August 1198, to marry Margaret his daughter to Otto IV of Brunswick, provided Margaret succeeded to the Scottish throne.[59] He was present when King William did homage to King John in 1200 at Lincoln.[60] He put his seal to the document of 1211-1212 by which William I granted the right of marriage of Alexander to John.[61] During the hostilities of 1215-1216 his castle at Dunbar was captured[62] and Dunbar toun burned.[63] According to *Gesta Annalia*, he was one of seven earls of Scotland present at the inauguration of Alexander II in 1214.[64] In 1221 he accompanied Alexander to York and was present at his marriage to Joanna, sister of Henry III.[65] When in 1222 Alexander II mounted a campaign in Argyll, he raised an army from Galloway and from Lothian where the task of mustering the foot-soldiers would have been entrusted to him or Sir Patrick, his son, in his place.[66]

With his father he witnessed three charters of King William, all to prominent laymen, before 1182.[67] Possibly it was he who as Patrick son of the earl witnessed William's charter to Dunfermline 1165 x 1169.[68] Subsequently he witnessed twenty-six of the three hundred and twenty or so surviving charters of William given during his earldom, half of them north of the Forth; six at Elgin, four at Stirling and a further three charters at Perth, Kinghorn and Forfar respectively. South of the Forth he witnessed three charters at Roxburgh, two each at Selkirk and Traquair, and charters singly at Rutherglen, Lanark,

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[59] *Chron. Howden,* iii, 298-9. William's plan is nicely described by Professor Barrow as 'over-ingenious' (*RRS,* ii, 15). The point is discussed in in A.A.M. Duncan, *The Kingship of the Scots* (Edinburgh, 2002), hereafter Duncan, *Kingship*, 106-7.
[60] *Chron. Howden,* iv, 142. Here he is called earl 'of Lothian'.
[61] *Cal. Docs. Scot.,* i, no 508; *Feodera,* i, 104.; Stones, *Anglo-Scottish Relations,* 24-7, Doc. 4; *RRS,* ii, no 505 (possibly a spurious charter based on an authentic original). See also Duncan, *Kingship*, 110-111.
[62] *Histoire des Ducs de Normandie,* ed. F. Michel (Paris 1840), 164
[63] *Chronicon de Lanercost, 1201-1346*, ed. J. Stevenson (Bannatyne Club, 1839), 18, s.a. 1215; *Chron. Fordun, i,* 284; ii, 279
[64] *Chron. Fordun*, i, 280; ii, 275-6, where he is styled earl of Lothian. On the earls present then, see W.W. Scott, 'Fordun's Description of the Inauguration of Alexander II', *SHR*, i, (1971), 198-199.
[65] *Foedera*, i, 165; *Cals. Docs.Scot.*, i, no 808 (18 June 1221)
[66] *Chron. Fordun,* i, 288; ii, 284
[67] *RRS,* ii, nos 85 (to Hugh Giffard), 140 (to Gilbert, son of the earl of Angus), 205 (the grant of the earldom of Lennox to Earl David)

Jedburgh, Wedale or Stow and Edinburgh.[69] In three instances he witnesses as Justiciar, the composition of the witness list suggesting at least an embryonic Justiciar's court.[70] He features seldom in the witness lists of charters of Alexander II, witnessing royal charters to Glasgow, Balmerino and Coupar Angus.[71]

Seven of the surviving charters of the earl can be dated with reasonable certainty to the early years, from c.1182 to c.1200, the year of Ada's death, but nineteen, over half, are from the middle period of his earldom up to c.1220, and the remainder from his latter years. His charters represent a diplomatic watershed, developing markedly over the fifty years of his earldom and displaying hints of a house style.[72]

In his acts, there is a quickening sense of change in other ways and other contexts. Though those to Coldstream, Dryburgh, Kelso, May and Newbattle mainly follow a familiar pattern of confirmation and modest benefaction, many of them hint at confrontation and tension between the earl and his neighbours. There were examples of cooperation[73], but also there was considerable friction with Coldingham priory over lands and boundaries[74] and protracted legal warfare with Melrose over Sorrowlessfield.[75] His relations with Melrose were complex: he was also the abbey's benefactor[76] and Abbot Adam, his relative, gave him the last Sacrament in 1232.[77] Disputes with Melrose, as with Dryburgh, could be settled, apparently amicably.[78] But even benefactions continued to allude, as his father's had done, to competing claims on the land,

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[68] *RRS,* ii, no 28. His father was not named as a witness.
[69] *RRS,* ii, nos 249, 251, 261, 281, 284, 310, 315, 318, 345, 360-2, 371, 381-3, 391-2, 405, 430-1, 460, 468, 481, 491, 505
[70] In *ibid,* nos 381, 431 and 460 he is styled Justiciar. In each there is a substantial proportion of royal officials including the Chancellor (no 381), the Marischals and the Clerk *de Prebenda* (no 431) and the Constable, the Chamberlain and the sheriff of Stirling (no 460). This may signal the session of a formal court, or alternatively a gathering of notables about the king with each given his official designation.
[71] *Glasgow Registrum*, no 202; *Balmerino Liber*, no 15; *Coupar Angus Charters*, no 18
[72] See Chapter 3 below.
[73] E.g. Charters to Coldingham, no 2
[74] Charters to Coldingham, nos 4-7
[75] Charters to Melrose, nos 11-12
[76] Charters to Melrose, nos 6-10. He also confirmed a grant in Lammermuir of John son of Michael (no 13).
[77] *Chron. Melrose,* 82, s.a. 1232
[78] E.g. Charters to Dryburgh, no 3, over boundaries; to Melrose, no 7 (over Malcolm's road.)

and in particular to problems of overstocking and livestock control.[79] In a charter to Kelso there are glimpses of a relationship based on money with the earl and his son more in the role of hard–headed landlords than of pious benefactors.[80] All of this is unsurprising, since the growth of a money economy predicated on land is well attested, and since many, perhaps most, charters were written specifically to record the settlement of disputes.

He died on 31 December 1232 and was buried in Eccles, the convent founded probably by Earl Gospatric and Countess Deirdre, his grandparents.[81]

Patrick II (31.12.1232- 1248, x 13.12)

Patrick II succeeded his father on 31 December 1232. Relations between father and son seem to have been good. They cooperated on the arrangements with Kelso regarding Hume, in settling boundaries with Dryburgh and in benefactions to Coldstream.[82] There was no apparent division beween them over the Swinewood affair which was eventually settled in 1231, the payments by Coldingham being made in full by 1232.[83] He was married probably about 1212 or 1213 to Euphemia, who was once thought to have been a Stewart.[84] It is more likely that she was a Bruce, daughter of William and Christina Bruce, and thus his stepsister. In 1261 she was referred to as 'Euphemia de Brus, Countess of Dunbar'and as a widow.[85] The Stewart connection may well have been through her mother. Earl Patrick's grant of a

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[79] Charters to Melrose, nos 8-9
[80] Charters to Kelso, no 9
[81] *Chron. Melrose,* 82, s.a. 1232; *Chron. Lanercost,* 41, s.a. 1231. *Chron. Bower,* v, Book 9, 146-7. Patrick may have been buried at Eccles but there is little evidence that Eccles was the intended 'family mausoleum' (McDonald, 'Nunneries', 7). Patrick II was apparently buried at Tynemouth (Paris, *Chron. Maj.,* v, 41) and Patrick III at Dunbar (*Chron. Lanercost,* 127, s.a. 1289).
[82] Charters to Kelso no 9; to Dryburgh no 3; Charters of the Heirs, nos 2-4
[83] See below, p145 and the charters of Sir Patrick (Charters of the Heirs, nos 7-14) and his father's charters (Charters to Coldingham, nos 4, 7-8).
[84] *SP,* iii, 256-7 cf *ibid,* i, 12. Malcolm's charter is *RRS,* i, no 183 (1161 x 1162). Euphemia refers to Birkenside as her marriage portion in *Dryburgh Liber,* no 120.
[85] *Northumberland Pleas from the Curia Regis and Assize Rolls, 1198-1272,* ed. A. Hamilton Thompson (Newcastle-upon-Tyne Records Committee, 1922, 215, no 652); drawn to my attention by Professor Barrow (personal comment, 1998) and indirectly by Mr A. B. W. MacEwen (Stockton Springs, Me) in 'A Clarification of the Dunbar Pedigree' (Letter to

chalder of corn annually to Paisley Abbey may be connected to his son's marriage.[86] Patrick and Euphemia's son Patrick was born in 1213 and succeeded his father in 1248. A second son Waldeve became rector of the church of Dunbar.[87] There may have been a daughter, Isabella, named in 1255 as sister of Patrick son of Patrick.[88]

Patrick II had a high national profile. He was called 'the king's nephew' and Alexander II also called him 'nephew' although his mother Ada had been Alexander's half-sister only.[89] At his death he was described by Matthew Paris, accurately or not, as the most powerful magnate in Scotland.[90] He heads the witness list of the Scottish magnates who put their seals to the Treaty of York of 1237 [91] and he was party to the treaty with Henry III in November 1244, the first named of the magnates taking an oath of good faith.[92] In the same year he and Walter Comyn swore an oath to Henry III to uphold the peace, each of the earls supported by two dozen or so jurors.[93] Some months later, in October 1245, he and David de Lindsay, justiciar of Lothian, led the delegation of knights of Scotland in a meeting with a delegation from England to determine the March over Wark Common.[94] He witnessed charters of Alexander II, to Durham, Melrose, Newbattle and Balmerino before and after he became earl.

Professor Duncan, 8.3.97). Euphemia is described as a widow in a letter probably also of 1261 from Alexander Stewart to Walter de Merton (*Cal. Docs. Scot.,* i, no 2282).

[86] Acts for which no charter is recorded, no 3, an act of Patrick I confirmed by Pope Honorius c.1226 (*Cal. Papal Letters,* i, 106; *Paisley Registrum*, 412). In the 1220s also, Sir Patrick, Patrick I's son, and Euphemia's husband, witnessed a charter of Alexander II confirming Walter fitz Alan's grant of three merks a year to Paisley Abbey (*ibid*, 402).

[87] Waldeve witnessed a charter of Countess Christina, his grandfather's second wife (*Yester Writs*, 8, no 14). He was also the subject of a papal indult of 1245 (*Cal. Papal Letters,* i, 214).

[88] *Cal. Docs. Scot.*, i, no 1969. Isabella may have been a daughter of Patrick III. She is named (January 1255) as sister of Patrick, son of Patrick, and co-executor of the testament of Patrick earl of Dunbar, i.e. Patrick II. Much depends on whether Patrick son of Patrick in 1255 was Patrick III or his son. If the latter, Isabella would be the daughter of Patrick III.

[89] *Melrose Liber*, no 237; *Morton Registrum.*, i, no 3; *Chron. Bower,* v, Book 9, 146-7

[90] *Chron. Maj.*, v, 41

[91] *APS*, i, 403; Stones, *Anglo-Scottish Relations,* 38-53, Doc. No 7; *Cal. Docs. Scot.,* no 1358; *Foedera*, i, 233

[92] *Cal. Docs. Scot.*, i, no 1654 ; *Foedera,* i, 257; Paris, *Chron. Maj.*, iv, 381-3

[93] Cal. *Pat. Rolls*, *Henry III, 1232-1247* (1906), 447; *Cal. Docs. Scot.*, i, no 2672. See below p 210.

[94] *Cal. Docs. Scot.*, i, no 832 (wrongly dated to 1222); Stones, *Anglo-Scottish Relations,* 54-7, Doc. 8

He is depicted as energetic and impetuous. Matthew Paris tells us that he was the ringleader of a lynch-mob of magnates who set out to mutilate Walter Bisset in revenge for his part in the death (almost certainly the murder) of Patrick, earl of Atholl in 1242. Patrick had witnessed a charter of his to Coldstream and Earl Patrick may have regarded him as being under his special protection.[95] The chronicler depicts Bisset fleeing to the king for mercy and justice in contrast to what he might expect from the earl.[96] On the other hand the Lanercost chronicler highlights his impulsive generosity and his clemency to a convicted thief.[97]

He lived up to the description 'miles strenuus' given to him by the Melrose Chronicler.[98] He was one of the leaders of the Galloway campaign of 1235 when he and the bishop of Whithorn persuaded Thomas of Galloway to seek the king's peace.[99] It was almost certainly at this time that he acquired lands in Troqueer in Galloway, which he later exchanged with the king for forest in Dundaff and Strathcarron. He subsequently granted Dundaff and Strathcarron to David de Graham.[100] In 1248, having sold his stud at Lauder to Melrose Abbey, he made his peace with the monks of Melrose at Berwick in April, obtained a safe-conduct from Henry III, and departed on Crusade.[101]

His charters show him to have been a benefactor of both Coldstream and Dryburgh before and during his earldom.[102] During his time as earl his stepmother Christina founded a Trinitarian House in Dunbar.[103] The Chronicle of Lanercost is very forthcoming on Patrick II, praising his generosity and merciful nature.[104] By contrast Matthew Paris gloats in 1248 over the death of the 'mocking disturber' of the priory of Tynemouth, the cell of St Albans where

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[95] Charters to Coldstream, no 9
[96] *Chron. Maj.*, iv, 200-1
[97] *Chron. Lanercost,* 54, s.a. 1248
[98] *Chron. Melrose,* 82, s.a. 1232
[99] *Chron. Melrose,* 84 , s.a. 1235; *Chron. Fordun,* i, 290-1; ii, 286; *Chron. Bower,* v, Book 9, 150-1
[100] Charters to Laymen, no 6
[101] The sale is recorded in Charters to Melrose, no 15, and was confirmed by his son as Patrick III in 1251 (Charters to Melrose, no 18).
[102] Charters to Coldstream, no 9; of the Heirs, nos 2-3, 5-6
[103] *Yester Writs,* 8, no 14
[104] *Chron. Lanercost,* 54, s.a.1248

the earl is said to have been buried.[105] Whether he was as disputatious as Matthew Paris alleges is open to question, for neither the Swinewood nor the Eglingham case was instigated by him. Certainly he contested an action raised against him in October 1247 by his relative Roger de Merlay over the lands in Northumberland granted before 1135 as the marriage portion of his great-great aunt Juliana.[106] He was involved in an action raised in the *curia regis* in Berwick by Melrose concerning Hassington in April 1248.[107] His confirmation charter to Coldstream is so comprehensive and wide-ranging that it may have been given around 1232 on his accession to the earldom, and in connection with the royal assize at Stirling in 1230. Alternatively, it may connect with his departure on Crusade in 1248 and a wish to establish better relations with the Church.[108]

The first surviving Dunbar charter to laymen which can be dated with confidence belongs to his earldom.[109] It shows that by the 1230s–1240s the terms 'homage and service' and 'knight service' were accepted and used, as also in Alexander II's charter regarding Dundaff and Strathcarron. The charter to Richard of Fans, on the other hand, may belong to his earldom or to that of his father, and by contrast depicts a settled money economy.[110] There was much development in the political and economic structures of the time, and this was reflected in changes in the diplomatic of the charters of this earl. He seems modern-minded and business-like, with a group of close friends and a well-organised staff.[111]

His safe-conduct for travel abroad was issued by Henry III on 28 June 1248.[112] Before the end of the year, he was dead, a victim probably of fever caught in the port of Marseilles.[113]

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[105] Paris, *Historia*, iii, 40, s.a. 1248; *Chron. Maj.*, v, 41. The chronicler's vituperation was doubtless on account of Patrick II's pursuit of the claim to the advowson of Eglingham.
[106] *Cal. Docs. Scot.*, i, no 1719
[107] Charters to Melrose, nos 16-17
[108] Charters to Coldstream, no 10. The hand of the scribe is that of no 14, suggesting the later date.
[109] Charters to Laymen, no 5
[110] Charters to Laymen, no 4. See p 146 below.
[111] Charters of the Heirs, no 11
[112] *Cal. Docs. Scot.*, i, no 1737

Patrick III (1248, x 13.12 – 24.8.1289)

Patrick III succeeded as earl in 1248 on the death of his father with whom the Lanercost chronicler compares him unfavourably.[114] He married Cecilia daughter of John of Warkworth and they had at least three children, Patrick, John and Alexander.[115] His relations with his mother Euphemia were bad, according to the Lanercost chronicle, though mother and son were reconciled before her death in 1266 or 1267.[116] There seems to have been a jocular side to his character too; in the doubtless apocryphal story recounted in Bower of the warning given to him and his company at Dunbar Castle by Thomas the Rhymer just before the death of Alexander III, he is said to have asked the seer 'half-jesting as usual' what would happen on the next day. When he heard in the morning that Thomas' warning of a storm had been fulfilled and that the king was dead 'the earl and all his household, as if awakened from a deep sleep, beat their breasts'.[117] The story may have been told to illustrate known or remembered facets of his character, and to portray the innate loyalty to the Crown of the Dunbar earls, a loyalty shared by the baronial community despite the turbulence and the political machinations of the minority of Alexander III and the difficult years after his death.[118]

The earl was close to the king throughout his reign. Though not named by *Gesta Annalia*, he may have been present in 1249 at the inauguration of Alexander III at Scone.[119] In August 1255 he was one of the group of Scots,

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[113] *Chron. Melrose,* 107, s.a. 1248; *Chron. Lanercost,* 54, s.a. 1248 (which adds 'at Marseilles'); Paris, *Chron. Maj.*, v, 41; *Historia*, iii, 40, s.a. 1248; *Chron. Bower,* v, Book IX, 190-191

[114] *Chron. Melrose,* 107, s.a. 1248; *Chron. Lanercost,* 54, s.a. 1248

[115] Charters to Coldstream, nos 11, 13-14; of Heirs no 16; to Laymen no 7. The earl is confused with Patrick IV in the account of the Comyn marriages in A. Young, 'Noble Families and Political Factions in the Reign of Alexander III' in *Scotland in the Reign of Alexander III,* ed. N. Reid (Edinburgh 1990), 11. On a possible daughter, see above, p 26.

[116] *Chron. Lanercost,* 82-3, s.a. 1267

[117] *Chron. Bower,* v, Book 10, 428-9

[118] For a discussion of the Scottish magnates' political awareness, see Duncan, *Kingdom*, 614-15; D.E.R. Watt, 'The Minority of Alexander III of Scotland', *TRHS*, xxxi (1971), 1-23; Norman H. Reid, 'Alexander III: the Historiography of a Myth' in *Scotland in the Reign of Alexander III* (Edinburgh, 1990), 181-208.

[119] *Chron. Fordun,* i, 293-4; ii, 289. The earls of Menteith, Fife and Strathearn are identified. (C.f. Duncan, *Kingship*, 139)

Henry III's 'beloved friends', to whom he recommended his envoys the earls of Gloucester and Hertford and to whom the English king extended his 'special protection'.[120] He is said to have intervened with Gloucester to effect the consummation of the marriage of the young king and queen and 'fired by zeal for the realm' to have acted with Alan Durward, seizing the king and occupying Edinburgh Castle.[121] From there, despite a siege by Comyn supporters, they took the young king and queen to her parents at Wark. At Kelso he and Durward produced proposals for the minority but the Comyn party refused to accept them. Henry then in the name of Alexander III set up a council in September 1255 which included the earl.[122] He was apparently not a member of the 1258 council.[123]

Thereafter during the remainder of Alexander III's reign he played a full part in public affairs.[124] He appended his seal to the treaty with Norway in July 1266.[125] He was a witness to the Scoto-Norwegian marriage contract at Roxburgh on 25 July 1281[126] and he attended the gathering at Scone on 5 February 1284 which pledged support to Margaret Maid of Norway as heir after the death of Alexander, failing issue.[127]

His own charters indicate a degree of a retrenchment, with most of his benefactions achieved through re-granting of land surrendered in his court.[128] He also made a minor grant and gave a confirmation to the priory of May.[129] He probably attempted some revenue-raising from Nisbet and from

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[120] *Cal. Docs. Scot.*, i, nos 1987-8
[121] *Chron. Melrose,* 112, s.a.1255; *Chron. Bower,* v, Book X, 316-7
[122] It is not clear whether he was the leader of the dominant group or merely a member of the Council. See *Chron. Melrose,* 112-3, s.a. 1255; *Chron. Bower,* v, Book X, 316-7; *APS,* i, 419-20; *Foedera,* i, 329; *Cal. Docs. Scot.*,i, nos 2013, 2015; Stones, *Anglo-Scottish Relations,* 60-9, Doc. 10; Duncan, *Kingdom,* 567.
[123] *Cal. Docs. Scot.*, i, 2139; Stones, *Anglo-Scottish Relations,*70-5, Doc. 11; Alan Young, *Robert the Bruce's Rivals, the Comyns, 1212-1314* (Tuckwell, 1997), 71. Professor Duncan's judgment that Earl Patrick took no part in affairs refers to the council of 1258 (Duncan, *Kingdom,* 573-4), yet Alan Young criticises it in the context of the 1260s and later.
[124] The *Scots Peerage* says without giving evidence that he commanded a division of the Scottish army at the battle of Largs (*SP,* iii, 258).
[125] *APS,* i, 420-1
[126] *APS,* i, 421-4 ; Duncan, *Kingdom,* 592
[127] *APS,* i, 424; *Foedera,* i, 638; Duncan, *Kingdom,* 613
[128] Charters to Coldstream, nos 11, 13-15
[129] Charters to May, nos 5-6

Graden.[130] This does not necessarily indicate financial hardship, for the abbeys and priories had already been endowed, some generously, over the years. Rather it seems that squeezing land for financial return was simply a lesson well-learned. Certainly, the provision for younger sons like Patrick, Earl Waldeve's brother and William, younger brother of Patrick I, from the Dunbar estate, and the granting of lands to tenants and dependants like the Frasers restricted the earls' scope for further endowment. But we should not make too much of their 'declining generosity'.[131]

After the untimely death of Alexander he made the Turnberry Bond on 20 September 1286 with the Bruces (father and son), James the Stewart, the earl of Ulster, the Lord of Islay and others. Whatever the national significance of the pact, it offers an insight into the magnate faction based on family and marriage links to which he was attached.[132] He died on 24 August 1289, at the family seat of Whittingehame. The Lanercost chronicler, while admitting that he had at the last amended his ways, could not resist having a final dig at him by recalling the vices all too apparent in his earlier life.[133]

He was buried in Dunbar church, on the north side.[134]

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[130] Charters to Durham, nos 8 and 9; Charters to Laymen, no 7
[131] Duncan, *Kingdom,* 375
[132] J. Stevenson, *Documents Illustrative of the History of Scotland, 1286-1306* (Edinburgh, 1870), i, 22-3, no 12
[133] *Chron. Lanercost,* 127, s.a.1289
[134] *Ibid.*

Chapter 2

The acts of the earls

There are ninety-two recorded acts of the earls relating to Scotland, of which seventeen are lost acts. For fourteen of these lost acts, there is positive evidence for a charter having once existed, while three are acts for which no charter is recorded. Of the seventy-five acts for which there is a charter, just over half, thirty-eight, survive in the original, while thirty-six exist only in manuscript or printed copy. One original has been lost since 1887.[135] Eighteen acts of the heirs are recorded, thirteen of them of Sir Patrick, son and heir of Earl Patrick I, who played an active role in the 1220s during his father's last years. Eleven of the eighteen orginal charters of the heirs are extant.

The earliest charters of the earls are two of Earl Gospatric, brother of Dolfin, to Durham Priory and St Nicholas Church, Hume, which date from the 1120s or the 1130s. The latest are the thirteen charters of Patrick III (1248 x 1289) to the priories of Coldstream, May, Coldingham and Durham, and to Melrose abbey and one charter to a lay beneficiary. They span therefore a period of about 160 years, a period characterised by change, not only in the political fabric of the country but also in the population and economy of western Europe and in the self-perception and influence of the western Church.

The charter collection is not small, but it is at times thinly spread over that period, so that studies of handwriting, of diplomatic, and of witness lists can lead only to general or tentative conclusions. The likelihood of finding several charters by one scribe, for instance, is considerably lessened by the time-span. Families are more easily identified as recurrent witnesses than individuals. Thus dating can be problematical, particularly in view of the surfeit of Earls Patrick, and the patchy survival of their seals to the Coldstream and Melrose charters. Inconclusive dating in turn affects the validity of diplomatic analysis. On the positive side, the magnificent Durham collection of charters, many with beautifully preserved seals, offers an unusually substantial and cohesive core of evidence. The time-span, too, is exhilarating, for the charters

document the history of the house of Gospatric from the reign of David I to the eve of the Wars of Independence and its evolution from an implanted Northumbrian warrior dynasty into a settled noble house, living amicably with neighbours and colleagues of Anglo-French descent and part of a network of magnate alliances based on family and political connections.

The earls and their acts

Eight of the acts are not attributable to a specific earl and so are included under each possible earl.

Gospatric brother of Dolfin (3)
Charters to Kelso, no 1; to Durham, no 1
Acts for which no charter is recorded, no 1 (to Melrose)

Gospatric father of Waldeve (11)
Charters to Coldstream, nos 1-2; to Kelso, nos 2-4; to May, no 1; to Melrose, nos 1*, 2; to Durham, nos 2-3
Acts for which no charter is recorded, no 2 (to May)

Waldeve (8)
Charters to Coldstream, no 3; to Kelso, nos 5-6; to Melrose, nos 3-4, 5*; to Coldingham, no 1; to Durham, no 4

Patrick I (45 or 43)
Charters to Coldstream, nos 4-7, 8*, ?9; to Dryburgh, nos 1-5; to Kelso, nos 7-10; to May, 2*, ?3*; to Melrose, nos 6, 7*, 8-13, ?19* ; to Newbattle, nos 1-5; to Coldingham, nos 2-8; to Durham, nos 5-6; to Laymen, nos 1*2*3* ?4
Acts for which no charter is recorded, no 3 (to Paisley)

Patrick II (13 or 9)
Charters to Coldstream, nos ?9, 10; to Kelso, no 11*; to May, ?3*, 4*; to Melrose, nos ?14, 15-17; to Durham, no 7; to Laymen, nos ?4, 5, 6*

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[135] DCM, MC. 768 (*ND*, no 121), Charters to Coldingham, no 3

Patrick III (16 or 15)

Charters to Coldstream, nos 11, 12*,13-15; to May, nos 5-6; to Melrose, no ?14, 18; to Coldingham, nos 9-12; to Durham, nos 8-9; to Laymen, no 7

Classification and subject matter

All seventy-five of the earls' charters are writ-charters, a flexible and varied form of document which shares and continues the trend towards formality and stereotypical language in royal charters of the late twelfth and early thirteenth centuries.[136] They are in the following categories: the numbers totalling more than seventy-five are because a few charters are composites of more than one category.[137]

Original or first grant of land or property	32
Re-iteration of own grant	2
Augmentation of first grant	4
Confirmation of predecessor's grant	17
Confirmation of grant by other family member	4
Confirmation of grant by a tenant or dependant	11
Quitclaim of land, property or right	4
Confirmation of quitclaim	3
Chirograph	4
Sale	1
Confirmation of sale	1
Receipt	2
Administrative brieve	1

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[136] *RRS*, ii, 69. John Hudson has examined over one thousand twelfth-century Scottish charters, royal and non-royal, of which the 'vast majority' are writ-charters. (John Hudson, 'Legal Aspects of Scottish Charter Diplomatic in the Twelfth Century: a Comparative Approach', (hereafter Hudson, 'Legal Aspects'), *Anglo-Norman Studies, XXV* (Woodbridge, 2003), 22.)

[137] Here the term 'charter' includes chirographs which some authorities would not classify as such (e.g. Michael Clanchy, *From Memory to Written Record* (London, 1979), 60-87, especially 65-7).

The largest category by far is of original or first grant, followed in about half of the cases by confirmations of these grants by successive earls. Together these account for half of the surviving charters. This is unsurprising, since such charters would be particularly valued and consciously preserved in the archives of the religious houses to whom they were mainly directed. The Durham /Coldingham collection, which has twenty-one of the seventy-two charters of the earls to all houses, shows a remarkable assiduity in this respect. Proportionately few confirmations by the earls of grants by tenants and dependants survive; eleven over the period does not imply an over-active exercise of lordship or too zealous a control of the alienation of land in the earldom.[138] In particular, confirmations by the earls of grants by the members of their family are scarce, despite the fact that these usually related to lands within the Dunbar earldom. Perhaps the knowledge that they were Dunbar lands to be held of a lord of the Dunbar family was security enough for the recipients. Of course, where confirmations by the earl do survive, it is clear that these might refer to several separate pieces of land or property, and thus may represent a far higher number of original grants.[139] Probably the most important factor was the overwhelming preponderance of charters to religious houses, which account for seventy-two of the seventy-five in the collection. Where alienation was limited by the absence of heirs and the guaranteed presence of the monks and nuns, the earls may have been less active in ensuring that a grant would literally and metaphorically carry their seal of approval.

Lost acts, of which there must be many now completely unknown, and which may have included many grants to laymen, number only seventeen in this collection, of which four are to laymen. On the whole, as far as can be judged without access to the language and detail of a charter, they tend to be overwhelmingly first or original grants. Twelve or thirteen of the seventeen are in this category.[140] Of the remainder, one is the confirmation of the grant of a

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[138] Though the five confirmation charters to Newbattle might suggest that more depended on whether a particular religious house had a policy of seeking and retaining these.
[139] Charters to Laymen, no 4, for example
[140] Earl Waldeve's grant to Melrose of a toft in Biel includes a saltpan which may be the subject of Gospatric's grant (Charters to Melrose, nos 1*, 5*).

predecessor, two of grant by a tenant, and one, perhaps two, an agreement. This indicates a higher percentage of confirmations of a tenant's grant than elsewhere but the smallness of the sample precludes further analysis.

Physical appearance

Material

The parchment used for the charters varies from heavy to medium-heavy to light.[141] As with royal acts within the period, there seems to be a tendency for parchment to become lighter and smoother over the years, though this is by no means consistent.[142] Nor can any sustainable connection be made between the religious house and the parchment on which its charters were written. Only a very generalised observation can be made – that the parchment of the charters which seem to have been produced by the beneficiary are stronger and coarser, and therefore more durable.[143]

Size

Three of the charters are almost exactly square in shape.[144] The remainder are rectangular, and with two exceptions their width exceeds their height.[145] The width of the charters ranges from the largest at 260mm (just over 10 ins.) to the smallest at 140mm (5½ ins.).[146] Approximately half of the documents are 200mm (just under 8 ins.) or over, and a half less. In height they range from 256mm (10 ins.) to a mere 65 mm (2 ½ ins.), with approximately half less

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[141] Heavy parchment in Charters to Melrose, no 4; medium in Charters to Coldstream, no 3; light in Charters to Coldingham, nos 7-8.
[142] On this point, see *RRS,* ii, 83-4. In the case of the Dunbar charters, heavy parchment was used for mid-thirteenth century charters to Coldingham (Charters to Coldingham, nos 9-10).
[143] Again an observation which accords with Professor Barrow's analysis of royal charters of twelfth and thirteenth centuries (*RRS,* ii, 83)
[144] Charters to Melrose, nos 9-10, 12
[145] Charters to Coldstream, no 10; to Durham no 5. The latter is the charter which Professor Watt regards as suspect (Watt, *Grads.*,105).
[146] Charters to Coldstream, no 15; to Melrose, no 6

than about 120mm (4 ¾ ins.) in height.[147] There does not seem to be any correlation between the size of the document and the significance of the subject matter. The earlier Coldingham charters tend to be smaller than the Durham charters of the same period but other distinguishing features are difficult to discern.

Handwriting

Thirty-eight, just over half of the seventy-five written acts of the earls, survive as originals. They span the period from the 1120s or 1130s to approximately the 1280s and relate to transactions with four religious houses (Coldstream, Melrose, Coldingham and Durham), with one original charter to laymen. For purposes of comparison this is not a large sample, given the time-scale and the range of beneficiaries. A comprehensive handwriting study would require comparisons with all of the contemporaneous charters of the religious houses involved to identify scribes; even here, however, there is the problem of separating the writing activity of a house like Coldstream from that of the earl's establishment.

Nevertheless, some analysis of the handwriting of the earls' charters is possible. In the charters of successive earls, for instance, the move to current script can be discerned, not invariably and consistently, but significantly enough to place the charters and their scribes into the context of wider developments in twelfth and thirteenth-century western European bureaucracy. In addition, there is some slight indication of a developing clerical organisation, perhaps a chancery, within the earls' establishment, by the mid- to late thirteenth century. However slender the evidence, it ties in with the conclusion from the study of the diplomatic of the Dunbar charters that it may be possible to discern a house style by the mid- to late thirteenth century.[148]

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[147] Charters to Melrose, no 11; to Durham, no 5. The Melrose charter, which is the bottom half of the chirograph made concerning Sorrowlessfield, must have been very large, before being cut.

[148] See below, Chapter 3.

Developments in handwriting

The language of handwriting studies can pose problems, often because it is necessarily devised to suit particular collections. There is a temptation to over-categorise writing and this in turn leads to an attempt to label each hand and indeed trace the origin of each charter through these definitions. While this can work in some cases, the overwhelming impression given by the Dunbar collection is that of uneven development, of elements of formal and informal in the one hand, and of individual inconsistencies. As elsewhere, the development of current elements did not produce uniform results.[149] The charters, moreover, were produced in many different centres doubtless with their own traditions and styles of hand. It is therefore important to take the long view of how handwriting evolved in the period, to discern overall trends, and to allow for cross-currents of both innovation and conservatism.[150] This longer-term appraisal of course straddles the charter output under successive earls, so that the divisions used below are in themselves somewhat artificial. They provide a framework only for the study.

The handwriting of the charters, c.1124- c.1182

This period covers the earldom of Gospatric, brother of Dolfin and his son Gospatric and grandson Waldeve. It provides a very small sample of only eight originals. Four are written in the kind of formal hand associated with monastic book production; one to Melrose, one to Coldingham, and two to Durham.[151] The hand of a charter of the 1160s to Durham shows current elements, with the curved 'd' half-forming a loop ('deo', line 1) and the follow-through stroke on the Tironian *nota* (line 1). Yet the 'a' is written with a prominent header ('hac', line 1).[152]

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[149] M.T.J. Webber, 'The Scribes and Handwriting of the Original Charters' (hereafter Webber, 'Handwriting'), *The Earldom of Chester and Its Charters* (hereafter *Chester Charters)*, ed. A.T. Thacker (*Journal of the Chester Archaeological Society*, vol. 71, Chester, 1991), 147

[150] In the charters of the earls of Chester, for example, hands resembling those used in books and some documents of the twelfth century can be found in documents of the thirteenth century (*ibid*, 147).

[151] Charters to Melrose, no 2; to Coldingham, no 1; to Durham nos 1, 4

[152] Charters to Durham, no 2 (Plate 1)

A later charter of Earl Waldeve to Melrose is less current, with the shafts of the 'd' perpendicular but with tall ascenders and some loops (line 2). The letters of some words appear joined, though perhaps more because they are not spaced rather than as a result of follow-through strokes ('consuetudinibus', line 6). The scribe has added flourishes of the pen, particularly in line 1, perhaps in imitation of papal documents.[153] Waldeve's charter to Coldstream of the same period is in pleasing charter hand, small, neat and unhurried, with crossed Tironian *nota*. Here there is some currency in the curved shaft of the 'd'.[154]

The handwriting of the charters c.1182-1232

This period of the earldom of Patrick I is one of transition in the diplomatic of the charters, and also in handwriting. Fourteen charters survive as originals, four of which resemble the careful hands of the earlier charters to Melrose and Coldstream described above. They are interesting because although neat and deliberate in style, they are less formal than others of their period, conveying the impression of efficient monastic archive-keeping.[155] The more formal hands appear to derive from the heavier and consciously-devised hand of the monastic book-hand type. There are three examples of the latter *genre*, the earliest Patrick I's charter quitclaiming Swinton to Durham (MC 766), with two approximately of the 1220s, one to Melrose and one to Coldingham. The Durham charter is highly legible and studied, with few indications of current style, but is characterised also by the shafts of the 'd' sloping forwards to almost 45° to the horizontal ('de', line 5), forked uprights ('salute', line 3) and tailed 'q'('quietam', line 4).[156]

At the same time other charters show signs of change, with the development of markedly smaller script, allowing for greater neatness when writing at speed.[157] Yet these charters and another also in small script continue to demonstrate some formality, combining, as in MC 765, sloping 'd' shafts

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[153] Charters to Melrose, no 3 (facsimile in *Melrose Liber*, facing p 67- Plate 2)
[154] Charters to Coldstream, no 3 (Plate 3)
[155] E.g.Charters to Coldstream, no 5 (Plate 4)
[156] Charters to Durham, no 6 (Plate 5); to Coldingham, no 4; to Melrose, no 13
[157] Charters to Coldingham, nos 5 and 6 (in the same hand)

('audituris', line1,) curved and forked ascenders ('heredibus', line 2) with headers to 'a'('apud', line 3) and elaborate initial letters.[158]

A much greater contrast is provided by two charters written in a very small and rapid, almost cursive script, one probably dating before 1200, the other of c.1230 in a similar hand to that of a letter of Sir Patrick, the earl's heir. The emphasis is on rapidity, with sloping 'd' shafts and follow-through strokes. [159] In the earlier charter, (MC 763) the 'a' has no header and some letters 'd' are looped ('quod', line 1); the impression is of speed and pressing business and of little interest in the appearance of the document.[160]

The handwriting of the charters (c.1232-1289)

The third and last period spans the earldoms of Patrick II and Patrick III. As heir, Sir Patrick issued charters of which twelve survive as originals. They are written in a variety of types of handwriting, many closely resembling those of his father's charters. They range from the heavier, more ornate to the current, almost cursive styles described above. Six originals from his time as earl are extant. Three, to Melrose, are written in formal hand, with few current elements.There is apparently no pressure or speed in their production; all three scribes share an attention to detail such as ornate capitals and decorated uprights and long-tailed 'g'. In all three cases the 'a' header has evolved into the two-compartment 'a'. Nevertheless they are conservative in appearance.[161] Only one of the six surviving originals from his earldom demonstrates the continuing evolution of handwriting– his wide-ranging charter of confirmation to Coldstream, with its distinctive looped tails, forked uprights, and curved 'd' letter-shafts.[162] The hand is identical to that of the charter of his son, Earl Patrick III, granting land in Lennel to the nuns.[163]

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[158] Charters to Coldingham, no 7 (Plate 6)
[159] Charters to Coldingham, nos 2, 8; of the Heirs, no 10. There is a possibility that the first of these is a copy of later date. The seal, which is the first seal of Patrick I has been attached, unusually, to the left of the footfold.
[160] Charters to Coldingham, no 2 (Plate 7)
[161] Charters to Melrose, nos 15-17. So also with Patrick III's charter of confirmation to Melrose (Charters to Melrose, no 18).
[162] Charters to Coldstream, no 10 (Plate 8)

From the earldom of Patrick III eight further charters in a range of types of handwriting survive. Two are in charter hand.[164] Four are probably the work of Durham scribes.[165] Two others are written in very similar style: the distinctive features are smallness, light upstrokes, heavy downstrokes, looped or sloping 'd' shafts, looped tails and a slightly blotted impression effected by the angling of the pen. They are not unpleasing to the eye, but they are not devised for display. They are business documents, and they are written as such, with a sense of a more settled and accepted style. Among them is the sole surviving original to a lay beneficiary.[166]

Scribes and charter production

The attempts to trace the development of a chancery in the household of lay magnates has sometimes proved less than rewarding, on account of the limited number of surviving originals.[167] Even Teresa Webber in her study of the more numerous charters of the earls of Chester from the mid-twelfth to the mid-thirteenth centuries concluded that throughout the period there may have been a considerable reliance on the provision of scribes by religious houses and that 'even in the early thirteenth century, it is difficult to speak of anything as formal as an organised writing-office'.[168]

The thirty-eight Dunbar charters span a wide period of perhaps over a century and a half, and it would be optimistic to expect such evidence to reveal much of the scribal process which lay behind them. Some connections, however, can be made, and some suggestions offered, based on the evidence of

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[163] Charters to Coldstream, no 14
[164] Charters to Coldstream, no 15; to Melrose, no 18
[165] Michael Gullick has identified the hand of a Durham scribe who wrote charters for both Coldingham and Durham (Charters to Coldingham, nos 9,10,12; to Durham, no 8).
[166] Charters to Durham, no 9 (Plate 9); to Laymen, no 7 (Plate 10).
[167] As, for instance, in the studies of the charters of Earl David and of the earldom of Gloucester, and the honour of Mowbray (K.J. Stringer, 'The Charters of David, Earl of Huntingdon and Lord of Garioch: A Study in Anglo-Scottish Diplomatic' (hereafter Stringer, 'Earl David Charters') in *Essays on the Nobility of Medieval Scotland*, hereafter Stringer, *Nobility* (Edinburgh, 1985), 79; R.B. Patterson, *Earldom of Gloucester Charters: The Charters and Scribes of the Earls and Countesses of Gloucester to A.D. 1217* (hereafter *Gloucester Charters*), (Oxford, 1973), 16-21; D.E. Greenway, *Charters of the Honour of Mowbray 1107-1191* (London, 1972), lxvii-lxx.
[168] Webber, 'Handwriting', *Chester Charters*, 147

witness lists, of the seals, and of the handwriting, particularly of the charters produced in the thirteenth century.

From the witness lists of the charters of the earls and others, it is clear that clerks were part of the comital household from about 1200.[169] In some instances a man is identified specifically as the earl's clerk though he may appear elsewhere simply as clerk.[170] On no occasion is more than one clerk listed as a witness, so we cannot envisage a staff of clerks. There is no example of the scribal subscription found in seventeen of the Chester charters, where the clerk names himself as the person who is responsible for the production of the document.[171] In five cases the'last witness' is the clerk and it may be that we can surmise that he was the scribe, but in none of these examples can a connection be established between the name of the clerk and the handwriting.[172] Where chaplains are named, there is some evidence from the Chester charters that they also acted as scribes, but there is no evidence in the Dunbar charters of their having performed other than ecclesiastical duties.

Clerks, then, were part of the earls' staff; but it is not clear how involved they were in charter production. Earl Gospatric's two charters confirming Edrom and Nisbet to Durham, however, carry a counterseal which has given rise to some debate. It shows a figure milking an animal, probably a goat, with the inscription that it is the seal of Robert, possibly Robert le Belle. It is quite probable that this was the counterseal of a clerk.[173] This is supported to a degree by the handwriting study above which identified some current elements in the writing of both these charters. In summary, there is some justification for

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[169] See below, p 216.
[170] e.g. Gilbert Fraser designated 'clerk' in Charters to Durham, no 6, 'my clerk' by Patrick I in Charters to Melrose, no 6.
[171] Webber, 'Handwriting', 139.
[172] Charters to Coldstream, no 5; to Melrose, no 13; to Coldingham, nos 2, 12; to Durham, no 7. On the phenomenon of the last witness, see J. H. Hudson, 'Diplomatic and Legal Aspects of the Charters, hereafter Hudson, 'Diplomatic and Legal Aspects', in *Chester Charters*, 175-6, where he cites his article 'Medieval Charters: the Last Witness', *Journal of the Society of Archivists, v,* (1974).
[173] On the countersealing of the equestrian seal of the earl of Chester by clerks, see T.A. Heslop, 'The Seals of the Twelfth-Century Earls of Chester' (hereafter Heslop, 'Seals'), *Chester Charters*, 190. The Le Belle or Belle family had connections in Northumberland and Cumberland (Cal. Docs. Scot., i, nos 356, 2363).

the view that procedures for producing charters may have existed at a very early date in the Dunbar establishment.[174]

The difficulties in identifying the work of individual scribes of comital charters has already been alluded to. The hand of both charters of Patrick I to Coldingham regarding Billie is the same; so also the charter and duplicate of Patrick II's confirmation of Edrom and Nisbet to Durham.[175] In one case, as we have seen, a charter hand straddles the period of two earls and provides an impression of continuity.[176] There is also some evidence of cooperation within the family over charter production, with two charters of Sir Patrick to Coldingham in a hand very similar to that of one of his father's charters. All can be dated to 1231-2.[177] Since one is a rather peremptory letter from Sir Patrick to Prior Thomas, we may assume that it was not written by the prior but by the clerk of either Sir Patrick or of his father;[178] and since one was a letter from Sir Patrick to his father, it seems that the writer must have been Sir Patrick's clerk.[179] Possibly the two shared a writing office; but since they lived in separate establishments it is more likely that Sir Patrick had the various documents prepared, probably by his own clerk. We know that his seal was in the custody of his notary, Robert of Lambden, and this suggests a reasonably sophisticated set-up.[180]

The weakness in the comparison of hands lies in the fact that the handwriting of the earls' charters ought to be compared with the entire collection of the charters of the religious houses who were the beneficiaries. Only a sampling can be attempted here. If the earls' charters to Coldstream, for instance, are compared with others of the Coldstream collection, some illuminating connections can be made. Two of the three charters granting Skaithmuir to the nuns are in the same hand–the charter of Richard of Lennel and the confirmation of Earl Patrick. Richard's mother's charter, which has a quite

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[174] Interestingly, the use of the counterseal by Earl Ranulf II (1129-35) is deemed 'precocious' (*ibid*, 196).
[175] Charters to Coldingham, nos 5-6; to Durham, no 7.
[176] Charters to Coldstream, nos 10, 14
[177] Charters of the Heirs, nos 11 and 10; to Coldingham, no 8 (Plate 11)
[178] Charters of the Heirs, no 11
[179] Charters of the Heirs, no 10
[180] Charters of the Heirs, no 11

different witness list, is in another hand, and seems to have been written later, possibly at Kelso.[181] Patrick II's charter confirming all possssions to Coldstream and Patrick III's charter giving land in Lennel seem to have been written by the scribe who wrote Patrick Edgar's resignation charter of his Lennel lands and the charter of Alan son of Thomas giving land in Darnchester to the nuns.[182] Yet, though this might suggest that the charters were being written by the scribes of the priory rather than the scribes of the earls, it would just as likely that the work would be done for both by the earls' clerks. It may be different in the case of Melrose: the persistence of a conservative style of script in the Melrose charters suggests that the charters continued to be written there.[183] But it is all highly conjectural. In any case, since the earl's seal was put to the document, it is difficult to see why the place of production should be all-defining. The earl or his representatives were hardly likely to agree to changes in the terms of the grants or settlements, nor to allow the monks any flexibility in their interpretation of what they were to receive; still less to pre-seal charters in order to give the recipients *cartes blanches*.[184]

The 'missing link' continues to be the identification of Dunbar charters in a particular hand to more than one religious house, other than in the particular case of Coldingham and Durham. That would strongly suggest that the charters were written by a scribe of the earl. To some extent, however, the existence of the one charter to lay beneficiaries, Geoffrey and Margaret Caldicott, compensates for the lack, for it is unlikely that they would have had the resources to produce a written charter. We may therefore reasonably assume that it was written by the earl's scribe; and since it strongly resembles the hands of other charters of Earl Patrick III to Durham, it is the clearest indication we have of charter production in the thirteenth century within the comital establishment.[185]

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[181] Charters to Coldstream, no 5; *Cold. Cart.*, nos 5-6 (NAS, GD 212/ Box 10/ 5-6)
[182] Charters to Coldstream, nos 10, 14; *Cold. Cart.*, nos 12, 32 (NAS, GD 212/ Box 10/ 12, 32
[183] As in Charters to Melrose, nos 15-18
[184] Pre-sealed charters were not of course unknown (A.A.M. Duncan, 'Yes; The Earliest Scottish Charters, *SHR*, lxxviii (1999), 11).
[185] Charters to Durham, nos 8-9

Dating the acts

Six only of the earls' charters have a date of place. In three instances this can be linked to the fact that they were issued as a result of the settlement of a case in the *curia regis* when the scribes seem to have followed the procedure of giving the place-date which had come to be the norm in Scottish and English royal charters by the late twelfth century. Whether or not the charters were written by royal scribes or whether their composition was influenced by the royal connection remains uncertain.The damaged charter of Earl Patrick II confirming Hassington to Melrose Abbey on 18 April 1248, for instance, has Berwick as the date of place and may well have been written at Berwick by a royal scribe. The hand of the earlier charter of 14 April, which also is dated at Berwick, on the other hand, is less cursive and more deliberately ornate, and may well have been written retrospectively at Melrose using the draft of the royal clerks as a basis of the text. There may be a link with the damage done to the later charter. A similar process probably lay behind the production of Patrick I's confirmation of Sorrowlessfield to Melrose at Selkirk about 1208.[186]

Three further charters of the earls have place-dates but are not apparently connected with the royal chancery. The earliest is the charter of Earl Gospatric to the priory of May which was witnessed by his wife and son Waldeve at Dunbar. It may be that in this case the *apud Dunbar* was a later insertion by the cartulary scribe, for here too is the earliest example of an earl styling himself *Comes de Dunbar.*[187] The remaining two occurrences of place-dates are found in charters of Earl Patrick III, both of which have the full time-date of the day of the month, in Roman calendar form, and the year *anno domini* (1261) and *anno gracie* (1279).

Dat' apud Chymeside . die Veneris proxima post festum omnium sanctorum . Anno domini . Millesimo Ducentesimo . sexagesimo primo .

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[186] Charters to Melrose, nos 11, 12 (Selkirk), 16 , 17 (Berwick)
[187] Charters to May, no 1

Dat' apud Duns quarto Kalendis Juniis . anno gracie Millesimo . Ducentesimo . Septuagesimo . Nono[188]

The first of these, to Durham, was issued or written at Chirnside, the second, to Coldingham, at Duns. Almost certainly these were seats of comital power, though it is also possible that the places were named, unusually, because of particular circumstances. Earl Patrick's charter confirming Hassington to Melrose refers to his court at Edrom, a century after Edrom had been surrendered to Durham, a reminder of the complexities of landholding and jurisdiction, and of competing rights and responsibilities there and elsewhere.[189]

Time-dates take a variety of forms.[190] The coupling of highly specific forms of the dates of time and place in the charters of Earl Patrick III is also found in the three Melrose charters concerning Sorrowlessfield and Hassington. The Sorrowlessfield charter has, unsurprisingly, a markedly ecclesiastical form:

Anno domini . M . CC octavo . in octavis apostolorum Petri 7 Pauli .[191]

The two Melrose charters regarding Hasssington, dated at Berwick, use a form incorporating the regnal year, the practice adopted regularly in royal charters from 1221-2:

quartodecimo die Aprilis. Anno regni domini regis Alexandri . xxxiiii . octodecimo die Aprilis Anno regni eiusdem tricesimo quarto .[192]

Within the text of two further charters, dates of time occur twice, in one case referring not to the charter as such but to the transaction recorded in it – the sale of the earl's stud at Lauder to Melrose Abbey in 1247, in the form:

Anno gracie . Millesimo . Ducentesimo Quadragesimo . septimo ; In festo decollationis Sancti Johannis Baptiste .[193]

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[188] Charters to Durham, no 9; to Coldingham, no 12
[189] Charters to Melrose, no 17
[190] These include the *anno regni*, *anno gracie*, a feast day, *anno domini*, or a combination of these.
[191] Charters to Melrose, no 11

The charter of confirmation of the sale by his son as earl in 1251 repeats the date of the sale but is itself dated. Here the time-date is expressed

Anno gr[acie] Mill[esimo duc]entesimo Quinquagesimo primo .[194]

The use of time-dates in connection with money transactions is generally striking. It is a feature of the charters of the earl's heir, Sir Patrick, recording payments to him by the priory of Coldingham for the quitclaim of Swinewood –in effect, receipts.[195]

Two early and untypical examples of the appearance of the date of time occur in a charter of Gospatric brother of Dolfin endowing St Nicholas Church, Hume where the day and month are given in Roman form – *in . x . kalendis . Aprilis .* More remarkable is the time-dating of Waldeve's charter to Durham:

Hec carta confirmata est . Anno dominice Incarnationis M . c . Lxvi . primo Anno Regis Willelmi Scotie .[196]

The unusual nature of this time-date raises questions about the authenticity of the charter. There is no question of a later addition to the text since the hand is uniform and so the charter must be considered as a whole.[197] Yet the witness list and the content of the charter show no inconsistencies, and it may be that the date of 1166 was included because it was the year of Waldeve's succession to the earldom. There are indications that for some time he had been deputising for his father and it is entirely possible that the Durham monks sought to clarify that this confirmation was from the new earl rather than a mere heir.

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[192] Charters to Melrose, nos 16-17
[193] Charters to Melrose, no 15
[194] Charters to Melrose, no 18
[195] Charters of the Heirs, nos 11-14
[196] Charters to Durham, no 4
[197] Professor Barrow states that in this period time-dates at the end of an act, referring strictly to the document itself, appear invariably in forgeries or acts whose texts have been tampered with (*RRS*, ii, 82).

Sources

(a) Originals

DURHAM

Dean and Chapter Muniments

Miscellaneous Charters, 788, 763, 769, 744, 743, 765, 767, 773, 772, 661, 774

Charters to Coldingham, nos 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12

Miscellaneous Charters, 778, 777, 779, 787, 764, 766, 746, 745, 775, 776

Charters to Durham, nos 1, 2, 3, 4, 5, 6, 7, 8, 9

Miscellaneous Charters, 741, 742, 734, 733, 736, 739, 738, 734*,737, 735

Charters of the Heirs, nos 7, 8, 9, 10, 11, 12, 13, 14

EDINBURGH

National Archives of Scotland

GD 55/ 6, GD 55/ 76, GD 55/120, GD 55/77, GD 55/48, GD 55/102, GD 55/104, GD 55/212, GD 55/230, GD 55/236, GD 55/235, GD 55/328

Charters to Melrose, nos 2, 3, 6, 9, 10, 11, 12, 15, 16, 17, 18

GD 212/10/26, GD 212/10/4, GD 212/10/57, GD 212/10/ 2, GD 212/10/ 1

Charters to Coldstream, nos 3, 5, 10, 14, 15

GD 212/10/29, GD 212/10/30, GD 212/10/14

Charters of the Heirs, nos 2, 3, 16,

RH/ 6/ 60

Charters to Laymen, no 7

(b) Manuscript Copies

DURHAM

Archives and Special Collections

MS, Cartuarium Vetus

Charters to Durham, nos 2, 3, 4, 5

MS, Register I

Charters to Durham, no 4

EDINBURGH

National Archives of Scotland

GD 45/ 27/ 8 (St Andrews Priory cartulary)

Charters to May, nos 5, 6

National Library of Scotland

Advocates MSS

34.4.7. (Dryburgh Abbey cartulary)

Charters to Dryburgh, nos 1, 2, 3, 4, 5

Charters of the Heirs, nos 4, 5, 6

34.5.1. (Kelso Abbey Cartulary)

Charters to Kelso, nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 10

Charters of the Heirs, nos 1, 15, 18

34.4.11 (Melrose Abbey cartulary, Reg. Vet.)

Charters to Melrose, nos 14, 15

34.4.13 (Newbattle Abbey cartulary)

Charters to Newbattle, nos 1, 2, 3, 4, 5

34. 4. 14 (Paisley Abbey cartulary)

Charter to Paisley Abbey

LONDON

British Library

Harley MSS:

6670 (Cartulary of Coldstream priory)

Charters to Coldstream, nos 1, 2, 3, 4, 5, 6, 7, 9,10 ,11, 13, 14, 15

Charters of the Heirs, nos 2, 3, 16, 17

3960 (Cartulary of Melrose Abbey, Reg. Rec.)

Charters to Melrose, nos 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 18

Egerton MS: 3031 (Cartulary of Reading Abbey)

Charters to May, no 1

(c) Printed texts

J. Raine, *The History and Antiquities of North Durham* (London 1852), Appendix no 121

Charters to Coldingham, no 3

Registrum Magni Sigilli Regum Scotorum, The Register of the Great Seal of Scotland, ed. J.M. Thomson and others (Edinburgh 1882-1914), i, 84, no 251

Charters to Laymen, no 5

The seals

Methods of sealing

The charters of the earls are sealed by one of three methods. The first and most common is through slits in the document through which the tag is passed. The unfolded foot of the document can be used, but mostly the slits are made in the footfold. Sometimes the tag is passed through a single slit. In other cases double slits are used : this means that three slits have to be cut, usually one on the bottom edge of the document and two on the footfold. The second, more unusual and expensive method is attachment by cords probably of silk passing though holes in the document, a method used in sealing two of the charters of Sir Patrick, son of Patrick I, one before and one after his accession to the earldom.[198] A third method, found mainly in earlier charters, is attachment of the seal by cutting a tongue from the foot of the document from right to left, leaving a uncut width of an inch or so on the left.[199] A few of the charters exhibit signs of clumsy repair work with patching on the reverse of the document or the reattachment of the seal.[200] In one instance the seal has been first attached to a tongue cut from the foot of the document; subsequently a footfold has been made to which the seal has been re-attached through double slits.[201]

The seals

The seals of the earls can be reconstructed to a greater or lesser degree from those which survive, in varying condition, attached to twenty- seven of the earls' charters. Patrick I (1182-1232) had a first and a second seal. Patrick III

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[198] Charters of the Heirs, no 7 (red, gold and black silk cord); Charters to Coldstream, no 10 (green, red and silver silk cord). These may have been used for particularly important documents such as the comprehensive charter of Patrick II to Coldstream (Charters to Coldstream, no 10), but not invariably so. See G.G. Simpson, 'An Anglo-Scottish Baron of the Thirteenth Century: The Acts of Roger de Quincy, Earl of Winchester and Constable of Scotland' (hereafter Simpson, 'RQ'), (unpublished PhD Thesis, University of Edinburgh, 1965), 160.

[199] Charters to Durham, no 8

[200] E.g. Charters to Melrose, no 15, which has been patched crudely on the reverse of the document

[201] Charters to Coldstream, no 5

(1248-1289) had three seals, the third a much smaller armorial seal used in documents as early as the 1260's.[202] All the other earls' seals are equestrian. Eleven seals attached to charters have a counterseal which may have belonged to the earls or to a clerk. Three colours of wax are used– natural (sometimes varnished), green and red. There is no apparent correlation between the colour used and the type of document or the beneficiary.[203]

Seal of Gospatric brother of Dolfin

There is one example only in the present collection [204] and it is very damaged and indistinct. It is in varnished natural wax and would have been about 45 mm (1 3/4") in diameter. A mailed figure rides to sinister holding a spear over his right shoulder.

The inscription reads '[SIGI]LLV[M] ..... [FRA]TRIS DO[LFINI]'

There is no visible counterseal.

Seal of Gospatric, father of Waldeve

There are two examples in the collection, both in varnished natural wax..[205] The seal would have measured 53 mm (2") in diameter.The horseman wears a conical helmet and carries a kite-shaped shield . In his right hand he bears a sword . The harness on the horse's neck is ornate. The horse prances.

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[202] Charters to Coldingham, no 11; to Durham, no 9

[203] See Simpson, 'RQ', 164, for a similar conclusion on colour and type of document.

[204] See Appendix 3, Fig. 1: Charters to Durham, no 1; reproduced in *NCH*, vii, plate facing p 40, (DS 2802); Nat. MSS. Scotland, i, plate xxv; Anderson, *Diplomata* plate lxxi (a).

[205] See Appendix 3, Fig. 2 : Charters to Durham, nos 2 and 3; seal reproduced in *Archaeologia Aeliana* (Newcastle), 3rd series, xii (1915), plate III (DS 34, no 2803); *NCH*, vii, plate facing p 40. Sketch in *Cold. Cart.*,viii , fig.1; Anderson, *Diplomata,* plate lxxi (b). This seal has been wrongly ascribed to Gospatric brother of Dolfin in 'Durham Seals', *Arch. Ael.*, 3rd series, xii (1915), 300, no 2803.

From the inscription of one (MC 777) only two letters – '....ES'+ or '...EE+' can be deciphered with difficulty.[206] From the other (MC 779), which is very unclear, the following can be seen

'+ .....IT IS .....O....'

Nevertheless the inscription is reported to be 'SIG[I]L[LUM] COSPATRIC[I] .... LONEE', the last word, it is suggested, being a contraction of 'Lodonee'.[207]

Both have an oval counterseal, measuring 25mm x 22mm (1in x 7/8 in). It is thought to show a figure milking a goat, but this is highly conjectural.[208]

The inscription reads perhaps '+ SIGILLV ROBERTI L.L ...BEL'[209]

Seal of Earl Waldeve

One example survives, a light brown natural wax seal in good condition.[210] It measures 71 mm (2 ¾") in diameter. A mailed rider, with conical helmet and nasal, rides to sinister. A kite-shaped shield is attached to his neck by a strap.In his right hand he carries a sword. His right foot is in the stirrup of his horse which canters. Its trappings are ornate and its head is very fine.

The inscription reads '+ SIGILLVM WALGDEV[I COMIT]IS'

There is no counterseal.

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[206] Charters to Durham, no 2
[207] Canon W. Greenwell, 'The House of Gospatric' in *NCH*, vii, 14-106
[208] See Appendix 3, Fig. 3: Charters to Durham, nos 2 and 3; reproduced in *Arch. Ael.*, op. cit., plate IV (DS 35, no 2803 rev.); *NCH*, vii, plate facing p 40; Anderson, *Diplomata,* plate lxxi, fig.3.
[209] Laing rejects the theory that this was the seal of the then bishop of St Andrews, Robert, on the grounds that he would have used a separate seal (Laing, *Seals* ii, 53, no 308). It may indeed be the counterseal used by a clerk (Heslop, 'Seals', *Chester Charters*, 190).
[210] See Appendix 3, Fig. 4: Charters to Coldingham, no 1; reproduced in *Arch. Ael.*,op.cit., plate IV (DS 35, no 2812); *NCH*, vii , plate facing p 48.

Seal of Patrick I

This earl had two seals

1. There are four examples of the first seal, one in green wax.[211] They are notionally 67 mm (2 ½ ins)in diameter. The horseman in very lightly trellised mail rides to sinister. A kite-shaped convex shield charged with a lion rampant held in his left hand is attached by a neck-strap and he carries a sword with an incised blade in his right hand.The horse gallops at full stretch and is very fine; its saddlecloth has an ornate border and a six-tasselled fringe.

   The inscription reads '+ S[I]GILL' COM[IT]IS PATRICII DE DVMBAR'

   There is no counterseal.

2. There are possibly seven surviving examples of this seal, although two are very damaged and one may just possibly be the first seal.[212] They measure 70 mm (2 ¾ ins) in diameter. Two are in red and two in green wax. The warrior wears trellised mail and rides to sinister. His helmet is circular, with a nasal. In his right hand he carries a sword with an incised blade. He has a kite-shaped shield charged with a lion rampant and attached round his neck with a strap. His foot is in the stirrup and there is the impression of a dagger in a sheath on his right hip. His horse has an ornate saddlecloth with eight tassels in the fringe. The horse gallops, but more sedately.

   The inscription reads '+SIGILL' COMITIS PATRICII DE DUMBAR'.

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[211] See Appendix 3, Fig. 5: Charters to Melrose, no 6; to Coldingham, no 2; to Durham, nos 5 and 6, no 6 in green wax; reproduced in *Arch. Ael.*, op.cit., plate III (DS 34, no 2804).
[212] See Appendix 3, Fig. 6. The doubtful one is attached to Charters to Coldstream, no 5 which it is difficult to date with precision but which appears to be early in the earldom. The undoubted second seals are attached to Charters to Melrose, nos 9-10; to Coldingham, nos 5-8 (no 5 in

Two of the seals have a counterseal.[213] It is oval (25mm x 22mm; 1in x 9/10 in), with a female head with long wavy hair to sinister, within a border.

The inscription reads '+... VAEZ . LISEZ . CRA[E]Z' [214]

Seal of Patrick II

Before his accession to the earldom Patrick II used a seal depicting a knight riding to sinister. As earl, to distinguish his seals, he used a seal where the warrior rides, unusually, to dexter.

There are four surviving examples, two in green wax and two in natural wax.[215] They measure 67 mm (2 5/8 ins) in diameter. The mounted figure wears a surcoat and a flat-topped cylindrical helmet which almost covers his face. He carries a sword in his left hand and a kite-shaped shield charged with the lion rampant on his right arm with a faintly discernible neck strap. The horse gallops; it has cloth trappings front and rear.

The inscription reads '+ SIGILLVM P[A]TRICII COMITIS DE DUN[BAR]'.

The counterseal to two Durham charters is nearly round, 23 x 22 mm (9/10 in) in diameter; it shows a warrior's head. The inscription reads 'SIGILLUM SECRET.'[216]

A second counterseal, to two Melrose charters, is round with a lion rampant on a triangular shield within a round border. The inscription is '+ SECRETUM P

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green wax), reproduced in *Arch. Ael.* op.cit., plate III (DS 34, no 2805); *NCH,* vii, plate facing p 56; *Melrose Liber* plate xiii fig.1; Laing, *Seals* i, 283; plate viii fig 1.

[213] See Appendix 3, Fig. 7: Charters to Coldingham, nos 7 and 8, reproduced in 'Durham Seals', *Arch. Ael.,* op. cit., plate III (DS 34, no 2805 rev.).

[214] The full inscription is printed as BRISEZ VAEZ LISEZ CRAEZ in Stevenson and Wood, *Seals*, 334; 'Durham Seals', *Arch. Ael.*, op. cit., (1915), 301.

[215] See Appendix 3, Fig. 8: Charters to Melrose, nos 16-17; Charters to Durham, no 7 which is composed from DCM, MC. 746 and 745 both of which have seals; reproduced in 'Durham Seals' in *Arch. Ael.*, op. cit., plate III (DS 34, no 2807); *NCH*, vii, facing p 56; *Melrose Liber*, plate xiii, fig 2; Laing, *Seals,* ii, plate viii, fig 2.

[216] See Appendix 3, Fig. 9.

COMIT'.[217] This is the counterseal, interestingly, which is sketched in J. Raine, *North Durham*, 31, beside MC 745, 746, although it is not attached to either.

Seal of Patrick III

Patrick III had three seals, two equestrian and one armorial.

1. Three examples survive, all in red wax, measuring 70mm (2 ¾ ins) in diameter.[218] The mounted warrior rides to sinister, his foot in the stirrup. He wears a surcoat tied at the waist and a flat topped helmet which covers his face and has a visor. Above his helmet is a crescent pointing upwards and encasing a cross (which is usually larger and placed at the beginning of the inscription). He carries a sword in his right hand and on his left arm is a shield charged with a lion rampant *contourne*. The horse gallops at full stretch. It has plain trappings and broad reins secured to the horse's head harness which has two vertical and two horizontal straps.

The inscription reads '+ SIGILLVM PATRICII COMITIS DE DUMBAR'

The counterseal shows a lion rampant *contourne* on a shield of arms surmounted by a cross and two ornamental trefoils in a border. It measures 30mm (1¼ ins.) in diameter. The inscription is '+SIGILL AMORIS'.[219]

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[217] See Appendix 3, Fig. 10. The National Archives (Scotland) was unable to provide an affordable reproduction. Although there is no record of it being attached to any of the Durham charters, it is sketched in J. Raine, *North Durham,* 31. Also *Melrose Liber*, plate xiii fig 2; Laing, *Seals*, ii, 284, plate viii, fig 2.

[218] See Appendix 3, Figs. 11(a) and 11(b); Charters to Melrose, no 18; to Coldingham, nos 9 and 10. Reproduced in *Arch. Ael.*, op. cit., plate III (DS 34, no 2808); *NCH*, vii, plate facing p72; *Melrose Liber*, plate xiii, fig 3; Laing, *Seals*, i, plate viii, fig.3.

[219] See Appendix 3, Fig. 12: reproduced in *Arch. Ael.*,op. cit., plate III (DS 34, no 2808 rev.); *Melrose Liber,* plate xiii, fig 3; Laing, *Seals*, i, plate viii, fig 3.

2. There are three examples of this similar but smaller seal, three in natural wax and one in green wax, measuring 54mm (2 1/8 ins).[220] The warrior rides to sinister in armour. He wears a surcoat and a flat topped helmet covering the face. In the right hand he holds a sword and there is a shield charged with a lion rampant suspended fom his neck bearing arms. Above the helmet is a crescent. The caparisons of the horse are *cheque.*

The inscription reads '+ SIGILLV[M] [PAT]RICII COMITI[S DE DUN]BAR'.

The seals of the Coldingham charter and the Durham charter have no counterseal, but the Coldstream charter (GD 212/10/ 1) has the same counterseal used with the first seal.

3. There are two examples of the third seal, one in natural wax and one in green wax, measuring 28 mm (1 in) in diameter.[221] A lion rampant on a triangular shield. To dexter, trefoils or cinquefoils, to sinister a wyvern.

The inscription reads '+ S' PATRICII COMITIS D' DVBAR'.

Sir Patrick, patre vivo

Before his accession to the earldom Sir Patrick used a modest equestrian seal.[222] There are seven surviving examples and also a fragment.

It measures 54mm (2 1/8 ins). The mailed figure rides to sinister, an incised sword in his right hand and a small kite-shaped shield with a neck strap on his

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[220] See Appendix 3, Fig. 13: Charters to Coldingham, no 12; to Durham, no 8; to Coldstream, no 15. Reproduced in *NCH*, vii, plate facing p 72; *Arch. Ael.,* op. cit., plate IV (DS 35, no 2809); Laing, *Seals*, i, plate xii, fig 2, and stated (p 302) to measure 2 ¼ ins.

[221] See Appendix 3, Fig. 14: Charters to Coldingham , no 11; to Durham, no 9. Charter of German prior of Coldingham (c1260 x 1263), bearing green wax seal of Patrick III (DCM,MC.661, *ND*, no 580). Reproduced in *Arch. Ael.,* op. cit., plate V, (DS 36, no 2810).

[222] See Appendix 3, Fig. 15 Charters of the Heirs, nos 7-10, 12, 14. Fragment attached to no 13. Reproduced in 'Durham Seals' in *Arch. Ael.,* op. cit., plate III (DS 34, no 2806); *NCH,* vii, fig. 8, plate iii, facing p 56.

left arm. His helmet is flat-topped. The stirrup is visible. The saddle-cloth has a fringe with seven tassels.

The inscription reads

' + SIGILL PATRICII FILII COMITIS PATRICII'

There are striking parallels with the development of the style used of the earls in their charters, though there can be a time lag, the seal matrix obviously being less readily adaptable than a form of words. So Earl Gospatric appears again on his seal as 'brother of Dolfin' probably without the title of earl.[223] In his charters and probably on his seal Waldeve styles himself 'Earl Waldeve[224] in neither is he 'of Dunbar' though his son gives him his style. During the earldom of Patrick I, as we have seen, the style 'Patrick earl of Dunbar' began to be adopted in the later charters, but Patrick I's second seal does not yet describe him as 'earl of Dunbar'. [225] This appears in the seal inscriptions of his son Patrick II and his successors. There is, in other words, a discernible move from the personal title to the territorial title in the inscriptions which is slower than the development in the style of the earl shown in the charters.

The imagery of the seals

The seal could be a powerful vehicle of propaganda for both kings and magnates; in the words of J.T. Rosenthal it was 'a partial substitute for literacy'. Writing of the seal of Edward the Confessor, he discerns the innovatory theme of majesty in the image of the crowned king upon his throne.[226] The equestrian figures on the obverse of the seals of the earls of Dunbar were images of power and wealth, of strength, and energy. The armed mailed equestrian figure, the prancing or galloping horse, the shield and spear or sword conveyed authority, purposefulness and dominance, quintessential

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[223] The inscription is so damaged that it is impossible to judge whether the word 'COMITIS' or a contraction formed part of it.
[224] Again, the inscription is very chipped but the spacing suggests that the word 'COMITIS' was used (DS 2812). See Appendix 3, Fig. 4.
[225] See below, p 67.

qualities of effective lordship. All five equestrian seals of the earls Patrick I, Patrick II, and Patrick III, and in particular the first seal of Patrick I and the seal of his son Patrick II, have a strikingly dynamic quality.[227] We know very little of the relationship between the seal engraver and the earl who commissioned his services, but we may surmise that for the earls their image, literally and figuratively, would be carefully and consciously devised, to convey the impression of the forceful and commanding warrior. At the end of the twelfth century, among the other Scottish earls, only the earls of Fife and Strathearn are known to have had equestrian seals. The seal of the first Bruce earl of Carrick, who died in 1304, was equestrian, as was the seal of his father, Robert Bruce the Competitor. Equestrian seals were used also around 1200 by Ranulf de Bunkle and William Lindsay and may by then have been favoured by those who set great store by knighthood.[228]

The seals depict very vividly the armour and weaponry of their period. Gospatric and his son Waldeve wear conical helmets with nasals. Patrick I's helmet is round-topped, also with a nasal, while both his son Patrick II and his grandson Patrick III wear flat-topped cylindrical helmets which cover their faces wholly or nearly so, with visors. All wear mail, Patrick I trellised mail. Waldeve and Patrick I wear a hauberk, Patrick II and Patrick III a surcoat.

Gospatric brother of Dolfin carries a spear over his right shoulder, while later earls carry a sword, with incised blade in the case of Patrick I. All from the time of Gospatric father of Waldeve onwards are depicted with kite-shaped shields. Patrick I is the first of the earls to have his shield charged with the lion rampant, which is *contourne* in the first seal of Patrick III, as on the accompanying counterseal. Neck straps for the shield are shown on the seals of Waldeve, Patrick I, and Patrick II, and on the second seal of Patrick III. Patrick I seems to be carring a sheathed dagger on his right hip on his second seal. All ride to sinister, except Patrick II, to distinguish his seal as earl from

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[226] J. T. Rosenthal, 'The King Enthroned' in Brigitte Bedos-Rezak (ed.), *Form and Order in Medieval France* (Aldershot, 1993), 53

[227] Durham Seals, nos 2804, 2807

[228] Ranulf de Bunkle's equestrian seal is DS 35, no 2767. William de Lindsay's seal, though equestrian, depicts a horseman with a falcon and is not martial (DS 35, no 2873). Both are reproduced in *Arch. Ael.*, 3rd series, xii, (1915).

the one he used in his father's lifetime.The horses are magnificent, especially those on the first seal of Patrick I, Patrick II's seal, and the first seal of Patrick III. They are full of movement, galloping rather than prancing, with the figures of the warriors aligned to suggest energy and purpose. The horse on Waldeve's seal has a striking face and mane, with huge eyes. The harness of the horse on the seal of Gospatric father of Waldeve is very ornate. Waldeve's saddle-cloth and the saddle-cloth on both seals of Patrick I are beautiful, with decorated borders and tasselled fringes – six in the first seal, eight in the second. Those of Patrick II and the first seal of Patrick III appear plainer; on the second seal of Patrick III they are *cheque*.

The counterseal has a powerful impact, adding a personal and more human element to the sealing of documents and revealing something of the cultural background which informed their choice. There are four of them- a seated figure which is described as 'a figure milking a goat'; the head of a woman with long hair which is perhaps a representation of Athena, the head of a warrior, and a lion rampant.[229] The first three have probably a classical theme, as was the fashion.

Heraldic devices

Both seals of Patrick I (1182 x 1232) show for the first time the shield carried by the mounted knight to be charged with the lion rampant. All seals of his successors bear the lion rampant, which is *contourne* in the first seal of Patrick III (1248-89). Nisbet, writing in 1722, analyses the use of the lion – the ancient ensign under which nations fought and the emblem of kings – by the nobility of the Low Countries as an affectation and imitation of the royal style. He observes the same tendency in Scotland.

> 'Such Imitation and Affections are not only to be found there, but almost everywhere, for Subjects to imitate, as near as they can,

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[229] Durham Seals nos 2803, 2805, 2807, 2808 ; reproduced in *NCH*, vii, facing p 40; *Arch. Ael.*, op. cit., plate III ; *ND*, no 31; *Melrose Liber*, plate xiii, no 3

> those figures of their Sovereigns : And the more their own are like to them, they are thought the more honourable. And I doubt not, but many ancient Families with us, have assumed the *Lion rampant* in imitation of the *Sovereign's* one.
> The old Earls of *Dumbar* carried a *Lion rampant.'* [230]

Nisbet was writing of eighteenth century aping of royalty, but perhaps intended his words to have a more general application. What he did not say was that Alexander II was the first Scottish king to display the lion rampant on the shield on his seal and that Patrick I was therefore displaying the lion on his seal earlier than his king.[231] The meaning of arms bearing the lion rampant is of course difficult to fathom in the early thirteenth century. It was certainly a claim to greatness and a statement of elevated rank. The seal of Sir Patrick, son of Patrick I, shows a knight with a plain shield,[232] but the shield on his seal as earl is, like his father's, charged with the lion rampant, as are the shields displayed on all three seals of his son as earl.[233] Displaying the lion rampant, too, though not unique to the Dunbar earls, was unusual at this time, even among the earls of Scotland. The arms of the earl of Ross displayed three lions rampant in the late thirteenth century. In the Fife arms, the lion rampant is said to appear first in the earldom of Duncan IX, earl of Fife (who died ?1353) It does not appear in contemporary Strathearn seals.[234] On the seal of Scone, the arms of the earls of Atholl (six pales) and of Strathearn (two chevronels) are shown; and the lion in the centre within a double tressure is the king's.[235]

Whether the displaying of the lion by Earl Patrick was regarded as premature, or ostentatious we do not know; but it seems from the evidence we have that heraldry in thirteenth-century Scotland was in its infancy, with few settled

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[230] Alexander Nisbet, *'A System of Heraldry'* (Edinburgh, 1722), 273
[231] Walter de Gray Birch, *History of Scottish Seals* (1905), i, 24-5
[232] DS, no 2806
[233] DS, nos 2804-5, 2807-2810
[234] W.R.MacDonald, *Scottish Armorial Seals* (Edinburgh, 1904),114, no 926; 351, nos 2733-2735
[235] G.W.S. Barrow, 'Observations on the Coronation Stone of Scotland', *SHR*, lxxvi, i (April 1997), 115-21. Duncan identifies the earls, however, as the earls of Fife and Strathearn (*Kingdom*, 555-6; *Kingship*, 136-7).

symbols; it is unlikely therefore to have been viewed as an act of disloyalty or of lese-majeste.

Chapter 3

The diplomatic of the Dunbar charters

In this section the diplomatic of the seventy-five documents recording the twelfth and thirteenth-century acts of the earls relating to Scotland is analysed. Certain factors must be taken into account which have a bearing on the accuracy and significance of that analysis, some generally applicable to charters of this period, some particular to the Dunbar collection.

The number and spread of the documents over the approximate 160 year span, from 1124 (the earliest possible date of the charter of Gospatric, brother of Dolfin, to Durham), to 1289 (the year of Patrick III's death), for example, may produce some distortions.[236] Seventy-five is a modest number of documents particularly in view of the frequent re-copying of the first text which can give the misleading impression that form and style stagnated, and complicate the task of tracking developments and recognising trends. The charters to Durham relating to Edrom and Nisbet offer the clearest example of text updated rather than re-phrased.[237] Then there is the problem associated with the dating of the charters. Few have a date of place and few a time-date whether of day and month or of year.[238] Where witness lists are less helpful or the seal has gone, two charters of one earl may have been written in the same year, or alternatively many years apart. In a very few cases the charter cannot even be ascribed with certainty to a particular earl.[239] Thus attempting to identify developments over a period of time can be frustrating. The question of authorship is crucial here. With the exception of a few charters where the hand is clearly of the type associated with twelfth-century book hand, most cannot be attributed authoritatively to a comital or to a monastic source, to donor or to donee, though within the *genre* the hands of a few individual scribes can be

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[236] Charters to Durham, no 1(1124 x 1138); to Coldstream, no 15(1273 x 1289), for example
[237] Charters to Durham, nos 1, 3-5, 7
[238] See above, p 45.
[239] E.g. Charters to Coldstream, no 9

discerned.[240] Even if types of hands could be more neatly categorised, we could not assume that the charter had been drafted in the place where it had been written. Consequently the variations and developments in diplomatic may stem less from experimentation and evolution than from the fact that, within a particular period, there survives a group of charters written in a particular religious house in a particular style about a particular issue. Lastly, and significantly, there is the issue of 'diplomatic pollution' in cartulary copies, where the scribe interfered with the text he is copying, altering and adding phrases, omitting others, and abridging witness lists. In isolated cases this can be spotted but in many instances the text has to be accepted as it now stands.[241]

With all these reservations, can meaningful observations on the diplomatic of the Dunbar charters be made? It must firstly be said that the question of authorship, though central to the discussion, does not preclude analysis of the diplomatic of the charters as a whole. There do seem to be broadly consistent developments and trends, particularly in the thirteenth century when the documents possibly came increasingly to be drafted and written by the earls' clerks. Fortunately, also, there are comparisons to be made with royal and non-royal charters of the twelfth and thirteenth centuries and these allow us to identify similarities as well as contrasts, and draw some conclusions, however tentative. Lastly, the time-span, which presents its own challenge, offers considerable scope for comparison and throws into relief the major changes affecting charter diplomatic over a century and a half.

Though the survival rates may be less disproportionate than at first appears, the preponderance of charters relating to religious houses (seventy-two of seventy-five) skews the sample and forces us to make constant reservations about any judgments we might make concerning the development of diplomatic in the period. The fact that only three texts of charters to laymen survive, moreover, gives each a weight and significance which may be

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[240] See above, p 37. A further indication of monastic authorship may be the presence of a large number of witnesses of a particular religious house (Hudson,'Diplomatic and Legal Aspects', *Chester Charters*, 154).
[241] Hudson, 'Legal Aspects', 122

unjustified, so that there is a temptation to argue from the particular to the general. One charter represents one-third of the sample of charters to laymen, but it may be untypical, even unique.

The descriptions of the documents

The documents in the Dunbar collection are referred to throughout this study as charters. They are however of varied type and though contemporaries used different terms for them – *carta, scriptum,*and *littera* – these do not seem to have referred to any particular type. By the mid-thirteenth century scribes and clerks were combining two or more terms for the document in the text, a sign perhaps of the increasing importance of the written word. In one instance, Patrick III's charter granting Patrick Edgar's lands in Lennel to Coldstream priory, all three terms, *carta, scriptum* and *littera*, were employed.[242]

Style of the earl

Within the period there are clear developments in the language and word order in the style given to or adopted by the earls.[243] The earliest charters, those of Gospatric brother of Dolfin who died in 1138, use the style *Cospatricus* or *Gospatricus comes,* denoting an office which is primarily personal rather than territorial.[244] In the charters of his son Gospatric (1138 – 1166), father of Earl Waldeve, the usual style is again personal, though he is twice referred to in charters of St Andrews priory as earl of Lothian.[245] In one

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[242] Charters to Coldstream, no 15

[243] In a comparable time-span, c.1071-1237, the style of the earls of Chester is said by contrast to have shown 'notable consistency' (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 156).

[244] Charters to Durham, no 1; to Kelso, no 1

[245] Charters to Kelso, nos 2-4; to Melrose, no 2; to Durham, nos 2- 3; to Coldstream, nos 1- 2. The Lothian references are in *St Andrews Liber,* 132 and 144. Almost certainly they are explained by the fact that the earl's lands lay mainly within the Archdeaconry of Lothian. Roger of Howden's reference to the 'summus dux Lodonensium' killed at the Battle of the Standard in 1138 is usually taken to mean Earl Gospatric, brother of Dolfin. Roger of Howden also styles Patrick I 'earl of Lothian' in 1200 (*Chron. Howden*, iv, 142). Later *Gesta Annalia* uses the term 'earl of Lothian', as does Bower who also, however, calls Gospatric 'earl of March' and his son Waldeve 'earl of Dunbar' (*Chron. Bower,* iv, Book 7, 285, 341; Book 8, 349, 477). The Chronicle of Melrose records the death in 1179 of Aelina, countess of Dunbar

charter only, of 1140 x 1159, he is styled *Gospatricius Comes de Dunbar.* This is certainly the earliest use of the territorial title and it may be a scribal addition.[246] It is not used in any of the surviving charters of Earl Waldeve (1166-1182).[247] It is in the long earldom of Waldeve's son, the first Earl Patrick (1182 –1232) that the move to a more territorial concept of the office of earl is expressed. Many of the charters datable to the early and middle years of his earldom continue to use the style *Patricius Comes* with slight variants [248] but even in this period the introduction of the style *Comes Patricius de Dunbar* signals a new coupling of office and place.[249] In turn this gives way to versions of the style favoured in the charters of the later part of the earldom – *Patricius Comes de Dunbar* or *Dumbar* or *Donbar*, a more explicit statement of the essentially territorial nature of the office (perhaps now more accurately the title) of earl.[250] A late charter of Patrick I, indeed, styles his father Waldeve *Comes de Dunbar* though none of Waldeve's charters, as has been shown, use this term.[251] The style *Patricius Comes de Dunbar* is used unvaryingly in the charters of his son Patrick II (1232 -1248) and grandson Patrick III (1248 - 1289). The inscriptions of both seals of Patrick I are the first to display 'of Dunbar', that of Patrick II 'earl of Dunbar'.[252]

What the changes in language and in word-order of the style of the earl may suggest is a gradual move from the identification of an individual who has had conferred on him or his predecessor the rank and dignity of an earl, to a related but different concept of the earl as one whose status derives from a

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and in 1182 of Waldeve, earl of Dunbar (*Chron. Melrose,* 42, s.a. 1179; 44, s.a. 1182). The record therefore suggests that a variety of titles were used at different times *of* the earls, challenging the assertion that until 1182 the earls were referred to as earls 'of Lothian'. (McDonald, 'Nunneries', 12, n 9).There is certainly no evidence that they styled themselves earls of Lothian.

[246] Charters to May, no 1

[247] Charters to Coldstream, no 3; to Melrose, nos 3-4; to Durham, no 4 ; to Kelso, nos 5-6; to Coldingham, no 1. One charter, written probably around the time of his accession to the earldom, in which he confirms grants by his father, styles the latter *Waldeuus filius Comitis Cospatricii* (Charters of the Heirs, no 1).

[248] E.g. Charters to Durham, nos 5-6; to Kelso, no 7, where he is styled *Patricius Comes filius Walleui comitis,* again possibly indicating a date very early in his earldom); to Melrose, nos 6, 8-9; to Newbattle, no1; to Dryburgh, no 3.

[249] E.g. Charters to Durham, no 6; to Coldstream, no 4; to Melrose, no 12; to Coldingham, no 2; to Dryburgh, no 2

[250] e.g.Charters to Melrose, no 10 (possibly its earliest use) and 13; to Coldingham, no 4; to Newbattle, nos 2-5

[251] Charters to Kelso, no 10

[252] On the style of the earl, see above, p 55 . The seals are DS 2804, 2805, 2807.

place, a seat of power, which has an ongoing military, political and economic significance.[253] The older style is essentially personal, the later territorial. The older has the resonance of a personal bond with the monarch, the later a distancing of king and earl, with new men about the king and for the earl a separate power base as society became more settled. The frequent witnessing of the earls to royal charters and the national role of successive earls of course warns against oversimplification and reminds us of the many cross-currents in society then as now. Yet the trend is there. It may signal an increase in power, or a diminution. It undoubtedly links to the development of the earldom as an economic and social unit and the definition of its boundaries and the identification of those who live in it as people of the earldom of Dunbar. Confirming to Coldstream priory its lands, liberties and possessions, Patrick II refers to those held by the nuns by the gift of whomsoever *in comitatu nostro seu in dominio nostro*.[254] This charter suggests that the concept of the earldom in the 1230s or 1240s was settled and understood. It is not simply that the earl is lord of the land who confirms the grants of those who hold of him. The earldom has an identity and a cohesion and the people of the earldom derive their identity in turn from the fact that they live or have land within its bounds.[255]

The earliest charters, those of the two Gospatrics, use the statement of lineage in a particular way which appears to differ from later usage. The styling of Earl Gospatric (who died c.1138) as *Gospatricus comes frater Dolfini* and of his son Gospatric as *Gosp[atricius] comes filius Gosp[atricii] comitis fratris Dolfini,* has generated much speculation and debate about the identity of Dolfin and the reason for both of his brothers, Earl Gospatric and Waldeve, defining themselves by their relationship to him.[256] Whatever the explanation, the style is significant in itself, for since there is no evidence that Gospatric inherited the earldom from Dolfin, it may be seen primarily as a device to

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[253] Stringer, 'Earl David Charters', 80. David's style rarely included the territorial component, but was of course devised to emphasise his particular status as brother of the king.
[254] Charters to Coldstream, no 10
[255] A similar trend is noted in the earldom of Chester. Crouch links the development of administration there to the growth of 'some sort of self-consciousness' (David Crouch, 'The Administration of the Norman Earldom' (hereafter Crouch, 'Administration'), *Chester Charters*, 94)
[256] Charters to Durham, nos 1, 3. See above, p 16.

establish the identity of the donor in a small and intimate society. This particular use of lineage in the charters of Gospatric and his son would continue to be meaningful in the earldom of Gospatric's grandson Waldeve who is styled *Waltheuus Comes filius Gospatrici Comitis* and elsewhere *Waldeuus filius Comitis Cospatricii,* the latter probably immediately before or after his accession as earl.[257]

Two early charters of Patrick I, Waldeve's son, of the late twelfth to early thirteenth century, style him *Patricius Comes filius Waldeui/Wallevi comitis.*[258] By this time, however, the rehearsal of lineage was being used in different and developing ways. In a third and much later charter of this earl already referred to, he is identified as *Patricius filius Waldeui Comitis de Dumbar,* the unusual and anachronistic word order being applied to his father as a means of stating that he has inherited the earldom from his father, the earl of Dunbar.[259] In other words, lineage is being increasingly used to establish hereditary right rather than identity. Though a charter of Patrick II (1232-1248) describes him simply as *Patricius Comes filius Patricii Comitis*, [260] two of the charters of his son Patrick III (1248-1289), grandson of Patrick I, carried the process further, designating this earl *Patricius comes de Dunbar filius Patricii comitis* with minor variations.[261] Two others style him *Patricius Comes filius Patricii filii Patricii Comitis de Dunbar.* [262] This development must of course be explained in part by the practice of the scribes adapting the text of earlier charters by adding the earl's name to those already written. But it is surely done with a purpose. He is a third generation earl of Dunbar. His lineage is displayed to emphasise his hereditary right and to establish his title on the basis of direct descent from father and grandfather. The transition from the use of lineage as a method mainly of identification is striking. It links with the appearance in the 1230s or 1240s (noted earlier) of the term *comitatus,* in the charter of Patrick

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[257] Charters to Durham, no 4; of the Heirs, no 1
[258] Charters to Durham, no 5; to Kelso, no7
[259] Charters to Kelso, no 10
[260] Charters to Durham, no 7
[261] Charters to Durham, nos 8 and 9
[262] Charters to Coldingham, nos 9-10

II.[263] The rehearsal of lineage has become a device used consciously to stress a right to something more than dignity or status – the earldom of Dunbar itself.

In only one charter the earl is styled 'lord earl'. A chirograph recording the agreement reached probably in the 1220s between Patrick I and Prior Thomas and the monks of Coldingham over the partition of the marshland of Billie is said to be between *dominum Patricium Comitem de Dunbar et Thoma' 7 monachos de Coldigham.* [264] The use of the term *dominus Comes* three times further in the text of this charter only suggests that it is not an aping of the royal *dominus rex* style but rather an example of courtesy on the part of Prior Thomas.

The address

Forty six different forms of address of five or six main types are used in the earls' charters. Over a period of five earldoms charters to six different religious houses and three different laymen exhibit a striking variety of form of address. This makes the task of identifying patterns a complicated one but some connections and trends are suggested.

Among the charters of both the earls Gospatric and of Waldeve, there is one example only of the longer address, found in the charters of Malcolm IV and William I, and particularly in the period 1170s- mid 1190s. It occurs in a charter given c.1153 x 1165 by Earl Gospatric in connection with the gift of Hume and Fogo churches to Kelso abbey. The length and fullness of the address hint at an occasion of some solemnity. The order is roughly equivalent to that found in the royal charters, although archdeacons, one of whom witnessed this charter, are less usual.

Episcopis Archdiaconis Abbatibus Comitibus Baronibus et omnibus fidelibus sancte matris ecclesie tam presentibus quam futuris [265]

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[263] Charters to Coldstream, no 10
[264] Charters to Coldingham, no 5
[265] Charters to Kelso, no 2. See *RRS*, i, 73 on the longer address.

Three basic styles of address were used in English and Scottish private charters and can be traced in the charters of Earl David of Huntingdon (1152 – 1219). These were the styles almost invariably used in the Dunbar charters. The first is a secular form, a range of variants of the wording *Omnibus amicis suis et hominibus, Omnibus suis probis hominibus,* with one hybrid *Omnibus fidelibus et amicis* in a charter of Earl Waldeve.[266] There is a close resemblance in the first two of these styles to the Scottish royal style *Omnibus probis hominibus (suis).*[267] *Amicis* is found also in a charter of Patrick I to Coldstream[268]; it is unusual but is found in other private charters such as those of Earl David.[269] There is more of intimacy than of grandeur in these charters addressed to the men of the earl. One identifies them *Omnibus probis hominibus tocius terre sue tam presentibus quam futuris.*[270] Two specify these types of men- *omnibus suis probis hominibus theinis et drengis clericis et laycis tam futuris quam presentibus*, and a close variant.[271] The address to the thanes and drengs, still apparently substantial and noteworthy people over whom the earl has authority, occurs in the charters of endowment of the community of nuns later founded by the earl as Coldstream priory. These two charters are personal and local and they give us a fleeting glimpse of the structures of a society undergoing change yet retaining traditional and conservative elements.[272] Whether the Dunbar charters relating to Coldstream were produced by the earl's clerk or by the priory, or indeed came from a shared writing-office is uncertain, but these early documents do undoubtedly display local knowledge and a certain originality. Such charters addressed to local men became less common, or at least survived proportionately less

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[266] Charters to Melrose, no 3

[267] *Amicis* is used rarely by Scottish kings and not at all by English kings (Stringer, 'Earl David Charters', 82). The Chester earls however used these 'honorial addresses' to their men, officials or friends (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters,* 156-7). Interestingly, they would seem to indicate a stage at which the earl had to identify a less cohesive group of people through linking them to him personally.

[268] Charters to Coldstream, no 4

[269] Stringer, 'Earl David Charters', 82-3. It is not, however, the most common form of address in Earl David's charters.

[270] Charters to May, no1

[271] Charters to Coldstream, nos 1-2

[272] *ibid.* nos 1-2.

under later earls- we have one only of Patrick I and none of Patrick II and Patrick III.[273]

The English royal style *Omnibus fidelibus suis* occurs as part of the address in only two of the surviving earls'charters, both, interestingly, of Earl Waldeve. Arguably, however, the words *Omnibus fidelibus* refer to the faithful of the Church, rather than those who have sworn fidelity to the earl. Though the secular style was certainly used in charters endowing religious houses, other elements which seem appropriate to grants to the Church were elsewhere appearing:

Omnibus amicis suis et hominibus / et omnibus filiis Sancte Ecclesie
Omnibus probis hominibus suis et amicis/ et omnibus in Christo dilectis[274]

The last component phrase, *Omnibus in Christo dilectis,* features, unusually, in a Coldstream charter and not elsewhere in the charter collection.[275]

More problematic perhaps is the single occurrence of the racial address *Francis et Anglis* in a mid-twelfth century charter of Earl Waldeve granting the use of common pasture to Melrose:

Omnibus fidelibus et amicis Francis et Anglis [276]

In Malcolm IV's acts Englishmen are included in the addresses of charters relating to English and part-English regions of Lothian, and *Franci* – Bretons, Flemings, Normans and Anglo-Normans – in charters relating to many different parts of the country.[277] The king, for instance, addressed French and English when he confirmed Earl Gospatric's grant of Hartside and Spott to

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[273] The example from the earldom of Patrick I has a quite different ancestry and function from the administrative brieve such as that addressed by Patrick I to his steward. (Charters to Coldingham, no 3)
[274] Charters to Melrose, no 2; to Coldstream, no 3
[275] Note that this charter (Charters to Coldstream, no 3) may have been written at Stirling but there is no evidence of this phrase being used in any of the charters in the Cambuskenneth chartulary.
[276] Charters to Melrose, no 3
[277] *RRS,* i, 74. The practice disappeared in the 1170s from royal acts (*RRS,* ii, 77).

Melrose Abbey, though the earl's charter did not contain a racial address.[278] The address to French and English in Waldeve's charter may then suggest that the royal clerks were in some way involved in the drafting or writing of the charter.[279]

About two-thirds of the charters of the two Gospatrics and of Waldeve address generally the sons or the faithful of the Church, favouring such forms as *Omnibus sancte ecclesie Dei filiis* and/or *fidelibus, Omnibus ecclesie catholice filiis et fidelibus, Omnibus sancte matris ecclesie filiis et fidelibus, Omnibus filiis sancte ecclesie.*[280] These are combined with other phrases – *sullimioribus et inferioribus, ordinatis et laicis, presentibus et futuris.*[281] Since all record transactions with or benefactions to religious houses, where many of them may have been drafted, the consistent reference to the Church and to its sons and its faithful is unsurprising. What is interesting is the contrast with the royal charters of the period many of which also involved king and religious houses but in which reference to the Church, Holy Church, Holy Mother Church, is very infrequent. This may be purely a matter of preferred style, but may reflect a king's emphasis on the links between the recipients and himself and the allegiance they owe him.[282] The address *Omnibus sancte matris Ecclesie filiis et fidelibus*, which was probably derived from episcopal chanceries, became standardised as the ecclesiastical form of address used in the charters of Patrick I.[283] Its use declined during the middle decades of the thirteenth century. It appears in fewer than a third of the charters we have of his son Patrick II and in only one of the thirteen surviving charters of Patrick III. By then the favoured form of address was *Omnibus Christi fidelibus, Universis Christi fidelibus*, a less Church-centred definition which appears in a minority of charters of Gospatric, Waldeve and Patrick I but which almost entirely

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[278] *RRS*, i, no 132; cf Charters to Melrose, no 2

[279] Two examples of the racial address are found in the charters of Earl David, both relating to north of the Forth (K.J. Stringer, *Earl David of Huntingdon, 1152-1219* (Edinburgh, 1985), 234-5 (no 27) and 254-5 (no 55)). It is very uncommon in the de Quincy charters (Simpson, 'RQ', 178).

[280] Charters to Kelso, nos 3-4; to Melrose, no 2; to Durham, nos 1-2 . This is the most common construction in the Earl David charters (Stringer, 'Earl David Charters, 83). It is not necessarily seen to indicate charters of ecclesiastical significance (Simpson, 'RQ', 177).

[281] E.g. Charters to Durham, nos 1, 3-4

[282] *RRS*, i, 73. Professor Barrow identifies only seven acts of Malcolm IV which include forms of address relating to Holy, Catholic, or Mother Church, or some variant.

[283] Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 158

supersedes *Omnibus sancte matris Ecclesie filiis et fidelibus* by the second half of the thirteenth century.

In the charters of the earls from Patrick I onwards a form of address develops in which there is an emphasis on the document itself.[284] This form, *Omnibus has literas videntibus vel audientibus* (of which there were several close variants including the use of *scriptum*) does not occur in the earlier earls' charters, but it becomes common in almost half of the charters of Patrick I and of his son Patrick II, while each of the surviving charters of Patrick III uses some variant of this form. In two cases the documents are financial records where the use seems apt.[285] Elsewhere, the increasing use of this phrase indicates the developing importance of the charter. The emphasis is less on what has been done than on what the record shows. The address is no longer the prelude to a grand announcement or proclamation, but has become more the introduction to the document itself. The adoption of this style, though quite early in the case of the Dunbars, became general and by mid-thirteenth century was apparently the normal opening for private charters in England and Scotland.[286]

In the charters of Patrick I it is frequently combined with the religious address:

Omnibus Christi fidelibus ad quos presens Scriptum pervenerit
Universis Christi fidelibus literas has visuris vel audituris
Omnibus sancte matris ecclesie filiis presens scriptum visuris vel audituris tam presentibus quam futuris[287]

The proportion of charters similarly combining variations of the address to the sons and faithful of Christ or the Church with the address to those who hear or see or are given the document increases markedly in the charters of later earls

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[284] A trend noted also in the twelfth-century charters of the Chester earls and in English royal and episcopal charters (*ibid,* 158).
[285] Charters to Kelso, no 9; to Coldingham, no 8
[286] Stringer, 'Earl David Charters', 83. Seven of Earl David's acts have this address. Dr Stringer links the form to that later used in letters patent and suggests that it was used first in Sotland for more ephemeral grants. In the Dunbar charters, this would not be the case by the mid- to late thirteenth century. It was of course often combined with other forms of general address.

– three of Patrick II, seven, nearly half of the charters of Patrick III. This graceful and succinct address – *Omnibus Christi fidelibus presentes litteras/presens scriptum visuris vel audituris* – straddled the lay and ecclesiastical worlds. It appears in one of two charters of Patrick II and all four charters of Patrick III recording grants to Coldstream.[288] Since all the examples are taken from charters to Coldstream priory, it is possible that the choice of address was made there.[289] There is, however, the possibility that the earl's clerk wrote the charters to the priory and that in effect a house style was emerging. Strikingly, however, where charters to lay beneficiaries survive, all employ the direct and economical style:

Omnibus litteras istas visuris vel audituris presentibus et futuris
Omnibus has literas visuris vel audituris
Omnibus hoc scriptum visuris vel audituris.[290]

Charters of Patrick III to Durham also use this address, perhaps because it was deemed more suitable for charters which referred to disputed lands rather than benefactions.

Another extension to the core address are the phrases *presentibus et futuris* or *tam presentibus quam futuris.* They appear in five of the nine charters of Earl Gospatric[291] but in only one of his son Waldeve which repeats and adapts the text of his father's confirmation.[292] They figure in 13 of the 29 charters of Patrick I where the full address is known. Thereafter the phrases are discarded in the address, appearing only once in Patrick II's confirmation charter of Edrom and Nisbet which again adopts and adapts previous texts.[293] A similar development in the notification can be traced. Four of the nine charters of Gospatric contain some variation of the phrase *presentes et futuri,*

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[287] E.g. Charters to Kelso, no 8; to Newbattle, no 3; to Coldingham, no 4
[288] E.g. Charters to Coldstream, nos 10-11, 13-15
[289] Though it is a variation of the form *Universis Christi fidelibus literas has visuris vel audituris* found in Patrick I's charter to Kelso (Charters to Kelso, no 8) and Patrick I's charter to Melrose (to Melrose, no 15).
[290] Charters to Laymen, nos 4-5, 7
[291] Charters to Coldstream, nos 1-2; to Kelso, no 2; to May, no 1; to Durham, no 3
[292] Charters to Durham, no 4
[293] Charters to Durham, no 7

presentibus et futuris, tam presentibus quam futuris in the notification. This reduces markedly under Earl Waldeve and Patrick I.[294] It re-appears in two of the charters of his son Patrick II [295]but never in the surviving charters of Patrick III.

If we combine the address and the notification, in all, seven of the nine surviving charters of Gospatric, five of the eight charters of his son Waldeve, and 18 of the 29 charters of Patrick I contain some variant of 'present and future' when the address is combined with the notification. There is no particular pattern of occurrence; the charters in question are to a range of religious houses and although the phrase occurs more frequently in addresses such as *Omnibus sancte matris ecclesie filiis et fidelibus* it is also attached to charters addressed *Omnibus has litteras istas visuris vel audituris*.[296] In the thirteenth century its use declined sharply. In the sample of charters surviving from the earldom of Patrick II it is used only three times, once in the charter repeating earlier text, and in the charters of Patrick III not at all. The significance of its disappearance is surely that it illustrates a shift in the perception of the charter. No longer is it primarily a proclamation of an act recorded for present and future generations, linking with the *pro anima* clause in an almost mystical communication with past, present and future. It has become in every sense more prosaic. The document is the thing and its existence is the point.

The salutation

In the twelfth-century charters of the earls, *Salutem* is the normal form of greeting, though in one charter only, the grant of Hume church to Kelso Abbey by Earl Gospatric, the term *Salutem in Domino* is used.[297] None of the charters of his son Waldeve and only four, probably middle to late charters of Patrick I,

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[294] Fewer than one-quarter of Patrick I's charters have the phrase. Comparative figures are distorted by the fact that the notification, unlike the address, appears in full in the Dryburgh charters (Charters to Dryburgh, nos 1-5).
[295] Charters to Melrose, nos 16-17
[296] As in, for instance, Charters to Laymen, no 4
[297] Charters to Kelso, no 2

adopt *Salutem in Domino*, though it becomes more common thereafter.[298] The significant development in the salutation comes with a flowering of the phrase, a trend towards the more ornate forms *Salutem eternam in Domino*, in four charters of Patrick II, and, in four of the charters of Patrick III, *Eternam in Domino salutem*, *Salutem in Domino sempiternam.* [299] This development, interestingly, contrasts with other private charters and with the almost invariable use of the simple *Salutem* by the royal chancery from Malcolm IV to Robert I.[300] It is difficult to make a connection between the authorship and provenance of the charters and the forms of salutation since so many originals are missing; in very general terms, however; the elaborate greeting can be linked to a favouring or more ornate language and may reflect a growing sense of importance and grandeur on the part of the earls, or the wish to promote their importance on the part of those who composed the charters.

Notification

There are nine identifiable constructions of the notification using forms of *scire* and *noscere*.These include *Sciant quod* and *Noveritis quod*, and also *Sciant, Sciatis, Notum sit* and variants, all followed by accusative and infinitive.

In the charters of the Gospatrics and Waldeve there is an equal use of *scire* and *noscere*. The charters of Patrick I and his son Patrick II also use both verbs, the earlier charters of Patrick I favouring *scire* and the later charters *noscere.*[301] Patrick III's charters, however, use *scire* only once, in a charter confirming the grant of half of Billie marsh which incorporates the original text.[302] If the incorporation of earlier text is taken into account, the move to

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[298] Charters to Dryburgh, no 5; to Kelso, nos 8, 10; to Newbattle no 5

[299] Charters to Coldstream, nos 9-10; to Melrose, nos 14, 16 (Patrick II); to Coldstream, nos 11, 13, 15; to May, no 6 (Patrick III)

[300] Most of the Chester and de Quincy charters and the charters of Earl David use the simple *Salutem.* Dr Simpson points to the favouring of *Salutem in Domino* in the early thirteenth-century charters of Archbishop Langton (Simpson,'RQ', 183). The use of longer forms in the Dunbar charters is of course a later phenomenon, though the use of the the s*empiternam* form is not particular to the Dunbars, occurring in e.g. the Cambuskenneth charters. For royal practice, see *RRS,* v, 5.

[301] Examples of earlier Patrick I charters using *scire* include Charters to Coldingham, no 2; to Durham, no 5; to Coldstream, nos 5-6. In the later charters of Patrick I the chirograph anent the Billie dispute uses *Sciant omnes,* and the earl's charter implementing it *Sciatis me dedisse* (Charters to Coldingham, nos 5-6).

[302] Charters to Coldingham, no 10

noscere becomes much more marked in the earldom of Patrick II. There remain only two examples of the use of *scire*, both in charters bearing a date of place (Berwick) and the regnal year and both almost certainly composed or at the very least influenced by royal scribes.[303] This accords with the general trend in private diplomatic and contrasts with the almost invariable use of *scire* by the royal chancery.[304]

Two constructions of the verb *noscere* come to predominate – *Noveritis* with accusative and infinitive, more often *Noverit* with accusative and infinitive. All of the charters of Patrick II and Patrick III which do not repeat earlier text or, in the case of Patrick II, the two which may emanate from the royal chapel, use one of these two forms. Significantly it figures in both charters of these earls to lay beneficiaries and in all six of their charters to Coldstream, charters which may have been written by the earl's office or clerk. There is a very high correlation between the occurrence of *Noverit* or *Noveritis* with accusative and infinitive in the charters of Patrick III and the forms of address already identified as a possible developing house style in the same period. Ten of the twelve charters with new text of this earl combine *Noverit* or *Noveritis* with the short address (*Omnibus litteras istas visuris vel audituris, presentibus et futuris* or variants) or with what seems to be the developing house style of the earl's clerks (*Omnibus Christi fidelibus presentes litteras visuris vel audituris* or variants). Indeed the correlation becomes even more striking if a charter to Melrose which uses *Universis* rather than *Omnibus* is included, with eleven of the twelve new text charters of Patrick III apparently being composed in a particular and identifiable house style. Again there seem to be indications, however unclear, of an emerging house style in the mid-thirteenth century, and, by implication, of a form of writing office or nascent writing office within the earl's establishment.

The dispositive clause

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[303] Charters to Melrose, nos 16-17

[304] *Noscere* is much more commonly used in, for instance, the de Quincy charters (Simpson, 'RQ', 183). By contrast, *scire* was favoured in the Chester charters (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters,* 160). On Scottish royal practice, see RRS, v, 6.

As in other *acta* of the period, derivatives of *do*, *concedo* and *confirmo*, most often in the perfect infinitive forms *dedisse*, *concessisse* and *confirmasse* are used to describe the act of conveying. The three terms are used together in fifteen of the sixty-five charters where dispositive terms appear, but two is more normal, especially in confirmations (where *dedisse* is dropped). Other terms include *quieta clamasse*, *vendidisse*, and *restituisse.*[305] Very rarely the charters use derivatives of *certifico, perambulo* and *promitto,* which, though not quite the equivalent of dispositives, describe the procedures by which the earl has confirmed boundaries or undertaken to implement a settlement.[306]

The terminology of the charters is remarkably precise.[307] Where a grant is made for the first time, *dedisse* (or other forms of *dare*) is invariably used. It is also used when land surrendered to the lord is granted elsewhere.[308] *Dedisse* appears also in charters recording composite grants where some things are given and others confirmed.[309] It is never used when the earl is confirming grants of a predecessor or of someone who holds of him. *Concessisse* has a general application and so is often combined with *dedisse* or *confirmasse*, or other grammatical forms. *Confirmasse* is almost always linked to the document or charter which is the physical sign that the transaction or earlier charter has been confirmed. The only exceptions to this are Earl Gospatric's confirmations, in a very complex charter, of various grants by his wife and others to the endowment of the new priory at Coldstream.[310] Forms of *concedere* and *confirmare* become more common after the mid twelfth-century, as elsewhere in Scotland and England, possibly because of the ending of the first wave of endowments followed by the demand for confirmations of earlier gifts.[311]

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[305] Charters to Durham, no 6; to Melrose, no 15; to Durham, nos 8-9
[306] Charters to Dryburgh, no 3; to Melrose, no 16
[307] Though the subject requires very detailed analysis, it appears that *dare* was used elsewhere with less precision (Stringer, 'Earl David Charters', 76; Hudson, 'Legal Aspects', 124, 'Diplomatic and Legal Aspects', *Chester Charters*, 163).This may reflect different concepts of seigneurial control (Stringer, *op. cit.*, 76) but may just be a careless repetition of the word in the original grant. The link between *dare* and an original gift is strong in the Dunbar and de Quincy charters (Simpson, 'RQ', 187).
[308] E.g. Charters to Coldstream, no 15
[309] Charters to Melrose, no 8
[310] Charters to Coldstream, nos 1-2
[311] See Hudson, 'Legal Aspects', 125.

The same precision is shown in the use of *vendidisse* to describe the sale to Melrose of Patrick II's stud at Lauder in 1247 and of *restituisse* in the charters of Patrick III restoring to Durham rights of wardship and marriage in East Nisbet.[312] In the charter recording the quitclaim of Swinton to Durham by Patrick I probably before 1209 the verb is *quietaclamasse*, as it is in Patrick III's later quitclaims of a cow to the priory of May and of hospitality to Coldingham.[313] Precision was not a late development.The various stages of the foundation of Coldstream in the early 1160s demonstrate the use of specific terms for specific actions, in a rather cobbled-together text:

Notum sit vobis me dedisse et concessisse Deo et sororibus de Witehou… et sciatis quod sponsa mea Derder dedit eis….quam ego concedo et confirmo et sciatis me dedisse eis….et sciatis Normannum filium Edulfi dedisse et concessisse eisdem monialibus… et ideo illud confirmo et precipio.[314]

The late twelfth-century charter of Patrick confirming and then augmenting his father's grant of pastureland to Melrose is a model of carefully chosen vocabulary – *me concessisse et hac mea carta confirmasse* for the confirmation, *concessi et dedi predictis monachis et mea carta confirmavi* for his new grant.[315]

What this proves is of course debatable. In one sense it appears to give detail and certainty and thus to give greater importance to charters. But on the other hand, ease and familiarity with the documents can often encourage the use of standardised formula and lead to a hidden imprecision. Both trends – to detailed and careful selection of terminology on the one hand, and on the other, to formula – can be recognised in the charters of the period.

The use of the first person plural

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[312] Charters to Melrose, no 15; to Durham, nos 8-9. An early reference to the buying of land is found in *David I Charters*, no 193 (using *emere*).
[313] Charters to Durham, no 6; to May, no 6
[314] Charters to Coldstream, no 2, the so-called foundation charter of the priory

The use of the 'plural of majesty' [316] first occurs early in the 1220s, in charters of Patrick I to Melrose and to Coldingham.[317] Two of the three Coldingham charters may well have been composed by his son's clerk, for they relate to the Swinewood dispute and have a distinctively formal tone.[318] Although the first person plural form is used by Patrick II and Patrick III, it is by no means invariable. It occurs in about a third of Patrick II's charters and half of those of Patrick III. It does not seem to relate to a specific house, appearing in charters to Coldstream, Melrose, Coldingham and Durham, and in two of the three charters to laymen, Patrick II's confirmation of the Papedy grant and Patrick III's grant to Geoffrey and Margaret Caldicott. [319] This would suggest that the change in style emanated from the earl and his clerks, but it is not certain. In any case, there is some doubt about the significance of the use of the plural, which may be traceable to papal and episcopal usage, and need not imply imitation of the royal style.

The holding clause

The holding clause in the form *tenendam et habendam* and *possidendam* and its variants or in the form *ut...teneant et habeant* following the peremptory phrase *Quare volo* is included in over half of the twelfth-century charters of the earls but in virtually all of their thirteenth-century charters which do not repeat earlier text.[320] Its inclusion may again represent the general move to definition[321] It may also reflect a less sharply-defined distinction between land given to the laity and land given to the Church; perhaps even the view that land granted in alms was still technically, and perhaps more than technically, held of the lord.[322] Then it may simply signify a more sophisticated approach to the concept of tenure with different forms such as *in elemosinam* being recognised and adopted by scribes as useful tools to summarise a complex

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[315] Charters to Melrose, no 8
[316] Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 161
[317] Charters to Melrose, no 13; to Coldingham, nos 3, 7-8
[318] Charters to Coldingham, nos 7-8
[319] Charters to Laymen, nos 5 and 7
[320] Charters to Durham, no 7, for instance repeats the text of earlier charters anent Edrom and Nisbet.
[321] John Hudson questions whether the increased definition is a result of new conditions or the detailing of existing conditions ('Legal Aspects', 122).
[322] Stringer, 'Earl David Charters', 86-7; Hudson, *op.cit.*, 127

relationship. Forms of *tenere* alone and of *possidere* alone are used but no grammatical form of *habere* on its own ever occurs. Forms of *tenere* and *habere* are used together in about one-third of the relevant charters, in thirteen cases with *tenere* first.[323] In a further nine examples *tenere* is paired with *possidere*, while in four more all three words *tenere, habere*, and *possidere* are used. Though in early charters the particular terms selected are used consistently in the holding and *sicut* clauses within the charter, it becomes increasingly difficult to detect fine nuances in their use. As early as the 1160s they seem to be used in charters interchangeably, as in a charter of Waldeve issued probably just before his accession as earl:

ut habeant et teneant illas ...sicut aliquam possessionem suarum liberius et quiecius possident [324]

A similar blurring of the distinction can be seen in Patrick I's late twelfth-century charter confirming and augmenting the grant of Hartside and Spott to Melrose:

ut ea habeant et possideant ...sicut ullas elemosinas suas liberius quiecius plenius et honorificencius tenent et possident.[325]

By the late thirteenth century, the three words are being used interchangeably within the holding clause and the *sicut* or *adeo* clause.[326]

The holding clause can take a different form, introduced by the peremptory '*Quare volo et precipio...ut*' or a near variant. This form derives from royal *acta,* and occurs in eight of the earls' charters to various religious houses, one repeating earlier text.[327] At least four of these charters can be dated to the

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[323] Excluding, that is, chirographs, confirmations of quitclaims, sales, the grant of unfree people, and business letters including receipts. The order of *tenere* and *habere* seems to have had no obvious significance (see also Stringer,'Earl David Charters', 87) though *tenere* seems to have come first in the later Scottish de Quincy charters, *habere* in the English.
[324] Charters of the Heirs, no 1
[325] Charters to Melrose, no 8
[326] E.g. Charters to Coldstream, nos 11, 13-15; to Coldingham, no 10.
[327] The houses are Coldingham, Dryburgh, Kelso, Newbattle and Durham. Charters to Coldingham, no 10 repeats the text of no 6. On the peremptory *Quare volo*, see Stringer, 'Earl David Charters', 87.

thirteenth century, showing a persistence in Scotland of the vocabulary of strong lordship at a time when this form was disappearing from private *acta* in England.[328] Again, how far this reflected reality and practice is a moot point; it may as easily refer to the use of conservative terminology by those who drafted the charters, or even indeed to the employment of 'strong language' in beneficiary-drafting.

The terms on which land was held are more clearly set down in three surviving charters to laymen, all of the thirteenth century. Two are charters of confirmation in which the earl confirms grants within the families of two of his dependants, the Grahams and the Papedys. Here the language is necessarily different from that found in charters to religious houses. In the first the land was granted hereditarily and in perpetuity, for a *reddendo*, one pound of pepper or eight pence. The same land was then to be held by a third member of the family for twelve pence per annum.[329] By contrast, when the grant of Manderston by Stephen Papedy to his brother and his heirs was confirmed by the earl it was said to be for his homage and the service of one-eighth of a knight, but free and quit of any other service or tax, except a *reddendo* of a half-merk of silver to Henry Papedy, perhaps another brother.[330] The third of the charters to laymen, the grant of homages and services in Graden by Patrick III to the Caldicotts is for customary services and payments which are not spelled out.[331] These conditions of tenure, which are discussed elsewhere,[332] relate to grants which may span more than fifty years; but even allowing for this, their variety is striking. In contrast to the charters to laymen of Earl David, knight service is not their dominant feature.[333] If anything, money returns by different names seem most common. There is an interesting variety of inheritance language.[334]

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[328] *Ibid.*, 87 where he contrasts it with the situation in England 'under the strongly institutionalised royal authority'.
[329] Charters to Laymen, no 4. Richard's charter is *Kelso Liber*, no 133 which the *Syllabus* dates later to x1232.
[330] Charters to Laymen, no 5
[331] Charters to Laymen, no 7
[332] See p 155 below, section on land tenure in the earldom.
[333] Stringer,'Earl David Charters', 87
[334] Discussed below, p 169

Land conveyed to the Church was usually said to be in alms, except where it was the subject of a quitclaim or the confirmation of a quitclaim.[335] Where the earl was confirming the grant of a third party, the phrase 'in alms' might be omitted, though it is found in the original charter.[336] The adjectives *liberam, puram* and *perpetuam* are almost always used in different combinations.[337] Two early grants to Durham are defined as 'alms' only. [338] Otherwise they are invariably in perpetuity, twice expressed in Coldstream charters *in perhenni elemosina*.[339] *Liber* appears early, in the phrase *in liberam et perpetuam elemosinam* in two charters of Earl Gospatric and one of his son Earl Waldeve to Kelso Abbey but is not invariably used thereafter, Newbattle charters in particular tending to omit it.[340] It is doubtful whether it had the particular meaning of freedom from secular jurisdiction, just as it is not clear whether *pura* meant freedom from secular service.[341] The phrases *in puram et perpetuam elemosinam* and *in liberam et puram et perpetuam elemosinam* first occur in charters of the middle years of the earldom of Patrick I, after about 1200, the latter and longer form predominating by the mid- to late thirteenth century.

In the *sicut* clauses of the early charters of the earls to religious houses the terms on which the land or other property is to be held may be defined as those by which they were previously held by someone else.[342] Or the terms were to be those by which the recipients held their other lands, *'sicut alias suas elemosinas liberius et quiecius et honorificencius tenent et habent'* in the case of Melrose; *'sicut aliquam possessionum suarum liberius et quiecius possident'* in Waldeve's charter to Kelso.[343] Such a mechanism of course depended on local knowledge and within time was challenged by a different benchmark, the known and accepted ' best practice' by which alms are held. This is expressed in phrases such as:

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[335] Charters to Coldingham, nos 4, 7; to Durham, no 6; to Melrose, no 14; not in Charters to Durham, nos 8-9 which make restitution.
[336] E.g.Charters to Melrose, no 13. The original grant is *Melrose Liber*, nos 210-11
[337] Their use followed 'no fixed rule' in the de Quincy charters (Simpson, 'RQ', 189).
[338] E.g. Charters to Durham, nos 1-2; Stringer, 'Earl David Charters', 88
[339] Charters to Coldstream, nos 1-2
[340] Charters to Kelso, nos 3-5; to Newbattle, nos 1-5
[341] See Hudson, 'Legal Aspects', 127-8; Stringer, 'Earl David Charters', 88 for a similar view.
[342] Charters to Kelso, nos 2, 4

sicut aliqua elemosina liberius et melius tenetur
sicut aliqua elemosina liberius et quiecius et honorificencius datur vel tenetur
sicut aliqua abbatia terram liberius et quiecius possidet [344]

Although these phrases may appear imprecise, they represent and establish uniformity, a referencing to a general rather than to a particular standard. At times this is defined more closely. So land ceded to Coldingham is to be held *sicut aliqua elemosina in tota Laodonia liberius quiecius et honorificencius tenetur vel possidetur.*[345] Lands are granted to May *sicut aliquis liberius et quietius tenet in tota terra mea* and to Dryburgh *sicut aliqui viri religiosi in tota terra mea vel in toto regno Scotie quamlibet elemosinam liberius quiecius plenius et honorificencius tenent et possident.*[346] The reference to the kingdom of Scotland, which plainly includes south-east Scotland, appears first in the Dunbar charters in a charter to Coldstream of Earl Waldeve of 1171 x 1182.[347] It endures and dominates thirteenth-century definitions of tenure: all four charters of Patrick II and four of the five charters of Patrick III which include the *sicut* clause carry variants of the phrase; thus:

Sicut aliqua elemosina in regno Scotie liberius quiecius plenius et honorificencius tenetur aut possidetur
Sicut aliqua elemosina alicubi in toto regno Scotie liberius quietius plenius et plenarius ac honorificencius tenetur vel possidetur [348]

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[343] Charters to Melrose, no 2; of the Heirs, no 1. Reference to other lands in Charters to Melrose, nos 4, 8-9, 12; to Kelso, nos 4-5, 7
[344] Charters to Coldstream, nos 2, 5; to Melrose, no 3
[345] Charters to Coldingham, no 6
[346] Charters to May, no 1; to Dryburgh, no 4
[347] Charters to Coldstream, no 3. The phrase appears in charters of the third quarter of the twelfth century and in royal charters in the 1170's (*RRS*, ii, no 148, a charter of King William to Coupar Angus Abbey of 1171 x 1178, which may arguably refer to Scotland north of the Forth.). Later charters of Earl David of 1190 x 1200 to Lindores use the phrase (Stringer, *Earl David*, nos , 44, 46, 51). More unusually, an early thirteenth-century charter to St Andrews Priory refers to practice 'in regno Scotorum' (*ibid.*, no 74). All these Earl David's charters record grants north of the Forth.
[348] Charters to Melrose, nos 16-17; to Coldstream, no 14. The exception is Charters to Coldingham, no 10, which encapsulates earlier text (to Coldingham, no 6) including reference to Lothian.

The adoption of the 'national standard' signals the growing acceptance and usefulness of the norm, both the religious house and the benefactor placing the grant firmly in the context of best practice and the framework of royal authority.[349] The drive for security is seen also and most strikingly in the developing importance of the charter, reflected in the *sicut* clause in charters of confirmation. The earliest example occurs in a charter to Melrose of Earl Waldeve (1166 x 1182) confirming his father's grant of Hartside and Spott. *Sicut alias elemosinas suas liberius et quiecius et honorificencius tenent et possident . et sicut carta patris mei melius testatur et confirmat .*[350]
In the earldom of Patrick I and thereafter reference to tenure on the terms of a previous charter becomes unvarying in charters of confirmation of all kinds.[351]

None of the earls' charters to Durham carries a *sicut* clause. In part this may be explained by the fact that with the exception of the charter concerning the quitclaim of Swinton all the Durham charters dealing with land are edited versions of the original charter of Waldeve's grandfather Gospatric which did not include the clause.[352] Moreover, the use of the formula *sicut...in toto regno Scotie* in the later earls' charters might have posed logistical problems in a grant to an English house, albeit of Scottish lands.

The pro anima clause

A statement of spiritual motive occurs in over two-thirds of the earls' charters to religious houses and to the church of St Nicholas, Hume. Nearly all of these charters recording grants or confirmations of grants by the earls contain the phrase *pro anima...*, *pro salute...* , *pro salute anime...* or simply *pro...* listing those on whose behalf the gift is made, and who will benefit spiritually from what is done in their name. Eight of the eleven surviving charters of the

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[349] Hudson suggests that reference to the national standard was actively encouraged by the Scottish kings to foster the idea 'of common forms of landholding and related rights throughout their realm' (Hudson, 'Legal Aspects', 131). It was not characteristic of English charters.
[350] Charters to Melrose, no 4. The charter of his father Gospatric is Melrose, no 2.
[351] Charters to Coldstream, no 4, where the earl confirms the grants of his predecessors to the priory; to Melrose, no 13, where he confirms to the monks John son of Michael's grants in Penshiel.
[352] Charters to Durham, nos 3-5,7. Gospatric's first charter is to Durham, no 1.

Gospatrics, that is, before 1166, contain a *pro anima* clause. This reduces slightly under Waldeve and more markedly in the time of his son, Patrick I, plummeting in the 1230s and 1240s under Patrick II but rising again to nearly half under his son Patrick III. Even allowing for the smallness of the samples in some cases, the lifting of text for incorporation in confirmations and the link (explored later) between the *pro anima* and first or original grants, it does seem that the use of the *pro anima* did decline, especially in the middle of our period. Where it survived, it became markedly formulaic.

The *pro anima* was never used for chirographs or the charters which were issued as a result of the agreement recorded in a chirograph. Clearly it would not be appropriate for adminstrative brieves or personal documents or receipts. Interestingly, it is not included in a document referring to a grant of unfree people.[353] It does occur in those quitclaims which were in effect grants, or had a grant element, such as Patrick III's quitclaim to May of the annual payment of a cow and his quitclaim of hospitality due him from the prior and convent of Coldingham.[354] But also it appears in Earl Patrick I's quitclaim of Swinton to Durham and his confirmation of his son's quitclaim of Swinewood, to Coldingham, where unjust claims were said to be abandoned.[355] It was not therefore linked only to benefaction, though it does correlate quite strongly with first or original grants. Nearly all of the charters of the earls containing original grants to Coldstream, Newbattle, Dryburgh and Melrose have the *pro anima*. It is found less frequently in charters to Durham, many of which in any case deal with disputes and their resolution rather than with benefactions. In summary, there does not seem to be a strong connection between the incidence of the *pro anima* and the religious house to which the charter was given; rather any connection seems to lie in the type of transaction recorded in the charter.

The tendency was to use *pro, pro salute* or, most commonly, *pro salute anime/ animarum* for the living, *pro anima/animabus* for the dead. *Pro* stressed the representational role of the earl, lord of the land and head of the

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[353] E.g. in Charters to Kelso, no 6
[354] Charters to May, no 6; to Coldingham, no 12
[355] Charters to Durham, no 6; to Coldingham, no 4

family who associated with and profited spiritually from his generosity. *Pro salute, pro salute anime* or *animarum* gave the gift its spiritual force, expressing its potential to ensure or promote the salvation of the living through its intrinsic merits and the benefits it would bring. *Pro anima* or *animabus* set the gift in an ongoing and eternal context, interceding for the souls of the dead, extending to them the benefits to be enjoyed by the living, including them in the corporate act of benefaction. Different forms of words were usually applied to the living and the dead within the one charter, though there were inconsistencies when the scribe made an error, failed to update the wording of earlier charters or took short-cuts. Earl Patrick's confirmations of Lennel church and of land in Skaithmuir to Coldstream in the early thirteenth century, for instance, were respectively stated to be *pro salute anime mee et predecessorum meorum* and *pro salute animarum omnium antecessorum meorum.*[356] Conversely, his confirmation of his son's quitclaim of Swinewood was *pro anima mea et animabus patris et matris mee* et *omnium parentum meorum*; his confirmation to Newbattle of land in Hailes *pro anima mea et pro animabus predecessorum meorum.*[357].These exceptions and others are a reminder that it is unwise to place much reliance upon the phrases in question in dating the charters by assuming the death of someone cited in the *pro anima.* Clearly also phrases could be used flexibly. *Pro salute...* , for instance, was used thus in Earl Patrick's confirmation of a half ploughgate in Fortune to Newbattle abbey *pro salute omnium fidelium Dei tam vivorum quam mortuorum.*[358] Where the predecessors and successors of the earls were included, it made sense to avoid unnecessary complications, and so in these cases *pro animabus* and *pro salute anime* were used almost interchangeably.[359] *Pro animabus... omnium parentum*, by contrast, is invariable, though *parentum* might well include living and dead relatives, mainly where earlier text is being repeated.[360]

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[356] Charters to Coldstream, nos 4 and 6. In the latter case Earl Patrick's charter of confirmation follows much of the text of Richard's charter (*Cold. Cart.*, no 5) and clearly seeks to summarise a very long *pro anima.*

[357] Charters to Coldingham, no 4; to Newbattle, no 1. Earlier examples of *pro anima* applied in this way to the living occur in charters of Earl Gospatric to Kelso (Charters to Kelso, nos 2 -3).

[358] Charters to Newbattle, no 5

[359] E.g. Charters to Kelso, no 3

[360] E.g. Charters to Durham, nos 1, 3-5, 7

In twelfth-century charters the *pro anima* phrase might be placed anywhere in the text and often occurs near to the end of the document.[361] By the early thirteenth century, however, with only a few exceptions it is found near the beginning, following the notification.[362] This may have been a mere matter of changing style, or a device to emphasise the countergifts, but it may also reflect the attitude that recurrent phrases should be dealt with first, clearing the way for the writing of the more complex and detailed definitions of lands, boundaries and rights which were beginning to be spelled out in the charters.

In eleven of the charters in the Dunbar collection, some of which are quite late, it is coupled with another phrase emphasising the spiritual motives which have prompted the gift:

Ad redempcionem peccaminum et salutem anime…
Pro Dei amore et salute anime mee et omnium antecessorum et successorum meorum
Intuitu caritatis et pro salute anime/ animarum omnium antecessorum meorum
Intuitu pacis et caritatis et pro salute anime mee…
Intuitu Dei et pro salute anime mee…
Divine pietatis intuitu et ob amorem et reverentiam gloriosi confessoris Cuthberti et pro anima mea….
Pro nobis et heredibus nostris diuine pietatis intuitu…
Divine pietatis intuitu pro salute anime nostre/mee…
Caritatis intuitu et pro salute anime mee et meorum…[363]

When allowance is made for repeated and updated original text, there is a discernible move to formula, with the phrase *divine pietatis intuitu* appearing

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[361] As, for instance in Charters to Durham, nos 1, 3-5, and also 7 (thirteenth century), where the earliest text is adapted and followed in the later charters ; to Kelso, no 2; to Coldstream, nos 3 and 6. The phrase occurs earlier in the text however in twelfth-century charters to Kelso and Melrose e.g. Charters to Kelso, nos 4- 5; to Melrose, no 4.
[362] The exceptions are in Patrick II's confirmation of Edrom and Nisbet to Durham which uses earlier text (Charters to Durham, no 7) and two charters to Dryburgh (to Dryburgh, nos 2, 4) which have the phrase in the middle of the text.These last two are difficult to date and may belong to the last decade of the twelfth century.
[363] Charters to Kelso, nos 1, 10; to Coldstream, nos 3, 6, 9, 10-11,13,15; to Coldingham, no 4; to Dryburgh, no 3. In five charters, four relating to the chirograph regarding the partition of Billie, one of the phrases *caritatis intuitu, caritatis intuitu 7 spe retribucionis eterne* is used without a *pro anima* clause(Charters to Coldstream, no 8; to Coldingham, nos 5, 6, 9-10).

first in a late charter of Patrick I [364] and, linked to the *pro anima*, becoming a recurrent feature of the Coldstream charters of Patrick III. It seems a relatively sterile phrase, with little of the resonance of the earlier expressions of devotion, underlining the growing emphasis on the written rather than the spoken word. It links possibly to the practice of inserting the *pro anima* early in the document.[365]

An analysis of the various forms of the *pro anima* shows that the soul for which salvation was most often sought was that of the earl himself. Thirty-five of the forty-one charters which contain the *pro anima* specify the earl and two more include him in a general intercession. Twelve only refer to the earl's wife, and one more includes her in the group.[366] One of the twelve refers to both wives of Patrick I – his first wife Ada, natural daughter of king William, who died in 1200, and Christina Bruce to whom he was married by 1214.[367] In two charters the children of the earl appear in the *pro anima*, in three more, sons are specified, but daughters feature only once. Surprisingly the eldest son and heir is cited only twice, the earls' heirs generally also twice.[368] Fathers and mothers fare better, particularly in charters of Gospatric, Waldeve and Patrick I which were written soon after the accession of the earl, fathers appearing 13 times, mothers 10 times.[369] The wider family – *omnes parentes* – figure in earlier charters or repeated text, but rarely in thirteenth century charters.[370] Conversely, predecessors (in twenty-nine charters) and successors (in twenty-five) are strongly represented, and increasingly so in the later charters, figuring in all of the charters of Patrick III which have a *pro anima* section.[371] Royalty is an important component of the *pro anima* in the five charters relating to

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[364] Charters to Coldingham, no 4, Earl Patrick's confirmation of his son's quitclaim of Swinewood to the Durham monks at Coldingham.
[365] Though liturgy or any standardised form of religious language is not necessarily lacking in true devotion.
[366] There seems to be no correlation between this and any suggestion that the land was hers.
[367] Charters to Durham, nos 1, 3, 5, 7; to Melrose, nos 4, 8-10, 12; to Coldstream, nos 13, 15; to Dryburgh, no 4. The general reference is in Charters to Coldstream, no 2. Both wives are included in the *pro anima* of Charters to Melrose, no 10.
[368] Children in Charters to Melrose, no 9; to Dryburgh, no 4. Sons in Durham, nos 1 and 3, sons and daughters in Melrose, no 10. Eldest son and heir in Charters to Melrose, nos 10, 12. Heirs generally in Charters to Durham, nos 5, 7.
[369] Fathers in Charters to May, no 1; to Kelso, nos 2-5, 7; to Durham, nos 3, 4 , 7; to Coldingham, no 4 ; to Melrose, nos 4, 9-10; to Dryburgh, no 4. Mothers not in Charters to Melrose, no 4; nor in Charters to Kelso no 5 (and no 7 which uses much of the text of no 5).
[370] Charters to Durham, nos 1, 3, 5,7 (all incoporating earlier text); to Coldingham, no 4

Edrom and Nisbet given over the period to Durham; starting from Malcolm III, through Edgar, Alexander, David and Earl Henry, with Malcolm IV, William I and Earl David added in the confirmations of Waldeve and Patrick I, culminating in the confirmation given by Patrick II which named nine kings or their sons and brothers. Royal names appear also in early charters of Earl Gospatric, father of Waldeve, to Kelso and Melrose, and continue to figure in the *pro anima* of charters to Melrose in the early years of the earldom of Patrick I: in these cases the line of kings starts with David rather than with his father and brothers, again stressing David's role in the foundation of both abbeys. The naming of the succession of kings, which accumulates as charters are updated, emphasised that the religious houses had enjoyed their patronage and could call upon their past and present support and authority.

The significance of this data with regard to the family is assessed elsewhere.[372] Certainly for the recipients, the nuns and monks of Coldstream, Melrose, Kelso and the other religious houses to whom the charters were given, there were advantages in having the gift placed in the story and the tradition of the Dunbar family and secured for all time.

The anathema

In any transaction there is the danger that one or both parties will not adhere to what has been agreed and there is a consequent search for the means to safeguard the agreement. The solemn ceremonies associated with benefaction or restitution or reconciliation in the presence of witnesses harnessed spiritual and social powers in an attempt to bind both sides to the promises and undertakings which had been given. So also with the practice which developed gradually of recording in writing what had been agreed and done and naming in the document those who had witnessed the act. Thus the charter, with its increasingly detailed and specific clauses, came to reinforce the act, at first because it reminded hearers and readers of what had happened, and later because it acquired a significance of its own.[373]

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[371] Charters to May, nos 5-6; to Coldingham, no 12; to Coldstream, nos 11, 13, 15
[372] See below, p 201.
[373] See above, p 76.

The charter might be used to convey the utterly serious and sacred nature of the transaction, through the anathema, the dire warning of the consequences now and in the hereafter if promises were broken.[374] One of the earliest charters of the Dunbar collection contains a double anathema:

Et si aliquis huic elemosine mee vult contradicere inter eum et Deum sit.... Quicunque his abstulerit Deus sibi et hanc vitam et regnum celorum auferat.[375]

The ferocity of the anathema in this charter hints at a background of bitter conflict. It is by no means certain that the warning was wholly issued by the monks and aimed at the earl: on the contrary it is perfectly feasible that the second part was a *riposte* delivered by or on behalf of the earl. The Berwickshire touns of Edrom and Nisbet, and the church of Edrom, all the subject of this charter, were handed over to Durham priory by Earl Gospatric. The fact was recorded in this charter which represented the surrender of the touns and church as a gift by the earl. But the settlement recorded in the charter containing the double anathema did not last . Edrom and Nisbet continued to be the subject of a dispute involving both King David and Earl Henry and charters concerning the touns appeared and were confirmed by subsequent earls over the next hundred years. The original text of the early Gospatric charter was edited and incorporated into these later charters. Names and relationships were updated and the anathema abridged. In the charter in the name of Gospatric's son, Earl Gospatric, it reads:

Et si aliquis huic elemosine mee contradicere voluerit Deus sibi et hanc vitam et regnum celorum auferat [376]

It was retained in that form in charters of Waldeve and Patrick I and in the last surviving charter confirming the touns and church to Durham, in the earldom of

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[374] Hudson comments on the rarity of the anathema in the charters of the earls of Chester and links its appearance in the 1130s and 1140s to the disorder of Stephen's reign (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 173).

[375] Charters to Durham, no 1. The anathema is in two separate parts of the document. The first part comes before the witnesses, the second right at the end, after *Valete*, giving an impression of having been added as an afterthought.

Patrick II.[377] By the mid-thirteenth century it seems an anachronism; yet its retention is significant. Clearly, for reasons which remain obscure, the possession of Edrom and Nisbet was a key issue of its time, so important to the priory that the old words were repeated like a mantra long after more sophisticated mechanisms had been created. For by the end of the twelfth century, security and guarantee were sought not through threats of divine wrath but by the insertion of the warrandice clause into the document and the recognition of the symbolic importance of affixing the seal to the document.

Warrandice

The evidence from Scottish and English royal and non-royal charters gives a rather contradictory picture of the use of warrandice or warranty. In England it seems to have declined in the late twelfth century and revived slowly thereafter, becoming, for instance, a dominant feature of the de Quincy charters and also of the Chester charters by 1232.[378] It was rare in the charters of the earldom of Gloucester until the thirteenth century, but also in the acts of the earls of Strathearn. It is less common in Earl David's Scottish *acta* than in the English ones.[379] There is no agreement about its incidence in Scotland: on one hand it is said to be rare in Scottish private *acta;* on the other that it was more common in non-royal than in royal Scottish *acta.*[380]

Warrandice appears early in a Scottish royal charter of 1145 x 1153.[381] In the Dunbar collection, it occurs first in a charter of Gospatric granting Hartside and Spott to Melrose Abbey:

Has autem prefatas divisas versus omnes homines ego et heredes mei predictis monachis warantizabimus.[382]

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[376] Charters to Durham, no 3
[377] Charters to Durham, nos 4, 5, 7
[378] Simpson, 'RQ', 194; Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 173
[379] '*Gloucester Charters*', 21. Dr Stringer finds warrandice rarer in Scotland, citing the charters of Earl David and the earls of Starthearn (Stringer, 'Earl David Charters', 90-1.See also C. J. Neville, 'The Earls of Strathearn from the Twelfth to the mid-Fourteenth Century, with an edition of their written acts', (hereafter Neville, 'Strathearn Charters') (unpublished PhD thesis, University of Aberdeen,1983), nos 86-7, 114.
[380] Stringer, *op. cit.*; Hudson, 'Legal Aspects',130
[381] *David I Charters*, no 177 (1145 x 1153)

Though in its various forms warrandice is given in charters to a number of religious houses throughout the years by succeeding earls [383] it occurs most often in the fourteen charters of the earls to Melrose abbey, only two of which do not have a warrandice clause. Indeed, 11 of the 23 examples of warrandice in all of the surviving charters of the earls are in their Melrose charters.[384] This may link to Melrose's determination, seen in other ways, to procure as firm guarantees as possible for any benefaction. But they seem to have had a particular anxiety about the Dunbars, for Gospatric's grant of Hartside and Spott is the only surviving charter to Melrose of the reign of Malcolm IV in which warrandice was given. About half of the Melrose charters of William's reign carry warrandice, a high proportion, allowing for charters which do not normally have warrandice, such as chirographs, agreements, and lords' confirmations. Six of the seven earls' charters have it. Of course the giving of warrandice need not imply distrust; the earls' charters may include warrandice because they offered it and felt able to honour the commitment. Yet there does seem to be a specific element in it, for by contrast, warrandice as such is never given to Coldingham or to Durham.[385] There may be another explanation. Since most of the Coldingham and all of the Durham charters relate to lands which had been the subject of dispute and which therefore were ceded rather than conferred, it seems that warrandice had a particular application to benefactions, and was not generally a device to guarantee an agreed or imposed settlement.[386]

The warrandice clause appears in half of the charters of Gospatric's son Waldeve, but it occurs much less frequently in the charters of Patrick I, in fewer than one-fifth of the surviving charters of this earl. During the earl's

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[382] Charters to Melrose, no 2 (1153 x 1159)
[383] e.g. Charters to Kelso, nos 5-6; to Dryburgh, no 3; to Coldstream, nos 9, 11, 13
[384] The exceptions are Charters to Melrose, nos 6, 13. Chirographs, eg Charters to Melrose, no 11, would not have a warrandice clause. Hudson notes the prominence of warrandice in the charters to Melrose (Hudson, 'Legal Aspects',130).
[385] In the chirograph made with Coldingham concerning Renton, however, though no formal warrandice is given, there is a firm undertaking to uphold the agreement, fortified by nineteen pledges (Charters to Coldingham, no 1).
[386] Exceptions occur in Patrick I's charter granting Sorrowlessfield to Melrose Abbey and Patrick II's confirmation of Hassington also to Melrose, both again following a settlement in the *curia regis* (Charters to Melrose, nos 12, 16). But Melrose, as noted above, seems to have sought and obtained warrandice as a matter of course.

lifetime his son Sir Patrick gave warrandice only once [387] but since most of his surviving charters relate to disputes with Durham, this is not inconsistent with the general pattern. As earl, however, he invariably gave warrandice whether in his benefactions to Coldstream, the confirmation of Hassington and the sale of his stud at Lauder to Melrose. In his confirmation of Manderston to Thomas Papedy he stipulated that Stephen Papedy and his heirs were to give warrandice.[388] Warrandice is less common in the charters of Patrick III, though it occurs in the six charters which can be more readily identified with the use of a settled house style.[389] By then and in these specific charters, as also in all the charters of Patrick II, it is coupled with corroboration, though this is extremely unusual in earlier charters.[390]

The uneven survival of the charters of the earls may well explain the apparent decline in the giving of warrandice by Patrick I and his grandson Patrick III. All depends on the religious house to which surviving charters were given. Where there was a preponderance of charters to Melrose and Kelso, as under Earl Waldeve and later also to Coldstream, as under Patrick II, warrandice had become the norm by the mid-twelfth century for benefactions. Most charters to Dryburgh, to May and to Newbattle, and very early charters to Coldstream, however, did not contain warrandice. Coldingham and Durham, as already noted, never received warrandice as such.

Though the phenomenon of warrandice has been equated with good lordship, it has also been argued that the need for it suggests that lordship was not guarantee enough.[391] Perhaps indeed its occurrence in the charters of Patrick II is linked to his reputation for litigiousness and the need for further controls on this particular lord. Warrandice in this context seems demand-led. The irregular occurrence of explicit warrandice may reflect a lord's reluctance to

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[387] Charters of the Heirs no 4. The heir of Patrick III, Sir Patrick, gave warrandice between 1248 and 1289 (Charters of the Heirs, no 17)

[388] Charters to Coldstream, no 9; to Melrose, nos 15-17. All of Patrick II's surviving charters give warrandice except the confirmation to Durham of Edrom and Nisbet, which repeats the earlier anathema (to Durham, no 7). Cf. Stringer, 'Earl David Charters', 91

[389] Charters to Coldstream, nos 11, 13-15; to Melrose, no 18; to Laymen, no 7

[390] One example only of the combination survives- Earl Patrick I's charter confirming land in North Hailes to Newbattle Abbey (Charters to Newbattle, no 3). Here however the guarantee given is not formal warrandice.

recognise the right of a tenant, specifically the right to continue to hold the land despite any change in lordship. In other words, warrandice may have been given at times only as a result of pressure on the lord from the religious house, perhaps even the insistence of the king.[392] Interestingly, there is one example in the Dunbar charters of Earl Patrick II as lord requiring a tenant to offer warrandice to the beneficiary of the grant. In his charter confirming Stephen Papedy's grant of Manderston to Thomas Papedy, Earl Patrick II stipulated that Stephen should give warrandice to his brother thus:

Ille vero Stephanus Papedy et heredes sui dicto Thome fratre suo et heredibus suis, vel fratre suo post ipsum genito et heredibus suis ...predictam terram contra homines omnes et feminas warantizabunt.[393]

This last charter and the charter of Patrick III to the Caldicotts, two of only three surviving Dunbar charters to laymen, illustrate the direct link between grant and warrandice. It is a very important point. Warrandice is not usually a blanket reassurance given from on high by the lord when confirming grants. It is the grantor who gives warrandice on his own behalf, not as lord, but as the one who gives and who is personally responsible for the securing of the gift. We have one example only of the earl giving full warrandice to lay people and their heirs, in the charter already mentioned of Patrick III to Geoffrey and Margaret Caldicott. It shows how specific warrandice could be. When the earl gave the Caldicotts the homages and services of the lands in Graden held by others of the earl, the warrandice was given for these particular dues, commuted no doubt to a money payment. The Caldicotts were inserted into a complex hierarchy of landholding and service in Graden but the warrandice was for the grant from the earl only. Warrandice was, or had become, a tight and specific legal or quasi-legal safeguard enforceable because it involved only the grantor and his heirs and the beneficiary and the particular grant recorded. In charters to laymen it also involved, though not invariably, the heirs of the beneficiary. In the case of charters to religious houses, as we have

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[391] J. Hudson, *Land, Law and Lordship* (Oxford, 1994); hereafter Hudson, *Land, Law, Lordship*, 57

[392] As, probably, in the Hassington case (Charters to Melrose, nos 16-17)

[393] Charters to Laymen, no 5

seen, almost without exception it is given only when the earl is making a first gift or grant or where he is repeating his own gift or a gift of one of his predecessors. In the earldom of Patrick II, when it occurs in a higher proportion of charters, it is given even with a sale.[394] This is interesting, for it underlines the function of warrandice as an indication of a firm and binding transaction, a sign of security and authority, rather than an extraordinary strategy to overcome uncertainty and distrust.

The warrandice clause took a variety of forms. In charters to Melrose it read:

Has autem prefatas/predictas divisas versus omnes homines ego et heredes mei predictis monachis warantizabimus[395]
Hanc donationem ego et heredes mei warantizabimus predictis monachis contra omnes homines in perpetuum[396]
Ego autem et heredes mei manutenebimus et warantizabimus eis totam terram predictam/ haec omnia contra omnes homines inperpetuum[397]
Et ego et heredes mei manutenebimus et warantizabimus eandem/predictam elemosinam predictis/prenominatis monachis contra omnes homines in perpetuum[398]
Ego vero et heredes mei hanc meam venditionem concessionem et quietaclamanciam et omnia permissa prefatis abbati et conventui de Melros contra omnes in perpetuum warantizabimus[399]
Et ut nos et heredes nostri ...eandem terram per dictas divisas suas cum omnibus permissis ipsis abbati et conventui contra omnes homines inperpetuum warantizabimus acquietabimus et defendemus[400]
Hac presenti carta nostra noset heredes nostros obligavimus quod dictum tenementum ipsis abbati et conventui contra omnes homines adquietabimus warantizabimus et in perpetuum defendemus[401]

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[394] Charters to Melrose, no 15- the sale of the stud at Lauder to Melrose.
[395] Ibid., nos 2, 4
[396] Ibid., no 3
[397] Ibid., nos 8-9
[398] Ibid., nos 10, 12 (slightly different word order)
[399] Ibid., no 15
[400] Ibid., no 17
[401] Ibid., no 16

Set ego et heredes mei dictam equicii vendicionem ...et omnia que... in carta domini P. comitis patris mei continetur dictis abbati et conventui de Melros contra omnes inperpetuum warentizabimus ac defendemus[402]

Despite the variety of wording, there are consistent elements. In each case the earl in whose name the charter is given takes personal responsibility for the execution of what he has given or sold or agreed. The responsibility is ongoing, expressed always in the future tense and it is invariably, even in the earliest examples, extended to his heirs. The subject of the charter– land and property given, confirmed, defined or sold–is always stated. Those to whom warrandice is given–monks, abbot and convent–are likewise identified. In summary, the warrandice clause from its first use in the earls' charters is a formula, but it does not lack precision.

This is the formula used also without exception in the later charters to Coldstream, whether because it had been adopted as a house style by the earl's scribes or because it had acquired a particular legal status, or was simply the fashion of the time.[403] Where warrandice appears elsewhere however it is less standardised and is not extended to heirs on either side. Earl Waldeve's charters to Kelso give warrandice thus:

Et ego omnes has prenominatas elemosinas gwarentizabo et defendam adversus omnes homines [404]
Et ipsos contra homines eis warantizabo [405]

A charter of the early years of Patrick I confirming his father's grant of churches, chapels and lands to Kelso repeats nearly verbatim the first of these forms. [406]

Though another of Patrick I's charters, to Dryburgh, uses terminology very similar to that found in the Melrose charters and includes his heirs in the

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[402] Ibid., no 18
[403] Charters to Coldstream, nos 9-11, 13-15
[404] Charters to Kelso, no 5
[405] Ibid., no 6

promise[407] an interesting variation occurs in his confirmation of the grant of North Hailes by Mary of Hailes to Newbattle Abbey. Here the warrandice seems less formulaic, though the charter does not seem to belong to Earl Patrick's early years. Indeed it is questionable if this is warrandice, in the technical sense of the term. The narrative behind the charter suggests that the land had been surrendered and regranted, perhaps in one stage rather than two, and a different form of words may therefore have been chosen.

Volo igitur ut predicti monachi ...totam predictam elemosinam habeant et teneant in perpetuum cum confirmacione et proteccione mea pro omnia.[408]

Warrandice also gathers force over time, or at least appears to do so. To the earlier simpler *warrandare*[409] are added forms of the verbs *defendere* [410] and *manutenere*.[411] *Acquietare* appears, usually when land granted has been surrendered by a dependant or tenant of the earl.[412] In the charters where a house style seems to have developed by the time of Patrick III the threefold *warrandare, acquietare, defendere* becomes standardised, reflecting also perhaps the increasing use of re-granting by this earl.[413] Whether the development is one of style or substance is another matter. *Defendere* in particular has a more active connotation, committing the earl to intervention; but its inclusion may simply reflect the use of language to stiffen the guarantee. There is some evidence of the methods promised to make warrandice effective. When Patrick II gave warrandice to Melrose for Hassington he promised that if he or his heirs failed to protect the settlement they would compensate the abbot and convent from their own lands to the correct value.[414] The obligation to provide *escambium* was known of course in

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[406] Charters to Kelso, no 7
[407] Charters to Dryburgh, no 3
[408] Charters to Newbattle, no 3
[409] Charters to Melrose, nos 2-4; to Dryburgh, no 3. The single word occurs also in the charter of Patrick II recording the sale of his stud to Melrose (to Melrose, no 15) and a charter of the same earl granting land near the Leet to Coldstream. (to Coldstream, no 9)
[410] Charters to Kelso, nos 5 and 7; to Coldstream, no 10; to Melrose, no 18
[411] Charters to Melrose, nos 9-10, 12
[412] Charters to Melrose, nos 16-17; to Coldstream, nos 11, 13- 15; to Laymen, no 7
[413] Charters to Coldstream, nos 11, 13-15
[414] Charters to Melrose, nos 16-17. Similar cases occur in the charters of Earl David (Stringer, 'Earl David Charters', 90-1).

twelfth-century England.[415] It would be dangerous to argue from this particularly high-profile case when and in what circumstances such firm guarantees were sought in Scotland; but clearly the concept of warrandice was becoming ever more refined.

Nowhere is this trend more evident than in the introduction of *contra...feminas* into the warrandice clause. Women are first included in charters of Patrick III in charters to Coldstream priory, all of which probably relate to land on which a woman might have a claim. Mariota Edgar, whose husband Sir Patrick Edgar surrendered his lands in Lennel by staff and baton in the earl's court, was described as Lady of Hume. Her husband's lands in Lennel were granted to Coldstream by Earl Patrick and in his charter to the nuns the warrandice clause runs:

Nos vero et heredes nostri totam dictam terram de Laynal cum omnibus supradictis predictis monialibus et successoribus suis contra omnes homines et feminas warantizabimus aquietabimus et in perpetuum defendemus [416]

After Sir Patrick's death Mariota quitclaimed her lands in the north toun of Lennel to Coldstream to raise money to support her in her widowhood.[417] It is difficult to form a coherent picture of the various grants of land in different parts of Lennel; nine of the charters of the earls and their eldest sons contain grants of Lennel church or lands in Lennel of varying description- the toun, parts of the toun, lands attached to the toun, lands held by Norman, lands held by Patrick Edgar, lands held by Sir Alan, son of Gilbert of Hassington, lands held by Mariota.[418] Nevertheless a connection may be suggested between Mariota's quitclaim of her lands in the north toun of Lennel and a charter of Patrick III recording his grant of land in the south toun of Lennel to Coldstream. Perhaps significantly, this was also one of the charters which contained a warrandice clause which included women –*contra omnes homines et feminas*.[419] Mariota's title, Lady of Hume, suggests that she was a person

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[415] Hudson, *Land, Law, Lordship,* 52
[416] Charters to Coldstream, no 15
[417] *Cold. Cart.*, no 13
[418] Charters to Coldstream, nos 1-4, 10, 13-15; of the Heirs, no 17
[419] Charters to Coldstream, no 13

of consequence in her own right and it is conceivable that the earl, or the priory, feared a future claim on the north toun by her or her descendants. The inclusion of women again in the warrandice clause of a charter of the same earl giving to Coldstream a ploughgate in Old Hirsel surrendered by Walter the chaplain, grandson of Thomas of Darnchester, may be connected to the same Walter's mother, Mathilda, for whose soul he gave the priory lands in Darnchester.[420] A connection is possible. Certainly warrandice sometimes seems to have been worded carefully to suit each particular case.[421]

Warrandice occurs in conjunction with corroboration in the charter of Patrick I to Newbattle Abbey.[422] Thereafter the combination of the two becomes standard practice in the charters of Patrick II and in those charters of Patrick III in which a recognisable house style can be traced, providing further evidence of the trend to strengthen guarantees and place responsibility for the security of the transaction firmly and explicitly with the earl.[423]

Corroboration

The corroboration clause appears first in the charters of the middle to late period of the earldom of Patrick I, in some ten charters of that earl written after 1200. [424] The charters relate to several religious houses, so that no strong connection can be made between a particular house and the giving of this form of security. At this early stage in its development it was applied to the sealing of a wide range of documents – to a letter accompanying an adminstrative brieve, to a chirograph and its accompanying charter, to a

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[420] *Cold. Cart.*, no 34

[421] In four charters (1247 x) the all inclusive phrase *contra omnes* is used (Charters to Melrose, nos 15, 18; to Coldstream, no 10; to Laymen, no 7).

[422] Charters to Newbattle no 3, of the middle or later years of Patrick I (1182 -1232). This was the example of less formulaic warrandice (see above, p99).

[423] Charters of Patrick II: to Coldstream, nos 9-10; to Melrose nos 15-17; to Laymen, no 5; to Durham, no 7. Charters of Patrick III to Coldstream, nos 11, 13-15; to Melrose, no 18; to Laymen, no 7

[424] Three of these charters- two to Dryburgh and one to Durham- are thought to belong to the period but there is some uncertainty. Corroboration developed in England and Scotland in the mid-twelfth century and gathered momentum in the thirteenth, though even by 1250 it was not invariable (Simpson, 'RQ', 197). Hudson finds it being gradually adopted by the late twelfth century in Chester but Stringer reports only four examples of corroboration in the charters of Earl David (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 174; Stringer, 'Earl David Charters', 92).

receipt, a confirmation of a quitclaim, a confirmation of a daughter's grant, and possibly also to a first grant of a house and land in the burgh of Dunbar.[425] Probably it was most commonly used then in confirmations by the earl of family grants and quitclaims or where the earl's seal was especially important as a means of authenticating a particular document like a chirograph or a receipt.[426] There is a logic to its use in these contexts: the words 'confirmation' and 'corroboration' have essentially the same meaning and so the seal is variously a stamp of approval, a buttressing of the original grant or quitclaim, a sign of personal responsibilty and support. In later years corroboration was applied to all surviving charters – charters recording original grants, re-grants, quitclaims, confirmations, and sales. By the late thirteenth century it seems to have lost its 'added value' connotation and to have become an accepted and unvarying part of every charter text.

In the early charters the wording of the clause varied and the different forms included:

In cuius rei testimonium litteras nostras patentes sigillo nostro munitas eisdem commisimus [427]

Et ut hec concessio perpetuis temporibus rata sit et stabilis ; prefatus comes et prior presenti scripto sua sigilla apposuerunt [428]

Et in huius rei testimonium presenti scripto sigillum nostrum apposuimus[429]

...et ad testimonium veritati ; sigilla nostra cum sigillo J. filii Ursi huic scripto fecimus apponi[430]

Et ut hac mea donacio futuris temporibus firma permaneat et inconcussa presenti scripto sigillum meum coram multis apposui[431]

In cuius rei testimonium hanc ipsius Marie donacionem confirmacione mea roboravi; et presenti scripto sigillum meum apposui[432]

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[425] Charters to Coldingham, nos 3, 5- 7, 9-10; to Kelso, nos 9-10; to Dryburgh, nos 4, 5

[426] Examples of its use in confirmations include Charters to Coldingham, no 7; to Kelso, no 10; to Newbattle, nos 3-4.

[427] Charters to Coldingham, no 3. Stringer suggests that the phrase *in cuius rei testimonium* originated in English royal letters patent, Hudson that it was in use earlier in episcopal chanceries (Stringer, 'Earl David Charters', 92; Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 178).

[428] Charters to Coldingham, no 5

[429] Charters to Coldingham, no 7

[430] Charters to Kelso, no 9

In cuius rei testimonium et ipsam donacionem et ipsius donacionis confirmationem mea confirmacione roboravi et presenti scripto sigillum meum apposui[433]
Ut autem hec mea donatio perpetuum firmitatis robur optineat eam presenti scripto et sigilli mei appositione roboravi[434]

In these various forms of wording the different strands in the concept of corroboration can be teased out. There was nothing new in the affixing of a seal to a late twelfth century charter: what was new was the statement of what it meant. The meaning fitted the charter. The agreement in a chirograph would be made stable and lasting through the affixing of the seals of both parties, its permanence and future stability by the charter given and sealed by the earl.[435] A receipt was made trustworthy through the sealing by both parties, the confirmation of a benefaction ring-fenced against loss or counterclaim by a very public attachment of the earl's seal.[436] These are closely related interpretations of sealing but they are distinctive. So also is the use of the sealed document rather than the seal only, as corroboration. Sealed letters patent were sent to Earl Patrick's steward to authenticate the instruction to restore to Coldingham priory their *servos* and *nativos.*[437] When John of Moray's grant of land in West Fortune to Newbattle and the confirmation of this grant by Bernard Fraser were confirmed by Earl Patrick, corroboration was said to be provided both by the earl's charter of confirmation and by the seal he had attached to it. There is a sense in this charter as elsewhere of an abbey anxiously garnering as many documents as possible in its quest for security and of the seal as one amongst many corroborative devices.[438] The same pattern can be traced in another Newbattle charter of confirmation in which Earl Patrick states that both his charter and the seal are given as corroboration.[439]

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[431] Ibid., no 10
[432] Charters to Newbattle, no 3
[433] Ibid., no 4
[434] Charters to Dryburgh, nos 4, 5
[435] Ibid., nos 5, 11
[436] Charters to Kelso, nos 9-10. The seal of the latter was attached by the earl *coram multis.*
[437] Charters to Coldingham, no 3
[438] Charters to Newbattle, no 4

When, under Patrick II (1232-1248) the corroborative clause is included as a matter of course, it remains flexible rather than formulaic. In the second example below it is used in conjunction with a sale:

Nos autem in huius rei testimonium presenti scripto sigillum nostrum apposuimus
In cuius rei testimonium ego pro me et heredibus meis huic scripto sigillum meum apponi feci [440]

In one obviously contentious case, the confirmation to Melrose of land in Hassington formerly held by William of Greenlaw, letters patent are again used to secure the benefaction:

Et ad hoc ... et sine difficultate qualibet faciendum nos et heredes nostros predictis abbati et conventui per has nostras patentes litteras obligamus [441]

In all other cases it is the seal which signals certainty and security. The importance of the seal cannot of course be isolated from that of the written document – it strengthened and supported and authenticated the document, underlining the process by which the written record was acquiring a new authority in itself. When Hassington was awarded and confirmed to Melrose the fuss was tremendous; significantly the corroboration by seal given, among other guarantees, by Earl Patrick acknowledged the centrality of the document:

Et ut hoc scriptum robur firmitatis optineat; illud sigilli nostri apposicione fecimus roborari [442]

Despite the invariable use of corroboration by this time in charters, it continued to take a form which indicated possible problems or weaknesses which had to be addressed. A gift must not be upset or invalidated:

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[439] Charters to Newbattle, no 3
[440] Charters to Laymen, no 5; to Melrose, no 15
[441] Charters to Melrose, no 17
[442] Ibid., no 16

Et ut hec donacio mea rata sit et inconcussa presenti scripto sigillum meum apponi feci [443]

Lands and possessions accumulated over the years kept and safeguarded for all time:

Ut autem hec nostra concessio et confirmatio rata et inconcusse inperpetuum perseverent. presens scriptum sigilli nostri impressione coroboravimus[444]

It is in the charters of Patrick III (1248-890 that the move to a more standardised form of corroboration takes place. All thirteen surviving charters of this earl contain corroboration in two basic forms of words. In three charters to Durham the clause runs:

Et ut hec nostra quieta clamacio firmitatis robur optineat in perpetuum presenti scripto sigillum nostrum fecimus apponi
Et ut hec mea concessio et confirmacio firma et stabilis permaneat inposterum; presens scriptum sigilli mei munimine roboravi
Et ut hec mea concessio et carte mee confirmacio perpetuis temporibus rata 7 stabilis permaneat; presenti scripto sigillum meum apposui[445]

In other charters of this earl to Durham and to May, Coldstream and Melrose, and in his charter to Geoffrey Caldicott, the form is a variation of the basic formula:

In cuius rei testimonium presenti/huic scripto sigillum meum/nostrum apposui/ apposuimus / fecimus apponi [446]

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[443] Charters to Coldstream, no 9
[444] Charters to Coldstream, no 10
[445] Charters to Coldingham, nos 9, 10, 12
[446] Charters to May, nos 5-6; to Durham, nos 8- 9; to Coldstream, nos 11,13-15; to Melrose, no 18; to Laymen, no 7

This last form of words appears consistently in the charters which are written in the house style employed in the address and the notification of certain of the charters of Patrick III.[447]

Attestation

Of the seventy-five extant charters of the earls, fifty-six contain witness lists. Sixteen of the nineteen charters which do not are cartulary copies – eight of Kelso Abbey, three of Melrose Abbey and five of Dryburgh Abbey – where the witness list has simply been omitted but where the words *Hiis Testibus* or *Testibus* or contractions of these at the end of the text signal that it was once part of the document. In two other cases, one a receipt and the other an administrative brieve *de nativis* addressed to the earl's steward, there are no witnesses.[448] So also with the charters of Sir Patrick, later Patrick II, whose thirteen surviving charters include three letters and three receipts none of which have witness lists.[449] Of the remaining seven, four have a witness list and three charters to Dryburgh Abbey, in cartulary copy, do not.[450]

Any analysis of the witness lists of the charters only surviving in cartulary versions encounters the familiar problem of incomplete copying, with names omitted in error and lists truncated. Comparisons of the length and composition of the lists of different charters must therefore be made cautiously.[451] In addition, the variety in type of document in the Dunbar collection produces different patterns of witnessing; this is interesting in itself, but it carries the danger that the historian may not be comparing like with like.

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[447] Charters to Coldstream, nos 11, 13-15; to Laymen, no 7

[448] Charters to Coldingham, nos 3 and 8. Royal administrative writs, however, may have witnesses e.g. *RRS,* i, no 153; *RRS,* ii, no 128. The remaining charter (Charters to Coldingham, no 11) is half of a chirograph which omits witnesses.

[449] Charters of the Heirs, nos 9-14

[450] Charters of the Heirs, nos 2-8

[451] The number of witnesses varies from three to thirty-one, with no clear connection between the length of the list and the importance of the subject of the charter (see likewise Stringer, 'Earl David Charters', 92). A comparison of original charters with the cartulary copy shows that witnesses are omitted by intention or in error (Charters to Coldstream, no 3, eg, where the original, NAS, GD 212/ Box 10/26, has a longer witness list than the cartulary copy, BL, MS. Harley 6670, ff 19v-20v).

Witnessing to benefactions

Those charters of the earls which relate to a benefaction are witnessed mainly by their own people – members of their immediate or wider family, members of their household or officials of their estates, tenants and dependants. In addition there may be representatives of the Church, particularly when churches are being given. This pattern of witnessing applies not only to first grants by the earl but also to any confirmation of the benefaction of a predecessor or other member of the family, or indeed the confirmation by the earl, as lord, of the grant of someone who holds of him. It applies even to a sale such as that of Patrick II's stud at Lauder to Melrose Abbey.[452] There are exceptions. In two instances, where benefactions of differing sorts were made to May priory, five of the six witnesses named were eminent Fife men including the bishop and prior of St Andrews, the abbot of Lindores and two consecutive sheriffs of Fife. The sixth was Alan of Ormiston, the earl's man. So auspicious is the line up here that the likelihood is that the charters which deal with relatively modest matters – the confirmation of the earl's father's grant of land near 'Windydure' to May and the quitclaim of the annual payment of a cow for land they held of him in Lammermuir – were given or witnessed at an assembly of Fife notables called for another purpose, perhaps as a sheriff's court. Then there is the possibility that what seems to be a benefaction was the resolution of a fairly serious dispute over land or the terms on which it had been held. The earl may not have been present in Fife at all, so that this conglomeration of witnesses may well have lent their names to documents sent by him with his representative, Alan of Ormiston. Whatever the explanation, the witness lists of these two charters are quite uncharacteristic.[453]

The charters of successive earls to Coldstream priory invariably record their benefactions, including confirmations and re-grants of land surrendered to the earl. Their witness lists offer therefore a starting point for analysis. Among the so-called Dunbar "people" it is a relatively simple matter to identify members of

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[452] Charters to Melrose, nos 15, 18

the immediate family (wives, sons, brothers, uncles, first cousins) and those of the wider kin-group (more distant cousins, in-laws). The officials of the estate appear in the witness lists, the steward most frequently (in almost half of surviving charters of the earls to Coldstream). Among the members of the household witnessing the earls' charters are chaplains and a significant number of clergymen who were rectors or parsons of the churches in the earls' patronage.[454] With the members of the family and the household and officials of the estate certain individuals and families appear as witnesses often enough to be identified as intimates of the Dunbars – Ketel of Leitholm's family, the Gourlays, the Papedys, the Gordons, the Frasers.[455]

The tendency to link the subject matter of the charter through the selection of local witnesses is very striking in the Coldstream charters of the earls and their immediate families. Where the lands of the witnesses are given, a large proportion are situated close to the land transmitted or confirmed. Such witnesses to all charters relating to Lennel for instance held lands at Branxton, Chirnside, Darnchester, Duns, Gordon, Halliburton, Harcarse, Hirsel, Hume, Leitholm, Swinton, and Wark – all within an approximate ten-mile radius – and, within perhaps a fifteen-mile radius, at Ellemford and Cockburn. Only two witnesses, the parsons already noted, were from further afield, Ormiston and Oldhamstocks.[456] The grant of Lennel church in its different stages was witnessed by those holding land at Edington, Hirsel, Hume, Leitholm and Swinton, again within a ten mile radius, at Fans within fifteen miles and with one witness from outwith this area, the parson of Whittingehame.[457] The same pattern can be traced in the witness lists of grants and confirmations of lands or churches at Birgham, Hirsel and Skaithmuir.[458] Matching is difficult

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[453] Charters to May, nos 5-6. Alan of Ormiston also witnessed three of the charters of Patrick III to Coldstream (to Coldstream, nos 11, 14-15).
[454] See full discussion in section on the earls' people, below, p 207.
[455] The appearance of the intimates of other Scottish magnates in the witness lists of their charters is most usefully explored in Stringer, *Earl David*, 155-8; Cynthia J. Neville, ' A Celtic enclave in Norman Scotland: Earl Gilbert and the Earldom of Strathearn 1171-1223' (hereafter Neville, 'Celtic Enclave'), in *Freedom and Authority* (East Linton, 2000), 86-7; G.G. Simpson, 'The *familia* of Roger de Quincy, Earl of Winchester and Constable of Scotland' (hereafter Simpson, *Familia*), in Stringer, *Nobility*, 107, *passim*.
[456] Charters to Coldstream, nos 1-2, 9, 11, 13-15; of the Heirs, nos 16, 17; *Cold. Cart.*, no 18
[457] Charters to Coldstream, nos 1-4
[458] Charters to Coldstream, nos 1-2 (Birgham); to Coldstream, nos 1-3, 9, 10, 11; of the Heirs, no 17; *Cold. Cart.*,nos 18, 24 (Hirsel); to Coldstream, nos 5-6 (Skaithmuir). Charters anent

where lands of witnesses are not stated and where charters repeat and confirm a number of grants of land situated in various areas.[459] Yet the impression remains that a sizeable percentage of witnesses were chosen because they were neighbours or had some knowledge of or interest in the lands granted or confirmed. The links forged between the earl and his family, the saint and her family, the tenants and landholders, the land itself and its features, its yields and its benefits–all were rehearsed and strengthened by the presence and witness of so many local men who themselves in turn might add to the benefaction. They were true witnesses, for they knew the lands and the boundaries and the natural features and could if necessary recall the grant as they had heard it, what was given, what agreed, what was expected in return, what was solemnly undertaken and guaranteed. Even by the late thirteenth century, it seems, the charter had not yet fully become the deed, and it was to the spoken word and the symbolic act that these people bore witness.

The Coldstream charters, with their particular emphasis on benefactions of the earls and others to a family foundation, provide a valuable springboard for examining witnessing patterns in charters of the earls to other religious houses. Their Dryburgh charters record substantial benefaction but survive in cartulary copy only and have no witness lists. Newbattle Abbey and Melrose Abbey, however, do provide further examples of lists of witnesses to charters relating to benefactions of the earls. There are five only surviving charters of the earls to Newbattle in the cartulary and in all cases the witness lists appear to have been abridged.[460] For all their limitations, however, they show that witnessing to the Newbattle charters follows the pattern of those of Coldstream with a kernel of family witnesses, a rare appearance of the earl's wife, and a group of intimates and tenants of the Dunbar connection. The pattern does not seem to vary whether the benefaction is an original grant, a confirmation of the grant of a tenant or dependant, or the regranting of land previously surrendered to the earl by a defaulting tenant.

Skaithmuir and Hirsel, but not of the earl also have a preponderance of local witnesses (*Cold. Cart.*, nos 5, 22).

[459] As for instance in Patrick II's confirmation of a range of lands including Lennel, Hirsel, Bassendean and Whitchester to Coldstream (Charters to Coldstream, no 10).

[460] Charters to Newbattle, nos 1-5

With one exception, the charters of benefaction to Melrose also are witnessed almost exclusively by the earls' people – members of the earls' family and establishment along with others who can be identified as tenants of the earls, many of them occurring in the Coldstream and Newbattle charters. Thus Earl Waldeve's charter confirming to Melrose abbey rights of common pasture above Lammermuir had the explicit agreement of his heir, the future Patrick I, and was witnessed by seventeen people all of the Dunbar circle.[461] Among the sixteen witnesses to Patrick I's grant of additional land in Lammermuir five of the earl's family including his steward Roger de Merlay and six of his immediate circle can be positively identified, along with his butler and the marischal.[462] The witness list of the charter recording the grant of land in Harcarse is wholly Dunbar, though there no family witnesses in this instance.[463] The appearance of Ralph, bishop of Down and former abbot of Melrose, on the witness list of the charter of the gift of land near Edmondstone is the only variation of the pattern of Dunbar witnessing. His name may figure because he happened to be present for the settlement of the Sorrowlessfield dispute, for bishop Ralph and three Dunbar witnesses occur in the earl's charters regarding both Edmonstone and Sorrowlessfield, suggesting that the charters may have been given on the same occasion.[464]

Even where the land changes hands in what is termed a sale the witness list follows the pattern of lists in benefactions. The charter of 1247 of the sale to Melrose of Patrick II's stud in Lauder was witnessed by his son, his brother William and his brother and steward Robert, his distant cousin Malcolm son of Waldeve, his chaplains and the rector of Makerstoun church. An eighth witness was Richard of Merse, possibly Dean of Merse, later abbot of Kelso.[465] Two of the three witnesses to the confirmation of the sale by his son in 1251 were Adam Gordon, who held of the earl, and his chaplain John.[466]

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[461] Charters to Melrose, no 3. Witnessing elsewhere by Gilbert Fraser (Charters to Coldstream, no 4; to Durham, no 4; to Coldingham, no 1); by Gavin or Warin le Maille (to Newbattle, no 1); by Adam of Edington (to Coldstream, no 3)
[462] Charters to Melrose, no 9
[463] Charters to Melrose, no 6
[464] Charters to Melrose, nos 10, 12
[465] Charters to Melrose, no 15
[466] Charters to Melrose, no 18

As with charters to lay recipients,[467] a substantial proportion of the witnesses to Coldstream and Newbattle charters are drawn from the immediate family or the wider kin group.[468] This makes sense. The benefaction recorded in the document would be made at a significant ceremony usually in the church of the abbey or priory. The presence of family at such ceremonies of benefaction and renewal had a deep significance, and witnessing, along with inclusion in the *pro anima*, was a statement of family consent and support of the gift, important to both donor and donee.

The Coldstream charters provide a particularly clear illustration of the use of local witnesses, named by land, largely because Coldstream was a Dunbar creation endowed by the earls or those who held of them in areas mainly very close to the priory. The Newbattle charters do, however, also suggest a strong geographical link between the witnesses and the land which is the subject of the charter, though the Frasers, lords of the lands of Hailes and Fortune, cannot be categorised merely as local witnesses.[469] Benefactions to other houses do not yield strong evidence of the matching of witnesses to the location of the gift. The grants to Melrose of lands and pastureland in the Lammermuir area, for instance, were witnessed by people whose lands, where mentioned, were situated in widely differing areas of the earldom- Duns, Fogo, Pitcox, Edington in one case,[470] Waughton, Polwarth and Makerstoun in another.[471] A grant of land in Harcarse by Patrick I was witnessed by people holding of him land in Leitholm and Hume in the Merse, three and ten miles to the west respectively, and in Whittingehame and Waughton, twenty-two miles and twenty-seven miles respectively to the north west, in the earl's Lothian estates.[472] It would seem therefore that the high correlation of witnesses' lands

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[467] Charters to Laymen, nos 5, 7.
[468] The exceptions are witnessed, however, by the eldest son only (Charters to Melrose, no 2; to Newbattle, no 5; to Coldstream, nos 2,14) or by the earl's wife (to Newbattle, no 1). The confirmation of the sale of Lauder stud to Melrose and the grant of land in Harcarse (to Melrose, nos 6, 18) are the only charters of benefaction which lack family witnesses. See below, p 202.
[469] In a related but slightly different area, Dr Stringer finds no strong correlation betweeen the subject-matter of a document of Earl David and the background of its witnesses (Stringer,'Earl David Charters', 92).
[470] Charters to Melrose, no 3
[471] Charters to Melrose, no 9
[472] Charters to Melrose, no 6

and the locality of the lands granted is a charateristic of the Coldstream charters, and, as far as can be deduced, to a lesser extent of the Newbattle charters. Having local witnesses to a benefaction may have been less of a principle than a matter of circumstances and convenience, though it seems that when witnesses did hold land locally that was noted and was regarded as a significant factor.

Those few of the earls' charters to Kelso whose witness lists survive in cartulary copy do to an extent exemplify the use of particular witnesses for particular situations.[473] The endowment of St Nicholas' Church, Hume and the grant of Hume and Fogo churches to Kelso Abbey have witness lists dominated by high-ranking churchmen–Robert, bishop of St Andrews and Thor, dean of Lothian in the first, in the second Thor, now archdeacon and Andrew future archdeacon of Lothian, and William abbot of Holyrood.[474] These witness lists are a statement of the Church's interest and its authority. By contrast, Waldeve's confirmation to Kelso of all his father's gifts, possibly during the latter's lifetime, was witnessed by his grieve and his chaplain, by Walter of Tees and by William, described as the brother of the king's chancellor, present possibly on account of his local importance.[475]

Witnessing to dispute settlements, quitclaims and agreements: Charters to Durham/Coldingham and Melrose

Not all of the Durham/ Coldingham charters relate to contentious issues. Patrick I's charter confirming to Coldingham easements of the rivers Aikieside and Elmedene so that the monks could operate their mill, for example, seems benign and neighbourly, and was witnessed by at least six Dunbar people out of a total of seven. The witness list does not differ substantially from those of the earls endowing Coldstream, comprising in the main members of the earl's family, household and following.[476]

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[473] Three only carry witness lists: Charters to Kelso, nos 1, 2, 9. (Charters of the Heirs, no 1 also)
[474] Charters to Kelso, nos 1-2
[475] Charters of the Heirs, no 1.
[476] Charters to Coldingham, no 2

The majority of the Durham/ Coldingham charters of the earls however deal with matters under dispute: lands, rights, property seized and occupied. Even here, with some notable exceptions, the witness lists contain a preponderance of Dunbar people. This is true, for instance, of five of the six charters of successive earls regarding Edrom and Nisbet.[477] The absence of Durham witnesses or of royal officers suggests a certain quiescence on the part of the earl, or that the heat had temporarily gone out of the issue, just as the very contrasting witness list of the sixth of the charters suggests a different scenario. The sixth, the charter of Patrick I confirming Edrom and Nisbet and Edrom church with the chapel of Earlston was obviously a product of a complicated high-level dispute, as reflected in the long witness list, twenty-five in total, which includes royal officials headed by Hugh, the chancellor, eleven of the Dunbar side, and nine of Durham. This suggests that the case was held in the *curia regis*, though possibly not in the presence of the king.[478] This arithmetical near balance of witnesses, normally a feature of the chirograph, also occurs in the quitclaim of Swinton which Patrick I gave to Durham.[479] In both cases a high degree of contentiousness can be inferred, the witness lists having been constructed as the embodiment of the agreement by both parties, possibly as jurors taking the oath to uphold the settlement. The quitclaim by Patrick III of the wardship of East Nisbet, apparently an issue of some complexity, was witnessed by six Dunbars, and only one of the Durham party, again suggesting that where rights were conceded by the earl there would be pressure from the priory to have a significant number of witnesses from his side.[480] Confirmations of quitclaims, such as those issued by Patrick I following his son Sir Patrick's renunciation of his claim to Swinewood, do not carry an even balance of Dunbar and Durham witnesses. These confirmations, like the confirmation of benefactions, tended to be low-key and less formal, often some time after the original quitclaim, again a reminder that witnessing may reflect the convenience of time and place as much as the particular subject of the charter.[481]

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[477] Charters to Durham, nos 1-4, 7
[478] Ibid., no 5
[479] Ibid., no 6
[480] Ibid., no 8
[481] Charters to Coldingham, nos 4, 7

The Durham /Coldingham charters of the earls do not usually record significant family witnessing, except in chirographs or charters issued in connection with chirographs.[482] In this they resemble the earls' Kelso charters, as far as can be judged. Of the three charters to Kelso Abbey where witness lists survive, only one, a receipt for twenty-five merks paid to the earl's daughter Ada and his son-in-law William de Courtenay, is witnessed by a member of the family, Roger de Merlay, probably at that time steward to the earl.[483] Undoubtedly the fact that the other charters to Kelso record the giving of churches explains the particular nature of these Kelso witness lists. All this contrasts strongly with the Coldstream and Newbattle charters, and some of the charters of Melrose – charters, that is, of benefaction. By contrast, the background to many of the Durham/Coldingham charters was disputation and the role of the earls' officials and tenants was to witness in that capacity to what the earl had secured or conceded.

Where the disputes involved royal justice and in particular where they were settled in the *curia regis* there was a heavy representation of royal officials in the witness lists. To the charter of Patrick I regarding Edrom and Nisbet and Earlston chapel can be added two Melrose charters dealing with the Sorrowlessfield and Hassington settlements. Both cases were settled in the presence of the king. Well over half of the witnesses to the chirograph and Patrick I's charter concerning Sorrowlessfield at Roxburgh in 1208 and a substantial proportion of the witnesses to the Hassington charters at Berwick in 1248 were representatives of the king.[484] The charters at Berwick were probably issued under special circumstances and here the witness lists reflect their particular nature, reminding us that witness lists may have been composed sometimes on an impromptu basis.

There does seem to have been a pattern of witnessing to chirographs. The witnesses in both Durham chirographs made with the earls were drawn evenly

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[482] Charters to Coldingham, no 1. Only Durham no 1, made also in unusual circumstances, is witnessed by a number of the wider family.
[483] Charters to Kelso, no 9
[484] Charters to Melrose, nos 11-12, 16-17

from each side, reflecting the contractual nature of the document. Thus, in the Renton chirograph, pledges were given first by Earl Waldeve's son Patrick and his brother Patrick, and by three people of the Coldingham estates. In the witness list which followed seven of the earl's people and seven of the priory's people were named.[485] The chirograph settling the Billie boundaries was witnessed by the earl's son Patrick, and Walter de Lindsay, sheriff of Berwick, in whose court it may have been drawn up. The balance of witnesses is again striking- on the one side six Coldingham people, on the other five of the earl's men, including his kinsman and steward Roger de Merlay, Patrick son of Adam and grandson of Haldane and John son of Ketel and grandson of the older Ketel. [486] The same people witnessed Earl Patrick's charter granting the agreed half of the marsh to Coldingham, an interesting example of the use of witnesses to tie the donor to an agreement almost certainly made under the auspices of the court and underwritten by pledges.[487] The emphasis on the even representation of both parties in the witness list of the chirograph persists in later charters. The witnesses to Patrick III's confirmation of his grandfather's agreement over Billie with Prior Thomas and the convent of Coldingham included Robert, the earl's uncle, his distant cousin Patrick Edgar who was at that time his steward, three or four earl's men including one of Haldane's family, and four or five of the Coldingham interest.[488]

The designation and arrangement of witnesses on the lists

The witness lists of the earliest charters of the earls seem simply and unselfconsciously devised. The witnesses are identified by name, and references to their land rarely occur until the charters of Earl Waldeve (1166-1182).[489] Where high ranking churchmen witness, their names come first in

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[485] Charters to Coldingham, no 1. The earl's side included his grieve, Adam, Gilbert Fraser, Haldane (not called steward) and his son Adam, and Ketel of Leitholm and Ketel his son .
[486] Ibid., no 5
[487] Charters to Coldingham, no 6
[488] Charters to Coldingham, no 9. The uncertainty over numbers is because it is difficult to place Robert Montgomery in the correct camp. If he is of the Coldingham side, then the sides are equally balanced.
[489] Waldeve of Prenderguest, Ketel of Leitholm and Arnulf of Swinton are the only witnesses to charters of the Gospatrics where lands are given as a means of identification (Charters to Durham, no 3; to Coldstream, nos 1-2).

the lists.[490] Members of the immediate family also tend to be named first, though this can vary. Apart from these broad principles, there seem to be few rules about how witnesses are arranged.[491] Earl Gospatric's charter of confirmation of Edrom and Nisbet to Durham, for instance, is witnessed by Andrew the archdeacon, Alan the priest, the earl's brother, Adam, Romfarus, another priest, Nigel the chaplain, Ketel son of Dolfin (a relative, possibly a cousin), Arnald the knight, Waldeve, a tenant of Durham, Haldane, the earl's steward and his son Adam, and Adam son of Gospatric, perhaps, but not certainly, son of Earl Gospatric.[492] The order, more accurately the disorder, of this witness list suggests that it was composed on the occasion of the confirmation without any obvious attempt to shape or re-arrange the witnesses according to social standing or allegiance. By the time of Patrick I (1182-1232) witness lists are generally less chaotic and seem to observe certain conventions. Royal officers, for instance, head the witness lists of the earl's confirmation of Edrom and Nisbet and of his son's quitclaim of Swinewood to Durham, as do members of the immediate family in charters to Melrose, Coldstream and Newbattle.[493] Prominent churchmen are the first named witnesses in charters to Melrose gifting land near Edmonstone to the monks and implementing the settlement regarding Sorrowlessfield.[494] These conventions persist in the charters of later earls, the Coldstream charters in particular tending to place the sons and brothers of Patrick II and the three sons of Patrick III first in the list, while lists in charters to Durham and Melrose dealing with disputed lands are headed by royal officers.[495]

The most striking departure from earlier practice comes in the designation and arrangement of witnesses in the lists in the charters of Patrick II (1232-1248) and his son Patrick III (1248-1289). There is a new sense of social standing and precedence signalled first by the appearance in a very late charter of Patrick I of the style or title 'Dominus' previously applied only to the eldest son

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[490] Charters to Kelso, nos 1-2; to Durham, nos 2-4; to Coldstream, no 3
[491] A similar picture emerges in Stringer, 'Earl David Charters', 92-3.
[492] Charters to Durham, no 3
[493] Charters to Durham, no 5; to Coldingham, no 4; to Melrose, no 13; to Coldstream, no 7; to Newbattle, nos 1-4
[494] Charters to Melrose, nos 10, 12
[495] Charters to Coldstream, nos 10-11, 13-15; to Melrose, no 16; to Coldingham, nos 10,12

of the earl, and once also to his younger brother.[496] In this charter, composed perhaps by his son's clerk, only the earl's doctor is not styled 'Dominus'.[497] Many, though not all, of the charters of the earldom of Patrick II use this style. In one of his two surviving charters to Coldstream the names of five of the twelve witnesses are prefixed 'Dominus'; in the other nine of the twelve.[498] There is still an unevenness and inconsistency in how the designation is made. David de Graham, for instance, is 'Dominus' in Patrick II's charter to Thomas Papedy as indeed is every other witness; but not in his charter confirmimg Edrom and Nisbet to Durham, though others are so styled.[499] The earl's son Patrick, unlike the steward and a distant cousin, is not styled 'Dominus' in a Coldstream charter.[500] By the time of Patrick III there was greater though not complete consistency, with the 'Domini' coming first in the lists, followed by those of lower standing. Their identification as a group separate from other witnesses was taken a stage further when witnessing by one ('Domino') gave way to witnessing by a group ('Dominis') who were then named after the collective title. A further differentiation was made by the collective description 'militibus ' for the group. In the charter of Patrick II to Coldstream confirming all the priory's lands and possessions six of the nine witnesses styled 'Dominus' are also termed knights, 'milites'.[501] The other three are chaplains. This is the earliest occurrence of the designation of knight; thereafter it is used of witnesses in seven of the charters of Patrick III. With the exception of clerical witnesses, only those styled 'Dominus' are also styled 'miles'.[502] By the earldom of Patrick III those to whom the style of 'Dominus' is given always come first in the witness list. Witness lists in other words have become ordered and orderly. This speaks of a society increasingly conscious of social gradations but also of a change in the use of witnesses and in the perception of their role. The edited lists clearly do not reflect the

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[496] Charters to Coldingham, nos 5-6; to Newbattle, nos 2-5 (no 2 used also for William). The use of 'Dominus' occurs in the Chester Charters earlier, in the late twelfth century (Hudson, 'Diplomatic and Legal Aspects', *Chester Charters*, 175).
[497] Charters to Coldingham, no 7
[498] Charters to Coldstream, nos 9-10.
[499] Charters to Laymen, no 5; to Durham, no 7
[500] Charters to Coldstream, no 9. It may have been omitted in copying.
[501] Charters to Coldstream, no 10
[502] Charters to May, no 6; to Durham, nos 8-9; to Coldstream, nos 13, 15; to Melrose, no 18; to Laymen, no 7. Conversely, only in Melrose, no 18 is there an example of a layman called 'Dominus' but not 'miles' by the time of Patrick III. The two descriptions, in other words, may have become synonymous.

process of witnessing in the way that the old haphazard lists of the Gospatrics and Waldeve may have done. People, if they were present at all, would hardly witness in tight groups in strict order of precedence. So the physical reality has become divorced from the written record.

None of the English or Scottish charters of Earl David is witnessed by a woman, even by the earl's wife and daughters. Though there is no example of a daughter's witnessing in the Dunbar charters, the earl's wife witnesses charters to Coldstream, May, Melrose and Newbattle.[503] All, interestingly, belong to the twelfth century. After Ada, there is no example of witnessing by Christiana, Euphemia or Cecilia of their husbands' charters, though charters of their own were issued by Christiana and Euphemia.[504]

Were the named witnesses necessarily present? [505] The question is an important one in the matter of dating and of assessing the significance of the charter. If a named witness is known to be dead, the question can be answered; otherwise it is unanswerable, since the charter is worded to give the impression that the witnesses were present, without offering proof. Then there is the question of what they were present at – the benefaction or the recording of it. Perhaps we have gone too far in separating the two stages of the process; but clearly there often were two stages, and it may be, as Dr Stringer suggests, that by the late twelfth century witnesses were normally present at the execution of the charter but not necessarily when the grant was made.[506]

There is the further issue of why witness lists might include certain witnesses, present or not. Were some witness lists drawn up casually or haphazardly while others seem to have been carefully and systematically constructed? If witnesses were selected, whether or not from those present, what were the grounds of suitability? It is the contention here that up to a point, but only up to a point, it is possible to equate the form of the witness lists of the earls'

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[503] Charters to Coldstream, no 1; to May, no 1(both by Countess Deirdre); to Melrose, no 3 (Countess Aelina); to Newbattle no 1 (Countess Ada)
[504] *Yester Writs*, 8, no 14; *Dryburgh Liber*, no 120
[505] E.L.G.Stones, 'Two Points of Diplomatic', *SHR*, xxxii (1953), 47-51
[506] Stringer, *Earl David*, 294, *n* 85

charters with the type of transaction recorded in the charter. Witnesses to benefactions generally tended to be of the Dunbar interest, as also, frequently, were witnesses to dispute settlements. Where the subject of the charter had been a particularly contentious issue, witnesses might be drawn fairly evenly from both sides. Chirographs were witnessed by an equal number representing the parties involved. Charters to the local foundation of the Dunbars, Coldstream, have a substantial number of witnesses whose local credentials are emphasised. Family witnesssing was strongest in benefactions, but also important in chirographs. In short the witness lists of the Dunbar charters had many purposes- to demonstrate support for an agreement, to bind parties to uphold an agreement, to publicise benefaction and to associate with it, to enshrine a grant or a concession or an agreement in a local context, with knowledgeable local people who would in future recall its details. These were essential and crucial functions. That the Dunbar charter witness lists do not always perfectly and symmetrically reflect these purposes might suggest that, unsurprisingly, there were times when things were less carefully arranged and special circumstances applied. By the thirteenth century however there are signs that lists were being constructed and arranged in a systematic and deliberate manner taking the debate about witnessing into a different context. For the written record was becoming more consciously and deliberately part of the process and so therefore perhaps was the written list of those who were willing and suitable to lend their names to the transaction whether they were there or not.

The themes of the charters

The Dunbar estate in Scotland: the acquisition of land in Lothian and the Merse

This section surveys the identifiable lands of the earls during the twelfth and thirteenth centuries, using the evidence of the charters, supported by evidence from other and later sources. It also examines the disputes over land in which the earls were engaged as part of the process of accumulating, retaining and securing land, thereby establishing their lordship on a strong territorial basis.

The lands

The lands in Scotland accumulated by the descendants of the first Gospatric at Dunbar were considerable, a huge swathe of territory stretching from the coastal plain of east Lothian, across Lammermuir, and into the Merse.[507] In England their possessions were in part a remnant of old family lands, augmented and granted anew in serjeanty by Henry I to Gospatric, brother of Dolfin.[508] Their Scottish lands, a rich diversity of arable land and pasture, were consolidated into a cohesive estate which provided them with wealth and status over three and a half centuries. Much of this process is undocumented, and the date and context of many of their acquisitions necessarily speculative. Some evidence is of later date, a product of the forfeiture of land in the south of Scotland following the defeat at Halidon Hill on 19 July, 1333.[509] Some comes from fifteenth-century records of the Dunbar land forfeited to the Crown in 1434-5.[510] Where these connect with and corroborate earlier evidence from the charters of the earls or their tenants and dependants, they are particularly valuable; but they cannot stand on their own to be used retrospectively. In magnate families land came and went, was surrendered and exchanged; and

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[507] See Appendix 4, Map 1.
[508] See Appendix 6 below.
[509] *Cal. Docs. Scot.*,iii, 323-7 (1335-6). On evidence generated by warfare, see G. W. S. Barrow, 'The Aftermath of War', *TRHS* , 5th series, xxviii (1978), 122-4; also in *Scotland and Its Neighbours* (Hambledon, 1992), 196-9 .
[510] *Exchequer Rolls,* v, 486-490

the volume of litigation generated by the Dunbars and their neighbours warns us that what is being perceived at any point in time may be a snapshot rather than a settled picture.

Here the approach is to attempt to reconstruct a picture of how and when the Dunbar lands were acquired. The picture is unlikely to be complete. In some cases, too, it has been possible to envisage a shire structure, while elsewhere linkages are less clear. In yet other cases geological and topographical features like rivers and moorland and hills which gave rise to settlement patterns and identities are now more apparent than the structures for which they were responsible. Then there are places known to have existed in the twelfth and thirteenth centuries in Dunbar 'areas' for which there is little direct or contemporary evidence of a connection with the earls.[511] These are alluded to in the text and may appear in faint type on the maps.

(i)

Map 1 shows the lands which can be identified as Dunbar lands from a variety of sources. The establishment of the house of Gospatric in Scotland originated in the grant by Malcolm III of Dunbar and lands adjacent to it, to Gospatric, some time after the submission of Malcolm to the Conqueror at Abernethy. Symeon of Durham says that following the meeting at Abernethy, William deprived Gospatric of the earldom of Northumbria for the second and final time, on account of the earl's teachery and involvement in the murder of Robert de Commines and the harrying of York. [512] Gospatric's political track record was very suspect but he was clearly a man of considerable leadership qualities, and perhaps because of that Malcolm installed him in a strategic position at Dunbar, where land routes and sea routes converged. A land invasion by the east coast route would go through Dunbar. Its cliffs and rocky beaches and exposure to storms from the east meant that it was not a natural landing place from the sea but the sheltered bay to the west of the headland near Biel provided a safe and convenient natural harbour north of Berwick.[513]

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[511] These have been indicated on the maps in lighter type.
[512] *Symeonis monachi Opera Omnia* (RS, 75, 1882-5), ii, 199 ; *Chron. Howden*, i, 59
[513] Angus Graham, 'The Old Harbours of Dunbar', *PSAS* , xcix (1966-7), 173-4. The harbour at Biel, Belhaven, was used as the port of Dunbar until the seventeenth century, when it began to yield in importance to the eastern bay, Lamerhaven.

With Dunbar came adjoining lands, probably the old royal shire centring on the *urbs regis* of 'Dynbaer' where Ecgfrith, king of Northumbria, is said to have kept St Wilfrid in solitary confinement.[514] This grant was to form the kernel of the new earldom. There is no record of Gospatric being given the title of earl on account of his Scottish lands; his son Gospatric, brother of Dolfin, however, styled himself earl, and by the later twelfth century, the title 'earl of Dunbar' was used of, if not by, his great-grandson Earl Waldeve.[515] Unusually, it referred to a place rather than an area (such as Fife or Ross) or even the much later creation south of the Forth, the earldom of Carrick. If, however, Dunbar was a royal shire given to Gospatric, who was already, or had been, an earl, primarily for military reasons, then identifying the title with the stronghold of Dunbar seems more logical.[516]

The lands which accompanied the grant of **Dunbar** were not identified by the chronicler, but almost certainly included the touns of **Pinkerton, Spott, Belton** and **Pitcox.** [517] A late but significant source for the area is the foundation charter of the Collegiate church of Dunbar in 1342, incorporated in the confirmation charter of Bishop Henry of St Andrews of 1429.[518] The income of the church from secular sources was drawn from Dunbar itself, but also from these four touns, and these links of dependency and financial obligation strongly suggest that they belonged to the old royal shire of Dunbar. We know that **Belton** was Dunbar land in the twelfth century.[519] So too was **Pitcox.** Gamel of Pitcox was almost certainly steward to both Earl Gospatric and his son Waldeve.[520] About the year 1200 a charter of Philip of Pitcox granting the Melrose monks land beside Hartside and Edmonstone near the Pressmennan

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[514] G.W.S. Barrow, 'Pre-Feudal Scotland: Shires and Thanes' in *Kingdom,* 55; *Vita Sancti Wilfrithi*; *The Life of Bishop Wilfrid by Eddius Stephanus*, ed. Bertram Colgrave (Cambridge, 1927), 76.

[515] See above, p 67.

[516] There is evidence of continuous settlement from the Iron Age on the promontory at Dunbar, which was naturally defensible, and of a Anglian fort , the stronghold of one of the provincial ealdormen who ruled Northumbria. The building was rectangular and, unusually, was of stone. It was burned in the ninth century and replaced probably with timber structures. By the thirteenth century there was a castle which was destroyed in the fifteenth century and rebuilt. The present remains are of this castle, with some earlier fragments (*Historic Dunbar, the Archaeological Implications of Development*, Scottish Burgh Survey, 2003)

[517] See Appendix 4, Maps 1 and 2.

[518] D.E. Easson, 'The Foundation Charter of the Collegiate Church of Dunbar' (*SHS Miscellany,* vi, 3rd series, 1939; hereafter 'Foundation Charter'), 81-109

[519] Charters to Melrose, no 3

Burn was witnessed by Earl Patrick, whom he called his lord, while the *pro anima* clause of the confirmation a charter of his son, Philip, cited the Dunbar earls Gospatric, Waldeve and Earl Patrick I as his lords.[521] In the 1240's Philip witnessed Earl Patrick II's confirmation of Manderston to Thomas Papedy as steward to the earl; in 1244 he was one of his jurors.[522] **Spott,** with **Hartside,** was granted in free alms to Melrose by Earl Gospatric, to be held by the monks of him and his heirs, and about 1200 Earl Patrick as lord was named in the *pro anima* and witnessed a charter of Philip of Whittingehame granting the latter's land in Spott to Melrose and exempting them in very specific terms from service on the land.[523] There are other candidates for membership of a shire of Dunbar, including **Whittingehame.** The chapels of Dunbar church already in existence in 1342 were named as **Spott,** Stenton, **Penshiel, Hedderwick** and **Whittingehame**, the last of which was called a chapel but which had teinds and lands of its own.[524] Such chapels of course may not belong to the original shire structure. **Penshiel** (not shown on the map), for instance, may have been a twelfth-century foundation serving a hill settlement. It was certainly within the Dunbar lordship in the thirteenth century.[525] Stenton was not in the Dunbar estate, certainly by the mid-twelfth century, when it was granted to Walter fitz Alan, the Steward, by Malcolm IV.[526] Countess Euphemia died in th 1260s at **Whittingehame**, which seems to have become the inland seat of the family. **Pinkerton, Lesser Pinkerton, Little Spott, Pitcox, Belton**, and **Hedderwick**, moreover, were among the lands of the Dunbar earldom forfeited in 1434-5. So too was Papple. [527] **Biel,** where Earl Gospatric and his son Waldeve granted tofts to the monks of May and of Melrose was obviously an important economic centre, its lands possibly held in demesne by the earls and its harbour a vital part of their economic policy.[528] **Ruchlaw** was Dunbar territory.[529] In total therefore we might reconstruct the

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[520] Charters to Melrose, nos 2-3; to Durham, no 4
[521] *Melrose Liber,* nos 218-9
[522] Charters to Laymen, no 5; *Cal. Docs. Scot.,* i, no 2672
[523] Charters to Melrose, no 2; confirmed in nos 4, 8. *Melrose Liber,* no 58: 'Withichun' of this charter is identified as Whittingehame.
[524] Hedderwick probably once belonged to the old shire of Tyninghame, if Duncan's charter (*ND* 1) is genuine. See also Easson, 'Foundation Charter', 90.
[525] Charters to Melrose, no 13
[526] *RRS,* i, no184 (1161 or 1162)
[527] *Exchequer Rolls,* v, 487. But contemporary evidence of links to the Dunbars is lacking.
[528] Charters to May no 1, to Melrose, no 5
[529] Charters to Laymen, no 1

shire as Dunbar with **Pinkerton, Spott, Belton** and **Pitcox** as near-certainties, and, as further possibilities, **Whittingehame, Hedderwick, Penshiel,** Papple and Stenton – the last, however, not a Dunbar possession.

(ii)

The difficulty is in knowing how far to extend the framework of the shire of Dunbar without cutting across other possible groupings in the area linked to different centres. Map 3 indicates a cluster of touns and lands which are the subject of the earls' Newbattle charters and which may belong to Dunbar or to a quite separate shire or other economic or administrative unit.[530] **Hailes** and **Fortune** were held of the earl by the various members of the Fraser family. Reference to the map suggests a possible grouping with **Waughton**, Nes of Waughton, almost certainly another Fraser, citing his lord Earl Patrick and Countess Ada in the *pro anima* of his charter of 1184 x 1200 conveying land in Lothian to Melrose abbey.[531] We know also that Bernard Fraser who witnessed Nes' charter was lord of Drem, where he built a chapel, and that he was a frequent witness to Dunbar charters.[532] Part of Drem, according to David I's charter to Alexander of St Martin, was given by him to Gospatric, not necessarily, but possibly, Gospatric brother of Dolfin or his son, Gospatric father of Waldeve.[533] Whether Drem was a centre or whether there was an old connection with Tyninghame or **Whittingehame** or **Tranent,** where the earls had property; or whether (most beguiling thought of all) there was an ancient dependence on Traprain, must remain conjectural, as must the possible configuration of a shire in this area.[534] Suffice it to say that there does seem to be a pattern of settlements comprising **Hailes, Fortune,** Drem**, and Waughton,** all of which were in Fraser hands in the late twelfth century or

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[530] Charters to Newbattle, nos 1-5
[531] *Melrose Liber,* no 302 (1184 x 1200)
[532] *St Andrews Liber,* 322
[533] *David I Charters,* no 194 c.f. *RRS,* i, no 85, 170. It is doubtful whether the Gospatric given part of Drem was Earl Gospatric. Gospatric of Drem appears in a charter of Simon Fraser anent the parish church of Keith (~~*Melrose*~~ *Liber,* no 85) later in the century and it is unlikely that the style of earl would have been omitted. Kelso (AH)
[534] Tranent was held by the de Quincy family who also granted there to the Setons (*Family of Seton*, ii, 842; Charters to Laymen no 2). Traprain (and Markle and 'Dunpeldre') were Dunbar lands in the fourteenth century (RMS, i, 159, 569).

earlier.[535] Another possibility is Linton, one of the parish churches incorporated into the Collegiate Church of Dunbar in the fourteenth century. Nes of London who was of course a Fraser, had Linton in the twelfth century and almost certainly held it of the Dunbar earls.[536]

(iii)

If we follow the logical connection between Dunbar and the upland pasturage of Lammermuir, linked by name to Lamer Island to the east of the Dunbar promontory, we encounter touns and settlements, some of which may also have belonged to the shire of Dunbar.[537] Alternatively they may have developed as a result of being used as pasturage by Dunbar and its dependent touns. This seems a likelier explanation for **Penshiel** being in the Dunbar lordship, and being also a chapel of the parish church of Dunbar. In this category also would be **Mayshiel,** the pastureland near the Kell Burn, and Kingside Hill and the **pasture south of Mossy Burn** and **Bothwell shielings**, all granted in free alms to be held of the earl or his tenant and their heirs.[538] Though other lands known to have belonged to the earls stretch along the course of the Whiteadder, from the modern reservoir to **St Bothans**, traditionally a Dunbar foundation, it is doubtful whether they formed a cohesive whole. Cranshaws was forfeited by the earl in 1435-6, but evidence of any earlier connection to the Dunbars is lacking.[539] **Rawburn** was held of the earl.[540] Robert of Ellem witnessed Patrick III's charter granting the south toun of Lennel to the nuns of Coldstream.[541] Ellem and Dunglass owed castle-ward for Dunbar Castle in the fourteenth century and with Dye and Rawburn were among the forfeited lands of the earls recorded in the fifteenth century.[542] Land in **Whitchester** was granted in free alms to Coldstream by Earl Waldeve.[543]

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[535] Tyninghame was 'clearly a shire in 1094, even if a reduced one' (Barrow,'Shires and Thanes', *Kingdom,* 29). Like Berwickshire, Tyninghameshire seems to have been subsequently broken up.
[536] *Newbattle Reg.*, nos 114, 268. No 268 is a charter of Bishop Richard of St Andrews (1163-75).
[537] See Appendix 4, Map 1.
[538] Charters to Melrose, nos 9, 13; to May, nos 3-5; to Kelso, nos 4-5, 7
[539] *Exchequer Rolls,* v, 487
[540] *Cold. Cart.*, nos 41-42 both witnessed by Hugh de Gourlay, steward of his lord, the earl
[541] Charters to Coldstream, no 13
[542] *Exchequer Rolls,* v, 487
[543] Charters to Coldstream, no 3

(iv)

The lands lying to the south-east of Dunbar form another tract of territory which can be identified as earls' lands. Cockburnspath, its name a mutation of the older 'Colbrandispeth', was described in the fourteenth century as belonging to the Earl of March and was one of the Dunbar estates forfeited in the fifteenth century, but again we lack twelfth or thirteenth-century evidence of the connection. Nearby was the gorge, then thickly wooded with oak and elm, and even today retaining a dramatic remnant of native woodland. Through **Aikieside** and **Elmedene** flowed the rivers which drove the monks' mill at Oldcambus, the subject of several charters of the earls over the centuries.[544] John, parson of **Oldhamstocks** witnessed four charters of Patrick III.[545] Oldhamstocks was held in the fourteenth century by the Tunnock family, who witnessed a charter of the future Patrick IV to Coldstream in the late thirteenth century.[546] Robert of Cockburn witnessed a charter of Patrick III granting the south toun of Lennel to the nuns of Coldstream.[547] Within this area was the **Dunglass Burn,** the ancient boundary of the lands of Tyninghame and the division between the lands of David as earl before 1124 and those of his brother Alexander I. [548] This suggests an alternative grouping of these lands with those in the previous section, associated with Tyninghame.

(v)

A number of estates of the earls or places identified in their charters seem to centre on **Duns**, though this is far from conclusive. The relief of the land and the association with military gathering at the Park of Duns may suggest that this was a military and strategic centre of some antiquity and possibly the centre of a royal shire given to the earls.[549] Patrick III issued a charter to Coldingham priory in 1279 at Duns. The place-date cannot, however, be taken as evidence that Duns was a Dunbar centre, for the earl may have been in attendance on the king along with the prior of Coldingham.[550] Patrick I's

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[544] Charters to Coldingham, nos 2,11
[545] Charters to Coldstream, nos 13, 15; to Durham, nos 8-9
[546] Charters of the Heirs, no 17
[547] Charters to Coldstream, no 13
[548] The boundary later also between East Lothian and Berwickshire (*RRS*, i, 37).
[549] Professor Barrow notes however that the terminal '–s' is never found in dun- 'fort' names.
[550] DCM. MC. 774 (Charters to Coldingham, no 12, 29 May 1279). The hand is very similar to that of MC.772 and 773 (Charters to Coldingham, nos 9-10).

charter to Coldingham regarding Oldcambus mill c.1200 was witnessed by Patrick, parson of Duns, who also witnessed the earl's cousin's charter to Coldstream priory about that time.[551] Other evidence, though circumstantial or of later date, is nevertheless substantial. The earls had lands in the immediate Duns area; Lord Patrick's charter confirming land near the Sell Burn to Coldstream priory refers also to pastureland up to the boundaries between his father's land and the Langton estate of William de Vieuxpont.[552] By the fourteenth century Patrick V was patron of Duns Church.[553] Duns is one of the former Dunbar estates listed in the fifteenth century along with The Hardens, Cumledge and Oxendean.[554] **Polwarth** owed castle-guard to Dunbar in the fourteenth century, while Adam, Robert and Gilbert of Polwarth witnessed charters of the Dunbar earls over a long time-span.[555] There are no recorded grants of land in Polwarth by the earls but Polwarth witnessing is sufficiently consistent to establish at least a strong Dunbar connection. **Manderston** was held of the Dunbars by the Papedy family at least by the mid-thirteenth century.[556] Kelloe like Polwarth and Whitsome owed castle-ward to Dunbar castle in the fourteenth century, while Whitsome and Wedderburn were forfeited Dunbar lands in the fifteenth century. Thus Dunbar connections can be made with various degrees of certainty with **Duns, Polwarth,** and **Manderston,** while Whitsome, The Hardens, Cumledge, Oxendean, Wedderburn, and Kelloe which were Dunbar territory in the fifteenth century can be linked only through evidence outwith the period of this study.

Duns may have been the centre of a much larger cluster of places. An alternative grouping, based on the shire model, would include **Duns, Manderston, Polwarth, Rawburn, Whitchester, St Bothans,** Dye, Ellem,

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[551] Charters to Coldingham, no 2; *Cold. Cart.*, no 15 and Appendix II (1203-4 x 1209)
[552] Charters of the Heirs, nos 2-3
[553] It was one of the churches subsumed into the Collegiate Church in 1342.
[554] *Exchequer Rolls,* v, 486. Oxendean, however, may be the 'Osanydene' listed as part of Little Pinkerton and not Oxendean to the north-west of Duns.
[555] Gilbert, who may be identified with Gilbert, son of Walter (*Syllabus of Scottish Cartularies: Coldstream,* ed W. W.Scott) witnessed a mid twelfth-century charter of Earl Waldeve and four later charters of Patrick I (Charters to Melrose, no 3; to Durham, nos 5-6; to Coldstream, nos 4-5). Adam witnessed early thirteenth-century charters of Patrick I (Charters to Coldingham, nos 4- 6; to Melrose, nos 9 and 13) and of Earl Patrick's son (Charters of the Heirs, nos 2-3, 7); Robert a mid-thirteenth century charter of Patrick III (Charters to Coldingham, no 10) and a charter of his tenant at Rawburn (*Cold. Cart.*, no 41).
[556] Charters to Laymen, no 5

and Cockburn with possibly or alternatively Billie.[557] This brings us into the realm of high conjecture and compresses evidence many centuries apart into an unacceptably narrow time-frame: but there is no doubt that the configuration of many of these places suggests the 'looking to' the centre, in this case Duns, which can be sensed in other areas. The religious centre of St Bothans on the Whiteadder seems also to belong to this shire-like structure. **Harcarse** was undoubtedly Dunbar territory, though it may link more to neighbouring lands to the south. We know that Adam of Harcarse, abbot of Newbattle (1216-1219) and of Melrose (1219-45) was a relative of Patrick I to whom he gave the sacrament just before his death. Patrick I gave land in Harcarse to Melrose, while Alan of Harcarse was steward to Patrick III in 1249 and was a frequent witness to Dunbar charters. [558]

What of Bunkle? William I's confirmation in the 1170s of the marches set by David I between Coldinghamshire and Bunkleshire alerts us to the possibility that Bunkleshire was another shire of antiquity granted to the earls and held of them by the family of Ranulf de Bunkle.The royal confirmation at Perth was witnessed by Earl Waldeve but whether this was on account of his presence at the *curia regis* or in his capacity as lord or neighbour is difficult to judge.[559] So also with Sir Patrick's witnessing of Ranulf de Bunkle's quitclaim of disputed woodland and moorland on these boundaries probably in the 1220s.[560] Ranulf de Bunkle was obviously close to the Dunbars. He witnessed Sir Patrick's charter of 1231 to Coldingham resigning Swinewood and his charter to Durham regarding Edrom and Nisbet after his accession to the earldom in 1232. He was also one of only four witnessses to the aged Earl Patrick's confirmation of his son's charter.[561] He further witnessed prominently with Patrick I and his two younger sons the charter of Henry of 'Hassekirk' granting land in Todrig and 'Bellingdene' to Coldstream priory.[562] There are therefore some indications that Ranulf de Bunkle held of the earl but this is by no means certain, for he also appears as a Coldingham witness in a charter of David of

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[557] See below, p 234.
[558] *Chron. Melrose,* 82, s.a. 1232; Charters to Melrose, no 6; *Cold. Cart.,* no 38 with Earl Patrick; Charters to Coldstream, no 10; to Durham, no 8; to Laymen, no 5
[559] *RRS,* ii, no 181
[560] *ND,* no 168
[561] Charters of the Heirs, no 8; Charters to Durham, no 7; to Coldingham, no 7

Quixwood of the 1230s.[563] One at least of the family, Adam of Bunkle, was sheriff of Berwick, and it is possible that Ranulf was acting in an official capacity, perhaps as an emissary for the court, when he witnessed the charters of the earl and Sir Patrick regarding Swinewood.[564] Moreover, though the charters regarding the bounds of Bunkleshire and Coldinghamshire were witnessed by the Dunbars, William de Vieuxpont, who held land nearby at Langton, was also a witness. Thus Dunbar lordship is not necessarily implied. Indeed in 1244 Ranulf was one of the jurors not of Earl Patrick, but of Walter, earl of Menteith. There are other indications of fairly close links between the Bunkle family and the Comyns, which support the notion that Bunkle was an independent lordship dating from a very early period. There was certainly an early shire centred on Bunkle castle. Whether the lands which traditionally attached to it continued to form part of the lordship, or whether it represented a rump of the former shire is obscure. Geographically the castle at Billie is more likely to have been the seat of the earls. When there was friction between the latter and the monks of Coldingham over land in the Billie marsh area which bordered Berwickshire and Coldinghamshire and also Bunkleshire, significantly neither the chirograph nor the earl's charter which followed were witnessed by Ranulf de Bunkle.[565] On balance, the evidence points to Bunkle being a neighbouring and independent lordship ouwith the Dunbar earldom.

(vi)

Earlston was a major Dunbar centre, its grazing on the slopes of the nearby hills occasioning the famous conflict with Melrose which culminated in the earl's seizure of Sorrowlessfield and much heated litigation.[566] The earlier form of its name was Ercildon; it was situated in an area of former forest part of which retained the name 'Venatoris' in the fourteenth century.[567] In the twelfth century it was held by the Lindsays, possibly of the earl, and from it the earl

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[562] *Cold. Cart.*, Appendix IV, 48-9
[563] *ND*, no 256
[564] Norman H. Reid and G.W.S. Barrow, *The Sheriffs of Scotland* (St Andrews, 2002), 6
[565] See below p 234.
[566] Ibid.

confirmed their grant of two bovates and a toft and croft to Dryburgh abbey.[568] The 'Elwinesley' of these charters, **Alwin's land,** lay to the north, across the Leader Water, if 'Strikerden' is to be identified as the Sturdon Burn, north of Kedslie. To the west at **Birkenside** the earl had a stud and grazing land near Lauder which Patrick II sold to Melrose in 1247.[569] Birkenside was the marriage portion of Patrick II's wife Euphemia; it passed subsequently to her son John and thereafter to John, her grandson. Dunbar lands however were situated more to the east of Earlston – **Fans, Redpath, Whitefield** and **Mellerstain** where Richard of Fans gave land to his nephew David de Graham. Mellerstain owed castle-ward to Dunbar in the fourteenth century and was close to **Gordon**, which was held of the Dunbars, on the western fringe of the Merse.[570]

(vii)

When we consider the earls' acquisition of lands in the Merse and to its western reaches we are confronted with a near-impenetrable mystery, and can surmise only that these came to them through marriage, or perhaps by further royal grant. We can speculate on a possible matching of the grant of Beanley to Gospatric with lands north of the Border.[571]The Kelso charters for instance, though concerned mainly with the granting of churches by the earls, give us the information that the earls held **Hume**, **Gordon, Fogo, Greenlaw, Lambden**, and **Halliburton.**[572] Of these, Hume, Gordon (divided by then, as probably much earlier, into East and West Gordon) and Halliburton owed castle-ward to Dunbar castle in the fourteenth century, while in the fifteenth century Hume, Greenlaw, Lambden and Halliburton were forfeited Dunbar lands.[573] Men of Hume, Gordon, Greenlaw, Lambden and Halliburton

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[567] *Dryburgh Liber,* no 309 (1334), where also Patrick V refers to 'our toun and tenement of Earlston'.
[568] Charters to Dryburgh, nos 2, 5
[569] Charters to Melrose, no 15
[570] Charters to Coldstream, no 4 witnessed by Richard of Fans; Charters to Laymen, no 4; *Cal. Docs. Scot.,* iii, 324. On Redpath, see Charters to Melrose, no 19*. Patrick V confirmed Redpath, described as lying between Earlston and Bemersyde, to Melrose c.1320 (*Melrose Liber,* no 425). See also Appendix 4, Map 1.
[571] Though.the lands of the serjeanty of Beanley are of course considerably smaller
[572] Charters to Kelso, nos 1-5, 7-11; see also Appendix 4, Map 1.
[573] *Cal. Docs. Scot.,* iii, 324; *Exchequer Rolls,* v, 487-488

witnessed the earls' charters of the twelfth and thirteenth centuries.[574] Sisterpeth, though not recorded as such in the twelfth and thirteenth centuries, was certainly among the Dunbar lands in the fourteenth century and was forfeited in the fifteenth century.[575]

Further south and east in the Merse the earls' grants to Coldstream included lands and churches in **Lennel** and **Hirsel.**[576] **Lennel,** and **Birgham,** where land was also granted, were formerly touns of Berwickshire. Birgham shielings were forfeited Dunbar lands in 1435-6, as were **Hirsel** and **Mersington** and **Leitholm**. Ketel of Leitholm and his family were among those who most frequently witnessed the charters of the earls.[577] **Leitholm** and **Mersington** were chapels of **Eccles**, where a nunnery was founded or re-founded almost certainly by Earl Gospatric, father of Waldeve.[578] Land was also granted by the Dunbars and their dependants in **Skaithmuir** and **Darnchester.**[579] Other grants to Coldstream by the earls – **Whitchester, Thornydykes** and **Bassendean** – were more far-flung: but all were earldom lands.[580] The charters of the earls' tenants and dependants to Coldstream fill in the picture, with grants of land in **Anton's Hill, Todrig** and "Bellingdene'.[581] The focal point for this area may be Eccles, clearly by its name an ecclesiastical site of great antiquity, probably the kirk toun of an old shire. In all likelihood however the centre of this area had once been the site of the **The Mount** at **Castlelaw** near which Hirsel is built. Again, twelfth and thirteenth-century charters of the

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[574] Charters to Coldstream, nos 4,13-14; to Melrose, nos 6, 11, 18; to Newbattle, no 2; to Coldingham, nos 2, 4, 12; to Durham, nos 5-6; of the Heirs, nos 2-3, 7, 11

[575] *Exchequer Rolls,* v, 487; *Cal. Docs. Scot.,* iii, 323-6

[576] See Appendix 4, Map 4.

[577] Ketel of Leitholm witnessed Charters to Coldstream, nos 2, 4-6; to Melrose, no 6; to Coldingham, no 1(with his son); to Durham, no 4. John of Leitholm witnessed Charters to Coldstream, nos 10, 13-15; to Coldingham, nos 5-6; of the Heirs, nos 2-3

[578] See below, p 252

[579] Charters to Coldstream, nos 5-6, 11. Walter the chaplain and Alan son of Thomas located their respective grants of 'Cakewellgate' and of 'Spitelflat' in Darnchester within the earldom of Dunbar(*Cold Cart.,* nos 32 and 34). Thornydykes charters are *Cold. Cart.,* nos 35-9.

[580] Charters to Coldstream, nos 3 and 10; *Cold. Cart.,* nos 45-6. Bassendean owed castle-ward for Dunbar castle in the fourteenth century. So too did Mersington and Leitholm (*Cal. Docs. Scot.,* iii, 324)

[581] *Cold. Cart,* nos 10 (Charter of Randolph Hutton anent Anton's Hill c. 1200), Appendix no IV(charter of Henry of 'Hasskirk' anent 'Bellingdene' and Todrig, 1248 x 1258)

earls were witnessed frequently by men of these places – Lennel, Leitholm, Darnchester.[582]

Hassington including **Pittlesheugh**, was held of the earls by the Muscamp family, but land there as in Harcarse, shown also on the map, was granted to Melrose rather than to Coldstream.[583]

(viii)

The Dunbar earls acquired several estates from the former shire of Berwick given and then taken away from Durham at the end of the eleventh and the beginning of the twelfth century.[584] There has been much controversy over the authenticity of Edgar's charter of 1095 granting Berwickshire and Coldinghamshire to the bishop and monks of St Cuthbert at Durham.[585] But there is agreemement that, since the confirmation of Edgar's grant by William Rufus is undoubtedly authentic, Edgar did give Berwickshire and Coldinghamshire to Durham and that a charter once existed to that effect.[586] A genuine charter of Edgar does record a separate grant of Coldinghamshire to the monks, but makes no mention of Berwickshire.[587] Furthermore, three separate charters of Edgar, all authentic, record the grants to Durham of two of the touns of Berwickshire, Paxton and Fishwick, and of Swinton.[588] From this evidence it seems possible that Edgar's first grant of Coldinghamshire and Berwickshire to Durham was not effective, or not fully so, or, alternatively, that, as *Gesta Annalia* reports, Edgar, in anger, took back Berwickshire, the bishop's portion of the endowment, from bishop Ranulf who had imprisoned

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[582] In Lennel, Richard, Thomas and William (Charters to Durham, no 6; to Coldstream, no 5; of the Heirs, no 17). In Leitholm, Ketel, son Ketel and his son John, Edward (Charters to Coldstream, nos 2, 4-6, 10, 13-15; to Coldingham, nos 1, 5-6; to Durham, no 4; to Melrose, no 6; of the Heirs, nos 2-3; to Laymen, no 7). In Darnchester, Walter (Charters to Coldstream, nos 10, 13; of the Heirs, no 17) and earlier charters of his family (Charters to Coldstream, no 6; to Melrose, no 3; to Durham, no 6; to Coldingham, no 2)

[583] Charters to Melrose, nos 16-17

[584] See Appendix 4, Map 5.

[585] DCM, MC. 559 (*ND*, no 7). See A.A.M.Duncan, 'The Earliest Scottish Charters', *SHR*, xxxvii (1958), 103-35; J. Donnelly, 'The Earliest Scottish Charters?' *SHR*, lxviii (1989), 1-22; A.A.M.Duncan, 'Yes, The Earliest Scottish Charters', *SHR*, lxxviii (1999), 1-38

[586] Duncan (*op. cit.*, 1958), 107; Donnelly (*op. cit.*, 1989), 14; Duncan (*op. cit.*,1999), 16.

[587] DCM, MC. 555 (*ND*, no 2)

[588] DCM, MC. 556, 557 and 558 (*ND*, nos 4, 5, and 6).

his supporter Robert, son of Godwin.[589] Thereafter the monks of Durham sought to claw back from the king as much as possible of what they had lost. They secured Paxton and Fishwick, and also Swinton, but they continued to claim other touns of the lost shire, with varying degrees of success.Their efforts form the backdrop to the disputes over Edrom and Nisbet recorded in eight charters of successive Dunbar earls and six royal confirmations.[590]

Here the text of Rufus' charter is taken as the nearest possible accurate record of Edgar's original grant of the two shires to Durham. From it, it is possible to compile a list of the *mansiones* or touns of Berwickshire and then to attempt to trace what was done with them subsequently.[591] Several of these touns came into the possession of the Dunbar earls and others, as we have seen, became a source of conflict to which charters of the earls relate. The process is something of a jig-saw and an incomplete one, for it leaves largely unanswered many questions about apparent muddles over touns like Swinton and Swinewood, Renton, Edington and Edrington, all of which at some point seem to end up in the wrong place. It does at least, however, open up new contexts for some of the Dunbar charters.

The starting point is the list of Berwickshire touns which according to Rufus' charter were given as a shire to Durham:

Graden, Lennel, Birgham, Edrom, Chirnside, Hilton, Blackadder, Kimmerghame, Hutton, Renton, Paxton, Foulden, Mordington, Lamberton, Edrington, Fishwick, Upsettlington [592] 'Dylsterhale', 'Horeford' [593]

Plainly Berwickshire was subsequently dismembered and its touns divided between the Durham monks and the earls, though whether this was a deliberate policy, or the result of many piecemeal settlements, is unclear. We

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[589] These possibilities are discussed extensively by Professor Duncan (*op. cit.*, 1958, 111-2; 1999, 19-20) and Dr Donnelly (*op. cit.*, 1989, 9-10)
[590] See below, p 136.
[591] See Appendix 4, Map 5.
[592] In modern form, in order of appearance in text. (DCM, MC. 973, *ND*, no 435)
[593] 'Dylsterhale' ('Dilsterhalle' in DCM, MC. 559) has not been identified. Professor Barrow locates 'Horeford' or 'Horford' north of Upsettlington (Barrow, 'Shires and thanes', *Kingdom*, 25, Map 3).

have already identified **Lennel** and **Birgham** as two of the touns of Berwickshire acquired by the earls.[594] The Huttons, no doubt deriving their name from the toun and lands of **Hutton**, were also major benefactors of Coldstream and witnessed charters of tenants and dependants of the earls.[595] **Graden** and **Chirnside** became Dunbar estates.[596] **Edrington** was named as one of the lands of the Dunbar earldom forfeited in 1435-6.[597] **Mordington** was almost certainly acquired by the Dunbars. William of Mordington was one of the knights who swore with Earl Patrick in 1244.[598] He appears as a witness to Dunbar charters to Coldingham, two in the time of Patrick I (one a chirograph) and one of Patrick III. Yet these relate to the dispute over Billie, and it is not clear whether he was there as one of the Dunbar or of the Coldingham following, or indeed in the latest of the charters as an immediate past sheriff of Berwick.[599] He held land in Lamberton of the priory of Durham[600] and appears as a witness among a clutch of priory tenants to charters of Coldingham concerning Auchencraw, Ayton and the Coldingham lands, never explicitly as sheriff. [601] Certainly Mordington was not listed among the lands of Coldingham/Durham c.1298.[602] It was however liable for castle-ward for Dunbar castle in 1335-6.[603] Most significantly, in the late fourteenth century, George of Dunbar Earl of March gave all his lands of Mordington to his sister Agnes and Sir James Douglas *in liberum maritagium.*[604] There is therefore a strong case for adding it to the Dunbar estate of our period.

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[594] Charters to Coldstream, nos 1-4, 10, 13-15; *Cold. Cart.*, nos 12-13
[595] *Cold.Cart.*, nos 10, 58 (Hutton charters); 5, 40, 43, 45 (witnessed by Huttons)
[596] Charters to Laymen, no 7; to Durham, no 9. Chirnside is the place date of Patrick III 's charter (to Durham, no 9). Chirnside church was one of the churches in the patronage of the earls incorporated into the Collegiate Church of Dunbar in 1342.
[597] *Exchequer Rolls,* v, 487. Elsewhere the estate connected with the Dunbars is 'Edington' held by the family of Haldane (e.g. Charters to Coldingham, no 1). Both Edington and Edrington therefore are shown on Appendix 4, Map 1, but Edrington only on Map 5 which contains the touns of Berwickshire as named in the Rufus Charter, MC 973.
[598] *Cal. Docs. Scot.*, i, no 2672
[599] Charters to Coldingham, nos 5-6, 10; on both these occasions the sheriff of Berwick, and on the earlier occasion the sheriff of Roxburgh also, witnessed the settlement and its confirmation.
[600] J. Raine (ed.), *The correspondence, Inventories, Account Rolls and Law Proceedings of the Priory of Coldingham* (SS, 1841) (hereafter *Cold. Corr.*), 241
[601] E.g. *ND*, nos 197, 213, 256, 277, 376 . See J. Donnelly, 'The Lands of Coldingham priory', unpublished PhD dissertation (Cambridge, January 1989) pp 142-3.
[602] DCM, MC. 1496 (*Cold. Corr.*, lxxxxv –civ)
[603] *Cal. Docs. Scot.*, iii, 323-4
[604] *RMS,* i, 190 no 521 (1372)

Blackadder and Kimmerghame are difficult to track over the centuries following the partition of the touns of Berwickshire. Probably **Blackadder** did become part of the Dunbar earldom. A charter of John of Leitholm to his son Ketel, apparently dating to c.1269 survives in an early fifteenth century transcript and it relates how land was sold to John of Blackadder and then resigned to John of Leitholm in the full court of Earl Patrick of Dunbar. This does not prove that the earl was John's lord for Blackadder but it hints at a strong connection.[605] Kimmerghame can be linked with Edrom, becoming at some point a chapel of Edrom church.[606] Herbert de Camera was granted a chantry in his chapel of Kimmerghame, perhaps the same one, between 1218 and 1233. After 1314, Kimmerghame was resigned by Thomas of Morham, of a family with slight Dunbar connections.[607] John of Kimmerghame was steward to Earl Patrick V.[608] But these are frail connections, which await stronger supporting evidence of Dunbar lordship.

Lands in other areas of Scotland

Though the lands of the earls in Lothian and the Merse came to form a cohesive lordship in south-east Scotland, there were other lands of theirs within Scotland to which contemporary reference was made. We learn, for example, of land held by Patrick I near **Moffat**, perhaps acquired through his marriage to Christina Bruce, and **Dundaff and Strathcarron** forest granted to Patrick II in Stirlingshire.[609] The earls held property in **Tranent** and also in **Berwick**.[610] In the Tranent area, the family of **Ormiston** had close connections with the earls, Alan of Ormiston witnessing charters of Patrick III to Coldstream, May and Coldingham.[611] Traprain, 'Dupender', 'Southell' and Markle were in Dunbar hands in the fourteenth century.[612]The family of Keith,

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[605] Hist. MSS Comm., 12th Report, Appendix, part viii, Earl of Home, 173-4, no 291
[606] *FES*, 42; *HBNC*, xiii (1890-1), 86-184
[607] Charters to Coldingham, no 10. Professor Barrow has identified them with the Malherbe family (G.W.S. Barrow, *The Anglo-Norman Era in Scottish* History (Oxford and New York, 1980), 96-7)
[608] *Melrose Liber,* no 425
[609] *Cal. Docs. Scot.*, i, no 706; Charters to Laymen, no 6
[610] Charters to Laymen, no 2* ; Charters of the Heirs, no 16
[611] Charters to Coldstream, nos 11, 14-15; to May, no 6; to Coldingham, no 12. William of Ormiston swore with Patrick II in 1244 (Cal. Docs. Scot., i, no 2672).
[612] *RMS*, i, 159, 569

too, were of the Dunbar following in 1244. There can be little doubt that there were further lands undocumented and thus untraceable.

Disputed lands

Other lands may have been in the possession of the Dunbars for a part of the period, often passing in and out of their hands as subjects of dispute and litigation.The partition of Berwickshire engendered conflicts whose bitterness is barely concealed by the increasingly bland language of the charters. The **Edrom** and **Nisbet** dispute was protracted and acrimonious, revealing a developing and increasingly organised pattern of intervention by the king which helped to shape the development of the law and forms and procedures of legal redress.[613] The charters are sufficiently numerous to enable comparison and cross-checking; and they reveal inconsistencies and considerable selectivity. They serve as a powerful reminder that the charters cannot be taken at face-value; for the grants they record were not always effective, and the conditions they describe may have been part only of the story – the part which the drafters wished to preserve in writing.

1. *Edrom and Nisbet*

No fewer than eight of the nine surviving charters of the earls to the monks of Durham relate to the long-running saga of Edrom and Nisbet. Between 1124 and c.1138 Earl Gospatric, brother of Dolfin, granted Edrom and Nisbet, and Edrom church, with all its chapels and pertinents, to the monks of St Cuthbert.[614] Gospatric is thought to have been killed in August 1138 at the Battle of the Standard, and it seems that immediately his successor Gospatric made some move which prompted King David to instruct his sheriff at Roxburgh to hold in distraint the lands which the previous earl had given to Durham. Almost certainly the new earl was refusing to acknowledge or confirm his father's grant or to hand over the lands. David gave explicit instructions

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[613] H. L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (hereafter MacQueen, *Common Law*) (Edinburgh, 1993), 33
[614] Charters to Durham, no 1

that neither Gospatric nor the monks were to be permitted to work the land, as this would imply ownership.The order further offered protection to the monks against any injury or wrong on the part of the earl.[615] At Roxburgh in August 1139 the king confirmed Edrom and Nisbet in perpetual alms to the monks of Durham, his charter being witnessed by leading clerics and lay magnates including William fitz Duncan who had witnessed the late earl's charter of c.1138.[616] The grant may not have been effective; alternatively, the new earl, Gospatric, may have challenged the monks' claim again, for in a charter of probably 1140-1, in King David's absence, Earl Henry instructed him to allow his father's gift to be held free and quit and in peace, as had been decided in the previous year in a hearing before the king, Robert Bruce and other barons, and to restore the monks' cattle forthwith.[617] This is an interesting document, and one which raises the question of what exactly was going on. The lands may have still been in the custody of the sheriff or they may have been handed over to the monks; presumably if Gospatric had had them he would not have had to seize the monks' cattle. He may have attempted hard bargaining over the conditions on which the land was to be held by the monks, on which his father's charter is silent. Whatever the circumstances, a settlement seems to have been reached or imposed, and subsequently, in 1141 at Durham, Earl Henry confirmed Gospatric's father's grant of Edrom and Nisbet to the monks.[618] On this occasion, the monks do seem to have secured the touns. Edrom church was certainly listed as part of the Durham estate by 1166 and the toun was confirmed to the Durham monks at Coldingham on 3 May 1147 by king David.[619] In his charter the king alludes to the grant in alms by Gospatric's father but, significantly, refers for the first time to a payment of thirty shillings for corrody which the monks were said to owe Gospatric for the lands. He also refers, somewhat unusually, to service in the king's army for which the monks were to attend on the king but from which Gospatric was exempted. This strongly suggests that much of the friction over Edrom and Nisbet did indeed concern the conditions on which the land was to be held. It

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[615] *David I Charters*, no 75 (*ND*, no 23)
[616] *David I Charters*, nos 68, 69 (*ND*, nos 19, 20)
[617] *David I Charters*, no 78 (*ND*, no 104)
[618] *David I Charters*, no 102 (*ND*, no 103))

is a reminder that grants of land, including grants in free alms, could be complex matters involving conditions and obligations which the charters do not describe.[620]

Was the grant of c.1138 simply a benefaction or a hotly-contested prize surrendered unwillingly as a result of royal pressure? The charters of King David of August 1139 and of Earl Henry of 1141 confirm this original grant of Edrom and Nisbet in perpetual alms 'as Gospatric brother of Dolfin held them on the day of his death, by their rightful boundaries'.[621] The strong likelihood is that, much earlier, when Berwickshire was broken up, Edrom and Nisbet had been acquired by the earl. The earl's subsequent grant to the monks of Durham c.1138 may have been just one stage in the prolonged dispute, but may well also have been a genuine benefaction, despite the combative note struck by the double anathema. As an older man facing the uncertainties of a military campaign in 1138, the earl may have made his gift as an act of genuine piety. The king, moreover, may have persuaded him to do so, as a well-timed gesture of goodwill, to settle the quarrel with Durham before the campaign. Alternatively, the occasion of the grant may have been the founding of the priory at Coldingham; both royal confirmations (1139 and 1141) refer to the monks of Durham serving at Coldingham, and one refers specifically to the convent there.[622] Then the references to the day of the earl's death, while not uncommon, may indicate that soon after issuing his charter Earl Gospatric was killed at the Battle of the Standard, possibly before the grant could become effective. David's confirmation of Gospatric's charter on 16 August 1139 suggests a narrow time-frame with Gospatric's charter being issued very close to the date of his death on 22 August 1138. It may simply have been a deathbed grant, the wounded earl surrounded by his closest associates making hurried reparation for an old wrong, and the heir, whose consent had not been given, refusing to recognise its validity.

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[619] Charter of Henry II (1154 x 1166) *Foedarium Prioratus Dunelmensis* (SS, 1871/2), Appendix to preface no 2; cited in Donnelly, 'Lands', 102; *David I Charters,* no 158 (*ND,* no 21).

[620] See below p 155 (section on tenures).

[621] *David I Charters,* nos 68-9, 102 (*ND*, nos 19, 20, 103)

[622] *David I Charters,* nos 68 (which refers to the convent), 69 and 102 (DCM, MC. 571. 572, 757; *ND*, nos 19-20, 103). On the foundation of the priory, see J. Donnelly, 'Spiritual Estates:

Edrom and Nisbet were confirmed again to the monks by Earl Henry, probably in 1147,[623] and by Bishop Robert of St Andrews at the synod held in Berwick in 1150. The bishop placed the weight of his episcopal authority behind the gift, linking Edrom and Nisbet in the charter with the churches of Fishwick and Swinton, both of which had also been subjects of dispute. Swinton at least can be connected to Dunbar claims, suggesting that the issue of Edrom and Nisbet should be viewed against a wider canvas and connected to the Berwickshire so coveted by earl and by monk.

The monks continued to seek confirmations whenever a new earl succeeded, nervous, perhaps, in view of the events of the 1130s and 1140s. Of the eight charters of successive earls to Durham concerning Edrom and Nisbet, four are edited versions of the original grant, updated but otherwise almost verbatim and one is a summary of it.[624] Two charters of Earl Gospatric who would be regarded by the monks as the villain of the piece in 1138-9 confirm Edrom and Nisbet to Durham. One is considerably shorter, and is witnessed by eight members of the earl's family and household. The second and much fuller charter repeats almost verbatim the words of the charter recording the grant by his father Gospatric and is witnessed by seven of the eight witnesses to the first.[625] Within the year the monks had obtained a third charter of confirmation, this time from the new earl, Waldeve, four of the witnesses to this charter having witnessed also the two charters of his father.These witnesses are designated differently in the Waldeve charter, so it does not appear that the earlier witness list was simply incorporated into the later charter.[626] About then, or perhaps even when Gospatric was still alive, and certainly no later than 1171, William I confirmed Edrom and Nisbet to the monks.[627] There may

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the Durham monks in Scotland, 1094-1293', *RSCHS*, xxvii (1997), 50-1, where an earlier date, before 1139, is considered.

[623] *David I Charters*, no 160 (*ND*, no 105)

[624] This accounts for some anomalies, as when Earl Gospatric styles himself towards the end of his life as son of Earl Gospatric brother of Dolfin, a form more readily associated with a new earl. (Charters to Durham, no 3) and when the charters continue to refer only to the monks of Durham, as in the earl's grant, rather than to the monks of Durham at Coldingham to whom royal charters confirmed the touns.

[625] Charters to Durham, nos 2, 3.

[626] Ketel appears as son of Dolfin (Charters to Durham, nos 2 and 3) and as Ketel of Leitholm (no 4) This is probably the same man. Haldane is *dapifer* in nos 2 and 3, *seneschal* in no 4.

[627] *RRS*, ii, no 66 (DCM, MC. 596, 601; *ND*, nos 42-3)

be some connection here with the challenge from Crowland Abbey which was settled in the *curia regis* in 1167 when Edrom toun and church were confirmed to Durham in return for a cash payment by Durham to Crowland. [628]

In the last decade of the twelfth century trouble erupted again, almost certainly in connection with the teinds of Earlston church which the monks wished to appropriate. Earl Patrick's charter, the authenticity of which has been called into question, is an updated version of the charters of his father and grandfather and great-grandfather, but it adds the name of Earlston, somewhat incongruously, as one of the chapels of Edrom church.[629] The line up of witnesses includes seven leading royal officers, indicating that this case had probably been settled in the *curia regis*. The background to this particular charter are discussed elsewhere: [630] what is striking is the doggedness of the Durham monks in securing their title to these touns, obtaining this confirmation from the earl and yet another in the future from his son, Patrick II. There is an interesting postscript. About 1235 Nisbet, once apparently the lesser of the two disputed touns, was said to be held of the prior of Durham. It was split subsequently into East Nisbet and West Nisbet, perhaps because it was expanding, or perhaps, as Dr Donnelly suggests in the case of Swinton and Reston, because the priory wished to dislodge a tenant.[631] The splitting may also have represented a division of the toun between the monks and the earls, for there is some later evidence that the earls of Dunbar had regained or retained West Nisbet.[632] In the late thirteenth century when revenue-raising was prompting both prior and earl to discover and exploit a range of feudal incidents Patrick III gave two charters, one dated 4 November 1261, restoring the rights of wardship and marriage in East Nisbet to Durham. He also re-iterated his customary right to the thirty shillings and forinsec service from Coldingham priory for Edrom and Nisbet. Clearly over a hundred years earlier

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[628] For a discussion of the basis of Crowland's claim, see *RRS*, ii, 193-4. It is possible that it links to a grant of Edrom to Crowland by one of the Dunbars but the evidence that Waltheof brother of Earl Gospatric and of Dolfin, was abbot of Crowland is thin. See Rev. J. Wilson, 'Waldeve brother of Dolfin and the Abbey of Croyland', *SHR*, ii, (1905), 331-4.
[629] Charters to Durham, no 5; Watt, *Grads.*, 105
[630] See below p 254.
[631] Donnelly, 'Coldingham lands', 114
[632] West Nisbet was among the Dunbar lands forfeited in the fifteenth century (*Exchequer Rolls*, v, 487).

the monks had won a victory of sorts, but they had won no more than that. Edrom and part of Nisbet were theirs, but at an ongoing price.

2. *Swinton*

Though Durham's title to **Swinton** seems very secure, it was a recurring source of anxiety to the Durham monks over the years. Edgar's charter, which was confirmed by Alexander, and by David as earl and as king, stated that the boundaries were to be those by which Liulf held the land and that the monks were to be free to do with it as they wished. It seems that the land had been neglected, or that it had not yet been fully exploited, for with it Edgar gave twenty-four animals, presumably three teams of eight oxen, so that it could be restored. From the inhabitants of Coldinghamshire the monks were to receive a half mark of silver per ploughgate as rent.[633]

It would appear that then and later Swinton was the subject of dispute. We do not know whether this was connected to Liulf, whose son Udard, the sheriff, held the land after him or to a rival claimant.[634] Liulf may have been a difficult tenant to displace, perhaps the reason for the statement in Edgar's charter that the monks were to be free to use the land as they wished. Edgar's charter seems to envisage the monks using their three teams of oxen, working the land as demesne. In the original grant King Edgar stated that the monks were not to be subjected to rival claims to Swinton; in confirming his brother's grant, Alexander I twice told the prior of Durham not to get involved in litigation on account of Swinton unless he, the king, were present personally or had issued a verbal or written order. He referred also to secret discussions they had had.[635] Between 1114 and 1118 David as earl confirmed Swinton to Durham, stating that he would not allow the monks to be harmed or disturbed in their possession.[636] The impression of insecurity was to continue in a charter probably issued after David's grant to Arnulf, in which Earl Henry bluntly prohibited anyone from mounting a legal challenge to the land or from causing

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[633] *David I Charters*, nos 9-10, 31-2 (nos 31-2 of doubtful authenticity); *ND*, nos 4,10.
[634] Liulf 'of Bamburgh' was son of Eadulf and father of Udard (=Eadward or Odard) sheriff of Bamburgh (*David I Charters*, 78-9).
[635] DCM, MC. 562 , 563 (*ND* 10, 11)
[636] *David I Charters*, nos 9-10 (*ND*, nos 100-101)

the monks any trouble over it.[637] Whether the monks and the king had any specific challenger in mind is another matter. The grant of Swinton to his knight Arnulf in 1136-7 by King David may well link to his policy of recruiting military support prior to invading England. The Durham monks were not dispossessed – Arnulf was to hold Swinton of them and also, unusually, of the king, and was to pay the monks forty shillings in lieu of service.[638] Arnulf seems to have been inserted into the hierarchy or web of lordship in Swinton, holding it as a hereditary feu of the king but also of Durham, presumably owing knight service to the king, but also owing an annual sum of money like a rent to the monks.[639]

However ambiguous the situation seems, Swinton was undoubtedly part of the Durham estate in the twelfth and thirteenth centuries and was certainly in the priory's hands in 1205 x 1206.[640] At some point before 1235 it was split, the prior of Durham having the services and incidents due from Little Swinton.[641] Against this background the one surviving Dunbar charter dealing with Swinton should be viewed.[642] It records Patrick I's quitclaim to the monks of Durham of the land in Swinton which he admits he had unjustly claimed in law from them. It defines the boundaries of this land, which lay between the touns of Swinton and Fogo. The witness list has a rough balance– five of the earl's household and four of his tenants, with the priory fielding eight tenants and three others whose identity and allegiance are uncertain.

It is a strange case. The explanation may lie in a quarrel over the teinds of Swinton. Swinton church was one of the five churches in the hands of the

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[637] *David I Charters*, no 65 (*ND*, no 109). This charter was issued in 1136 x 1141 and was witnessed by Eustace fitz John who was probably lord of the knight Arnulf to whom David granted Swinton. Arnulf has been identified by Mr Alan Piper, Keeper of Archives and Special Collections, Durham as Ernulf of Morwick, one of the de Vesci tenants at Morwick, near Warkworth (*David I Charters*, 79, note to no 54)

[638] *David I Charters*, nos 53-4 (*ND*, nos 12, 13)

[639] Duncan, *Kingdom*, 181. Professor Duncan suggests that David made the grant in the face of Durham's right to the land. But this would not be consistent with what seems to have been royal policy towards Durham over a period of time.

[640] In 1205-6 King William confirmed the exchange of land by which William of Gullane acquired one ploughgate of land in Swinton from the prior and convent of Durham (*RRS*, ii, 425-6).

[641] Donnelly, 'Coldingham lands', 102-3; *Cold. Corr.*, 241-2

[642] Charters to Durham, no 6

monks of Durham by 1146.[643] In 1199 Bishop Roger of St Andrews confirmed to the prior and convent of Durham all the churches within the diocese of St Andrews which they had before his consecration in 1199. He named the churches but did not include Swinton. A second version of his confirmation, which did have Swinton on the list is very suspect.[644] Almost certainly the bishop was aware of the ongoing dispute between the monks and the earls of Dunbar concerning the revenues of the church, or more precisely, the teinds of Little Swinton. This dispute ran for a long time and was eventually settled, certainly by 1209, in Durham's favour. The earl's charter may date from that settlement. As in the case of the other churches of Durham, the advowson of Swinton was eventually converted to full appropriation, and it is thought that this was completed by 1208 or 1209.[645]

The most intriguing aspect is the basis of the earl's claim to the teinds, which must have rested on an earlier right of patronage which he stood to lose. That right, if it existed, must in turn have been rooted in a claim to part of the toun and land of Swinton; indeed the charter may represent the final stage in a tussle for this obviously important and prestigious territory. It details the boundaries of the land which the earl quitclaimed, between Fogo and Swinton; its western boundary can be traced on a modern map from Earnslaw up near to Ryslaw and then possibly to Blackadder Water. This would appear to be the area which became Great Swinton. Piecing all together, it seems that the earls of Dunbar did have a long-running claim to Swinton. They may have continued to draw the teinds of the lands which became Little Swinton, on the basis of that claim or some former right. The conversion of Durham's advowson to full appropriation (not completed until 1208-9) threatened Earl Patrick's income and so he re-activated the Dunbar claim, seizing or claiming part of that part of Swinton which rendered service to Coldingham priory. Alternatively, he may have been provoked by the splitting of Swinton, particularly if this was a stratagem to maximise priory demesne. Whatever the explanation, he appears to have been unsuccessful, for by the end of the

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[643] J. Donnelly, 'Spiritual Estates', 51-2. The other churches were Coldingham, Berwick, Fishwick, Ednam (with its chapel of Stichill)
[644] DCM, MC. 958, 971 (*ND*, nos 469, 470). The bishop's name is incorrect, a strange mistake for an episcopal chancery ('Spiritual Estates', 52).
[645] DCM, MC. 951 (*ND*, no 525)

thirteenth century the whole of Swinton seems to have been securely part of the Durham/Coldingham estate.[646]

3. *Swinewood*

Linked in some way to the conflict over the Berwickshire touns was a dispute over **Swinewood.** The writers of the genuine, suspect or spurious Durham charters seem to be very muddled about Swinewood. Only in Edgar's authentic charter of 1097 x 1107 is it placed in Coldinghamshire where it undoubtedly belongs.[647] It is omitted entirely from both the suspect charter of Edgar granting Berwickshire and Coldinghamshire to the monks of Durham and from Rufus' confirmation of Edgar's grant which is accepted as genuine, while in both, Swinton is included in Coldinghamshire.[648] Swinewood was further confirmed to Durham by David I in 1126, as one of fifteen touns of Coldinghamshire and Berwickshire acquired by the monks.[649]

The wood has disappeared, though Swinewood Mill survives, on the north bank of the Eye Water between the village of Reston and the farm of East Reston, some two-and- a- half miles inland from Coldingham.[650] In all likelihood, the process of assarting had only begun by the time of Edgar's grant, for even in the early years of the thirteenth century the toun is described as a *villula* or small toun.[651] At some stage, and for some reason, Swinewood came into the possession of the earls of Dunbar. One of the earls may have first occupied it by force, as a tactical move in another dispute, or by agreement, perhaps in the form of a lease. Perhaps the grant of Swinewood to Durham had never been effected; when Sir Patrick, son of Earl Patrick I, quitclaimed it to Coldingham he admitted that his predecessors had occupied it unjustly, suggesting a long-standing conflict.[652]

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[646] *Cold. Corr.*, lxxxv-lxxxvi
[647] DCM, MC. 555 (*ND.* no 2)
[648] DCM, MC. 559, 973 (*ND,* nos 7, 435). The process of transferring touns from one shire to another (Duncan, 'Yes', 21) is difficult to envisage.
[649] If the charters are genuine (*David I Charters,* nos 31, 32)
[650] It was one of the nine woods of Coldingham protected by Malcolm IV and William I (Barrow, *Era,* Appendix A, 169-70, no 1; *RRS,* ii, no 46).
[651] Charters of the Heirs, no 9

The controversy over Swinewood eventually erupted in the 1220s and again in the early 1230s, when the prior and convent of Coldingham challenged the Dunbars' occupation of the toun, as part of its policy of securing and expanding its estates. Sir Patrick, who was increasingly running affairs and managing business for his father and who had probably been given Swinewood by him, surrendered the toun with its men and pertinents, admitting the wrong.[653] The witness lists of Sir Patrick's charter and the charter of confirmation by his father are identical and include Walter de Lindsay, sheriff of Berwick, and the two royal marischals, Hervey and David, suggesting that the action was brought in the sheriff's court at Berwick.[654] The quitclaim was confirmed by King Alexander at Roxburgh on 30 November 1222, the king's charter being witnessed by the two marischals, along with the Justiciar, Walter Olifard and Herbert, abbot of Kelso.[655] About 1231, it seems, the issue surfaced once more, probably because Sir Patrick had not surrendered Swinewood to the monks, possibly also because the assize of 1230 at Stirling, at which he had been present, had strengthened Prior Thomas's resolve.[656] On the 29 March 1231 Sir Patrick was confronted in the *curia regis* at Roxburgh with the evidence of the validity of the monks' claim to Swinewood, the charter of King Edgar.[657] He admitted their full right to the toun and demesne land and ceremonially surrendered them and all future claim on them. On the same day, probably at the same time, King Alexander confirmed the quitclaim and the solemn renunciation Sir Patrick had made.[658] On this occasion as in 1222 the Justiciar was present and probably here at least we can speak a session of the Justiciar's court, for a letter of Sir Patrick to the king seeking his confirmation tells of the quitclaim and suggests that the king was not present when it was made. Nor was the earl, by then very old and infirm. Sir Patrick wrote in notably affectionate terms to him, asking him to confirm the resignation and quitclaim; this he did, his charter witnessed by his

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[652] Charters of the Heirs, no 8
[653] Charters of the Heirs, no 7
[654] Charters to Coldingham, no 4. There are dating problems here. David the marischal appears as a witness as early as 1199 but as late as 1211 in William's reign. Hervey witnesses as early as 1185 and as late as 1213. Unless David and Hervey were marischals for forty-five years, which seems unlikely, or were succeeded in office by sons of the same name, their witnessing Patrick's quitclaim suggests a date earlier than 1230.
[655] DCM, MC. 624 (*ND*, no 64)
[656] MacQueen, *Common Law*, 143
[657] Charters of the Heirs, no 9. Prior Thomas swore that the charter was authentic.

doctor and three of his close associates. These included his neighbour Ranulf de Bunkle who had also witnessed Sir Patrick's quitclaim and who may indeed have brought it in person to the earl for confirmation. The monks filed Earl Patrick's confirmation carefully with the endorsement 'Lord Patrick earl of Dunbar's second confirmation regarding the quitclaim of the toun of Swinewood'.[659] Sir Patrick seems to have acted punctiliously, partly, we might guess, because of the rigorous legal process to which he had been subjected, but also because it was to his advantage. For we learn from a series of receipts and letters written in 1231 and 1232 that his quitclaim had been made in return for a substantial sum of money. Swinewood may have been described as a small toun, but it was a valuable asset. Sir Patrick's quitclaim was of all rights in demesne lands, men, services and homages; in woods and plains; arable and non-arable.[660] The sum agreed was at least 310 merks, including one hundred merks for the earl and ten merks for Sir Patrick's wife.[661] But the arrangement did not work smoothly. Soon after the judgment of 29 March 1231, Sir Patrick sent a letter under his seal to Prior Thomas, explaining that he would not be able to come in person for the money owed him and that he was sending two of his close associates, Sir Robert de Anesey and Sir David of Burradon, along with his lawyer, Robert of Lambden, who was authorised to carry his seal. Sir Patrick urged the prior to pay up without delay so that he would not be forced to poind his pledges, reminding the prior that the money owed was 100 merks for himself and 10 merks for his wife.[662] In December 1231 Sir Patrick acknowledged the late payment of 40 merks due in February of that year as part payment of the 200 merks owed him for the quitclaim.[663] That left an outstanding debt from 1231 of 160 merks

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[658] DCM, MC. 628 (*ND,* no 67)
[659] Charters to Coldingham, no 7
[660] Charters of the Heirs no 8
[661] Or 200 merks? (Duncan, *Kingdom*, p) It is difficult to know whether the totals are cumulative. The variation in the sums of money might be explained in different ways. The 100 merks alluded to in Earl Patrick's receipt could have been an instalment, payable twice a year and equivalent in total therefore to the 200 merks which was undoubtedly the sum owed by the prior and convent following the court judgment. The 10 merks for Sir Patrick's wife may represent interest charged on a late payment or a device to provoke the prior into breaking the earlier agreement.
[662] Charters of the Heirs, no 11. There is a possibility that this letter pre-dates the court judgment, for elsewhere Sir Patrick alludes to a payment due in February 1231 on which the priory had defaulted. (Charters of the Heirs, no 12). This might suggest that the non-payment was the reason for renewed hostilities in March.
[663] Charters of the Heirs, no 12

which was paid in 1232.[664] A receipt for the full payment was issued under Sir Patrick's seal in the summer of 1232.[665] A further receipt was issued by Earl Patrick for 100 merks, doubtless for the confirmation he had given and quitclaiming the priory of the debt which had now been paid in full.[666] Thereafter Swinewood apparently continued in the possession of the monks of Coldingham without further disturbance and appears as one of the priory's estates in the late thirteenth-century survey.[667]

lit is difficult to to envisage the case of Swinewood as any kind of business transaction masquerading as dispute.[668] If it were indeed a business transaction it was a remarkably convoluted one. It is extremely doubtful whether Sir Patrick or Prior Thomas would have negotiated the terms of a lease, let alone a sale, by such confrontational means, while the proceedings in court hardly suggest that the two sides were in collusion. Nor should the events necessarily be seen as an early model of a fully-fledged judicial process, instigated by brieve, judged in the royal court, bringing justice to bear on an aggressive and acquisitive family, and offering a wronged religious house the means of redress. There undoubtedly are strong overtones of a more tightly regulated system of justice centring on the king's courts. Yet we cannot be sure how the case was initiated, whether by brieve, or through traditional and less formalised but well-established procedures.[669] The account of proceedings in the *curia regis* given by Sir Patrick gives a vivid picture of judicial proceedings of a careful, and indeed rigorous nature, in the presence perhaps of the king, certainly of his Justiciar of Lothian, the Chancellor, and the Chamberlain, with documentation produced, inspected, and attested to under oath . What Sir Patrick acknowledges is the *plenum ius*, the full right of

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[664] Charters of the Heirs, no 13
[665] Charters of the Heirs, no 14
[666] Charters to Coldingham, no 8. It would make more sense if this charter could be attributed to Patrick II since it seems to come at the end of the payments and to represent a final settlement. But the seal is the second seal of Patrick I and, if it has been re-united with the correct charter, would date the charter to his earldom.
[667] *Cold. Corr.*, xcviii
[668] Professor Duncan (*Kingdom,* 411) speculates that Swinewood may offer an example of a conveyance of land accompanied by a capital payment – to all intents, a sale.
[669] MacQueen argues that ecclesiastical corporations such as Coldingham priory 'clearly used' brieves of novel dissasine and of right and that though there is no conclusive evidence here, Prior Thomas almost certainly launched the case against the earl by the use of a brieve (*Common Law,* 249).

Coldingham's claim to Swinewood, a foreshadowing of the *plenum rectum* of the fourteenth century brieve of right. His renunciation is made in a solemn, symbolic ceremony based on an older, non-verbal tradition. The settlement is underwritten by due legal process, the Justiciar and Lord Ranulf becoming guarantors of the payment to the earl, evidently a more efficacious procedure than the pledges given in the earlier settlement.[670] That earlier settlement may even have been arrived at in the court of Walter de Lindsay, sheriff of Berwick, and may have been appealed to the higher court or referred to it when the payments to the Dunbars lapsed. So we may be seeing the working of a well-regulated legal process, perhaps a hierarchy of courts with the king at its apex, and, just possibly, the initiation of actions by brieve; but much is conjectural.

What is clear is that far from winning a spectacular victory in the court at Roxburgh in April 1231, the prior and convent had secured possession of Swinewood, to which they already had a perfectly good title, only by becoming liable to pay a very large sum of money to Sir Patrick and his father.[671] The settlement was enforced by royal officers, and the money had to be paid. This does not mean that the outcome was an outright defeat for the prior. Swinewood was an assarted area of land whose value was probably increasingly sharply as it was developed and settled. The earls of Dunbar may have invested labour and materials in the land, for which they were given compensation. In getting Swinewood back, with their title to it unequivocally acknowledged, the prior and convent would presumably calculate that it was at the end of the day a price worth paying, however much they dragged their feet over it.

4. *Renton*

Renton too seems to have remained a source of conflict. Geographically, like Swinton, it was placed oddly in the Rufus charter, in this case because, though

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[670] Charters of the Heirs, no 13

[671] Described as a 'high price' on the basis of the valuation of the lands c.1298 (Donnelly, 'Lands', 107)

it was situated geographically in Coldinghamshire, it was confirmed to Durham by Rufus as one of the touns of Berwickshire. It was one of the Durham lands confirmed by David I in 1126-7 and it was securely in the Durham/Coldingham estate in 1235 and in c.1298.[672] A chirograph of 1166 x 1182, however, records an agreement made between the prior and convent of Coldingham and Earl Waldeve and the sons of Swein the priest concerning Renton.[673] It appears to be a three-way agreement but in reality the earl and Swein's sons are on one side, the priory and the convent on the other.

The gist was that Eustace, the third-named of Swein's eight sons, was given by the monks two ploughgates in Renton to be held of them in feu and heritage, on condition that he swear fealty to them. Apparently this was the land which his father had held of the monks in Renton at one time, for service, before having the ferme of the entire toun. Only one of Swein's sons, Jordan, was not party to the agreement. If he or anyone else raised an action against the monks concerning any right claimed by Swein in Coldinghamshire, then the earl would intervene, along with Eustace and his six other brothers. Almost certainly the charter is connected to a move by Coldingham priory, perhaps on the death of Swein, to repossess the toun and its territory, possibly in order to recreate demesne land.[674] About 1150 in Earl Henry's court at Berwick, Swein had quitclaimed and restored to the Coldingham monks Fishwick with all its pertinents in lands and waterways, half of Prenderguest and the land which he had in Coldingham and Lumsden; it may be that he chose or was allowed to keep some of the lands he held, such as Renton.[675] To prevent the ferme passing to Swein's sons, the priory may have offered one of them, Eustace, probably the eldest, two ploughgates as an hereditary feu. The priory's nervousness about a possible legal challenge is obvious. Eustace must swear fealty to the prior and convent. If Jordan, the son outwith the agreement, or any other person, raised an action against the monks concerning any right

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[672] *David I Charters,* nos 31-2 (*ND*, nos 15-16), DCM, MC. 973 (*ND* 435); MacQueen, *Common Law,* 140; *Cold. Corr.*, 241, xciii-xciv

[673] Charters to Coldingham, no 1. Swein is almost certainly to be identified as the king's priest who held extensive lands in Lothian. As priest of Fishwick he witnessed royal charters at Roxburgh (*David I Charters,* no 161, *ND,* no 22) and Coldingham in 1147 (*ibid,* 158, *ND,* no 21) and Bishop Robert's confirmation charter to Dunfermline (*ESC*, no 238).

[674] On the priory's policy of clearing tenants and taking land into demesne, see Donnelly 'Lands', 108-112.

claimed by Swein in Coldinghamshire, the earl undertook to intervene, along with Eustace and the other sons of Swein. The earl's son and brother and three of the priory's tenants in Prenderguest and Oldcambus stood surety for the agreement The witness list was also a balance of both sides.[676]

The fact of the earl's involvement is clear enough, the reason for it less so. He was plainly a major player. His family and followers gave pledges and witnessed the agreement, which he underwrote, promising actively to support it. Surely what is implied is that he had a claim to Renton, that he acted in pursuit of that claim in alliance with Swein's family, and that he and they had abandoned the claim, perhaps for compensation, in the face of the priory's determination to have the toun and its territory. Jordan alone would not agree and so there was a re-grouping against any possible challenge from him. On what did the earl's claim rest? Almost certainly Renton was another of the touns given to and taken back from Durham, and later claimed by the earls. Whether at any time it passed into their hands must remain a matter of conjecture. But Renton seems one more piece of the jigsaw – not geographically a toun of Berwickshire but included in that shire in an undoubtedly authentic charter, clearly located in Coldinghamshire, yet perhaps claimed by the earls as one of the touns of Berwickshire lost to Durham.

Boundaries

The definition of boundaries was a key aspect of the charters of the earls as early as the 1150s.[677] It is a particularly striking feature of their charters to Melrose, but also of their charters to May, to Newbattle, and to Dryburgh.[678] Where land – arable or pasture – was being granted, it might be physically defined by ditching or natural features such as rivers or existing man-made structures such as standing stones, cairns and roads.[679] Perambulations might

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[675] *David I Charters,* no 22
[676] At least six of the witnesses are identifiable as associates of the earl, five of the prior.
[677] Charters to Melrose, no 2
[678] Charters to Melrose, nos 2-4, 6, 8-10; to May, no 5; to Newbattle, no 2; to Dryburgh, nos 1-3
[679] Charters to Melrose, nos 4, 6, 14 ; to May, no 5; to Newbattle, no 2

take place to fix the boundaries in the memory of local people but even then the charter would frequently spell them out.[680] The recitation of rightful boundaries was of course of prime importance in defining the grant and so even where they were not named, they would be identified as those by which a previous occupant held the land, or as those described in a previous charter.[681]

We should not always envisage boundaries as dividing lines between adjoining contiguous estates. The pattern of nucleated settlements with territory emanating from the toun meant that its boundaries were rigidly controlled and measured for assessment purposes, creating islands of settlement, cultivation and pastureland. Beyond the boundaries lay the waste.[682] It was mainly in the more fertile areas where cultivation and land reclamation were taking place that boundaries increasingly came to mean divisions between the lands of one lordship and another, or the lands of different people within the lordship. The charters allude to boundaries between the lands of Patrick I and the lands of William de Vieuxpont near Duns, between Spott and Stenton, between the lands in Hassington of Robert de Muscamp's mother and sister and himself.[683] As the waste retreated in the face of disafforestation and reclamation in the Gala-Leader area, boundaries had to be defined. The abbeys of Dryburgh and Melrose, for instance, made a boundary settlement between their granges of Colmslie and Kedslie.[684] Some twenty years later Earl Patrick settled with Dryburgh over the boundaries between Kedslie and his lands at Earlston. He perambulated them in person, accompanied by his trustworthy men, and gave them a certificate and a charter announcing what he had done.[685]

It is, however, in Billie that we can most clearly discern the process of drawing boundaries in hitherto unreclaimed land. Four charters of the earls of

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[680] Charters to Melrose, no 9
[681] Charters to Coldstream, no 5; to Dryburgh, no 1; to Kelso, no 4; to Newbattle, no 5
[682] R.R. Dodgshon, 'Medieval Rural Scotland', in *An Historical Geography of Scotland,* eds. G Whittington and I.D. Whyte (London, 1983), 50
[683] Charters of Heirs, nos 2-3; to Melrose, no 2, an early example from a very fertile area; *Melrose Liber* no 232
[684] *Dryburgh Liber,* no 13
[685] Charters to Dryburgh, no 3

Dunbar[686] relate to the settlement of a dispute between the earls and Coldingham priory over the marsh of Billie, by Billiemire Burn, a tributary of the Whiteadder which was named in the charter of protection of King William to the monks of Coldingham as one of the ancient boundaries of their lands.[687] Billie castle,still visible, was a Dunbar stronghold. The marsh was important for many reasons. It was an extensive area of marginal land which was being brought into use for grazing, testifying to the pressure on pastureland in south-east Scotland. It was situated where Coldinghamshire marched with Bunkleshire and Berwickshire and since the time of David I the question of this boundary had involved the king.[688]

The settlement between Earl Patrick and Prior Thomas is recorded in a chirograph endorsed *de Diuisis*, and it effected a partition of the marsh. Both parties undertook to keep out of the other's half completely. The animals of one must not be grazed in the half belonging to the other and their men must not harvest or gather or remove anything in the other half. In a separate charter Earl Patrick granted the prior and convent in free alms their agreed half, between the two Restons and Auchencraw in Coldinghamshire on one side and the earl's lands of Chirnside and Blackburn in Berwickshire on the other.[689] On many levels these are interesting documents. The second witness listed in each, after the earl's son, is Walter de Lindsay, as sheriff of Berwick. Almost certainly we can assume that the settlement was reached in his court. The witness list includes, in addition to the sheriff and the earl's son, a balance of five Dunbar and five Coldingham people. The seal of Thomas de Melsonby and the second seal of the earl are attached to the chirograph and this, with the prominence of the earl's son, Sir Patrick, places the charter in the context of that rather heightened last decade in the long earldom of Patrick I when the priory of Coldingham was pursuing a forward policy with regard to property, securing titles through litigation and clashing with the earl's son over

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[686] Charters to Coldingham, nos 5-6, 9- 10
[687] *RRS*, ii, no 181 (1173 x 1178), the confirmation of boundaries between Coldinghamshire and Bunkleshire by King William witnessed by Earl Waldeve
[688] *David I Charters*, no 41
[689] Charters to Coldingham, nos 5-6

Swinewood.[690] The presence of Prior Thomas at the *colloqium* at Stirling in 1230 when the 1230 statute on dissasine was said to have been made is surely of significance here. The statute offered redress via the sheriff court, exactly the procedure followed here. The dispute over Billie may pre-date the Stirling assembly, yet in all likelihood the statute of 1230 followed practice rather than the other way round, enshrining in a royal act the procedures already followed in settlements and judgements of claims and disputes. Because the record of the earl's charter survives there is a tendency to see the outcome as a victory for the priory, but this was not necessarily the case. Perhaps retaining half of the marsh on these terms was at least a partial victory and a significant consolidation of the boundaries of the Dunbar estate. Within a few years of his accession to the earldom in 1248, Patrick III gave two charters to the priory confirming the settlement arrived at by his grandfather and Prior Thomas, restating the boundaries in each.[691] The shorter of the charters has a very distinguished witness list, including the sheriffs of Berwick and Roxburgh and their immediate predecessors.[692] It refers to, but does not detail, the terms of his grandfather's agreement.[693]The other fuller version names Prior Henry and repeats the prohibition on entry to or use of the other's land by either party.[694]

Much about the Billie case remains unclear. As in many of the disputes over land and boundaries in which the earls were involved, it would be difficult to identify winner and loser. In a more general sense, however, what the charters do elucidate is that in the case of the Dunbar earls, as with others, property came and went, and that in an age of heightened demands and pressures on the land, it was inevitable that there should be competition and friction. At the same time, royal intervention was becoming more systematic, and so disputes became formalised and recorded in new ways which can lead to the

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[690] Walter de Lindsay, sheriff of Berwick, occ.c.1212 x 1226 (Reid and Barrow, *Sheriffs*, 6); Thomas de Melsonby prior 1229-1234 (HRHS, 30). For the conflict over Swinewood, see above, p 144

[691] Charters to Coldingham, nos 9 -10

[692] David de Graham, sheriff of Berwick, occ. 1.12.1246 and 21.04.1248 x; Aymer de Maxwell, sheriff of Roxburgh, occ. c.1248 x; their predecessors, William de Mordington, sheriff of Berwick, occ. 2. 08.1247 and Nicholas de Soules, sheriff of Roxburgh, occ. 1.12.1246 and 21.04.1248 (Reid and Barrow, *Sheriffs*, 7, 38).

[693] Charters to Coldingham, no 10

[694] Henry de Sylton, prior of Coldingham, 1248-1260 (*HRHS*, 31). Charters to Coldingham,

impression of constant litigation. Whatever the outcome for the Dunbar earls in Edrom and Nisbet, in Swinton, Swinewood and Renton, the evidence available to us is of a vast estate, remarkably consolidated, with an abundance of natural resources to enrich the Dunbar lordship. These resources were managed and exploited through tenurial structures, which the charters describe, often incidentally, and which form the subject of the following chapter.

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no 9

The exercise of lordship in the tenure and transmission of land

The earl's tenure

When Gospatric, erstwhile earl of Northumbria, received from Malcolm III Dunbar and the lands adjacent, he must surely have taken an oath of loyalty or allegiance to the Scottish king.[695] He would almost certainly have become his 'man' as Malcolm was said to have become the Conqueror's man at Abernethy in 1072.[696] Certainly it is inconceivable that Malcolm should not have sought to secure by all possible means the loyalty and fidelity of his new subject. Oaths and solemn undertakings are one thing. We can infer that they were given, but we cannot point to evidence of conditions attaching to the grant, of any obligations or services other than the traditional ones owed to the king and reserved by him in later charters – leadership of the common army, and the dues of hospitality. Nor is there record of any grant of the earldom then or later to compare with the grant of Fife to Earl Duncan I by King David about 1136, for stated but unspecified service, or with William I's grant of the earldom of Lennox to his brother David, with lands in the east of Scotland, for the service of ten knights.[697] There is, in other words, no evidence in any of the royal charters of the period, or beyond, that the earldom of Dunbar was or became a feu held by the earls of Dunbar of the king.

The acquisition of their further extensive lands in the Merse and westwards towards Lauderdale by Gospatric's family is undated and undocumented. Parts of the earls' estate therefore would be granted on particular terms and conditions for which the evidence has not survived. Some evidence however from the mid-thirteenth century appears to show how things may have changed in the century and a half following the original grant. Land in

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[695] The view that such an oath was 'likely' has been revised upwards following a discussion with Professor Barrow, who regards an act of homage or *mannraeden* as the least the king would demand in return for such an enormous estate (Comment, June, 2003).

[696] The Anglo-Saxon Chronicle states that Malcolm became William's man (*The Anglo-Saxon Chronicle, ed.* M. Swanton (London, 1996), 208). On the erasure of the phrase from the Melrose Chronicle, see D. Broun, 'The Church and the origins of Scottish Independence in the twelfth century', *RSCHS*, xxi, (2001), 1-2; Duncan, *Kingdom*, 119; *The Kingship of the Scots* (E.U.P. 2002), 45.

Galloway was granted by the king to Patrick II who was a commander there during the campaign of 1235. The charter of the Galloway grant, if it existed, is lost but the land was later exchanged for forest in Dundaff and Strathcarron in Stirlingshire which Earl Patrick granted within two years to David de Graham. We have only the charters by which Alexander II confirmed both the exchange and the earl's grant and they clearly indicate that the land was granted to the earl *in libero foresto*, for homage and service, in feu and heredity, for the service of one third of a knight. The grant to David de Graham by the earl is also reportedly *in libero foresto*, the land to be held of the earl also for homage and service, in feu and heredity, for the service of one third of a knight, but also *cum socco et sacca et fossa, cum tol et them et infangandthief*.[698] Here is surely incontrovertible proof of the feudalisation of tenure, in the grant of king to earl and earl to tenant. It would be perverse to argue that the concepts of feu and knight service, of homage and service and of jurisdictional rights did not underwrite these particular words and that both language and concept had not clearly gained ground over a century and a half, but too much cannot be assumed, for this is a new grant, of land which is royal demesne and which lies outwith the Dunbar estate in Lothian and the Merse. And then the speed with which the lands in Galloway and Stirlingshire were exchanged and the forest granted, and the fact that the service owed from each was identical (even allowing for commutation) suggests that some arrangement lay behind this smooth operation, that David de Graham, who held other extensive lands in the Stirlingshire area, wanted the Stirlingshire forest and that the earl, who was his close associate as well as his lord, facilitated the process. This is, in other words, a new, late and particular example which may not be at all typical, certainly of the Dunbar lordship.

Are we to regard the twelfth and thirteenth-century Scottish kings as in some sense feudal overlords of the earls?[699] According to the surviving evidence, there are twenty-two royal confirmations of acts of the earls in the period, and

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[697] *RRS*, i, no 63; *RRS*, ii, no 205. The grant by David I of the earldom of Fife, by charter, for fixed service, is discussed in G.W.S. Barrow, 'The Beginnings of Military Feudalism', *Kingdom*, 253. For the other earldoms including Strathearn and Lennox, see *ibid.*, 269-70.
[698] Charters to Laymen, no 6

two of the acts of Sir Patrick, the earl's son, relating to Swinewood. They are products of differing circumstances, some marking the great occasion, others apparently run-of-the-mill.[700] A royal confirmation seems to have been generally regarded as a good thing to have, part of the 'insurance strategy' of the religious house at which Melrose was particular adept.[701] In other cases confirmations followed the resolution of a dispute and were part of 'the growing systematisation and regularisation of royal justice'.[702] Whether cases come before the king in person, as in the case of Sorrowlessfield which William heard in July 1208 at Selkirk; or Hassington, which Alexander II heard at Berwick in April 1248; or whether they apparently came to the Justiciar's court, in the case of Swinewood in 1222 and 1231, or the sheriff court at Roxburgh, where Edrom and Nisbet were probably finally settled on Durham, the king's role appears overwhelmingly to resolve disputes and effect justice.[703] The intervention of the king in land disputes, after all, had a long history, stretching back before the reign of David I.[704] No royal confirmations claim that the land is ultimately the king's, nor do they claim any rights of lordship for him except the reservation of his right to service, a reservation which increasingly frequently appears in the charters.[705] The earl would continue to be responsible for providing forinsec service in lands granted in alms to religious houses except in specified cases such as Edrom and Nisbet where it was to be the responsibility of the Durham monks at Coldingham.[706] Gospatric the

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[699] Professor Barrow suggests that though the term 'allod' is not normally used of estates in Scotland, the Dunbar estates could be categorised as such; but this might simply mean replacing one label with another in the quest for a pattern (Comment, June 2003).

[700] Four, the charter of David I to Coldingham in 1147 and the three charters to Kelso of Malcolm IV and William I, clearly link to the great occasion, the consolidation of many different grants into the definitive estate of the house (*David I Charters*, no 158; *RRS*, i, no 131; *RRS*, ii, nos 63, 367). By contrast there were examples of the king giving a charter of confirmation to a religious house for one property, and being prevailed upon to give it for several (*RRS*, ii, nos 81-3).

[701] Dauvit Broun, *The Charters of Gaelic Scotland and Ireland* (Cambridge, 1995), 25. He adds that kings were ready to oblige with confirmations, which were useful publicity tools; this may have led to the view that the land was ultimately the king's. Melrose was as careful in obtaining royal confirmations as in securing the heir's consent and warrandice for lands granted to it. Whether or not the assumptions which lay behind the quest for confirmations were clear to contemporaries is difficult to judge.

[702] MacQueen, *Common Law*, 247

[703] *RRS*, ii, no 483; Charters to Melrose, nos 16-17; *ND* nos 64, 67

[704] E.g. *ND*, no 9

[705] Eg for Sorrowlessfield (*RRS*, ii, no 482); the south toun of Lennel (*Cold. Cart.*, no 56); Swinewood (*ND* 64, 67).

[706] In one charter to Melrose the earl explicitly acquits the monks of forinsec service owed to the king (Charters to Melrose, no 10). But for Edrom and Nisbet it was otherwise: the monks were excused secular services except corrody and *excepto exercitu Regis unde monachi*

brother of Dolfin almost certainly led the men of Lothian at the Battle of the Standard in fulfilment of this ancient obligation.[707] Earl Waldeve, though counselling against war in 1173, stated his readiness to fulfil the service and bring his men to fight in King William's army.[708] When John's forces burned Dunbar and captured Dunbar castle in 1215-1216 they were attacking the castle and lands of one who would fight for the Scottish king.[709] Patrick II in Galloway in 1235 and at Newcastle with Alexander II's army in 1244 may have preferred to serve as a knight rather than the leader of foot soldiers.[710] In addition to traditional military service, corrody or hospitality was owed to the king and, in the case of Edrom and Nisbet, as doubtless elsewhere, was commuted to a payment of 30 shillings a year.[711]

Were the lands of the Dunbar earldom always held heritably by the earls? It is possible that the Dunbar lands did not pass at once to Gospatric brother of Dolfin, son of the earl given Dunbar by Malcolm III. It is also possible that Gospatric was not the eldest son, though he may well have been legitimate.[712] In 1138, however, it seems clear that Gospatric brother of Dolfin had been succeeded as earl and in his lands by his son Gospatric, who almost certainly was the eldest.[713] From then on succession appears to have been enjoyed securely by the eldest son, each successive earl rehearsing his lineage in his charters.[714] The recitation of generations is a striking demonstration of how succession from one generation to another eventually shades into heritability; a norm, in other words, evolving into a code or a rule before it becomes stated

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erunt attendentes ipsi Regi, et ipse Gospatricus de exercitu erit quietus inperpetuum (ND, no 21).

[707] Henry of Huntingdon graphically describes the line of the men of Lothian hurling spears and javelins at their opponents until put to flight by the death of their leader, whom he calls 'the chief commander of the men of Lothian' (*Historia Anglorum: the History of the English People, by Henry, Archdeacon of Huntingdon*, ed. D. Greenway (Oxford, 1996), 717).

[708] Jordan Fantosme has the earl say, 'Do not imagine I shall fail you in war, so long as I am living' (*Chronique de la Guerre entre les Anglois et les Ecossois en 1173 et 1174*, ed. R. C. Johnston (Oxford, 1981), 28-31).

[709] *Histoire des Ducs de Normandie et des Rois d'Angleterre,* ed. F. Michel (Paris, 1840), 164; *Chron. Lanercost,* 18, s.a. 1215

[710] *Chron. Melrose,* 84, s. a. 1235

[711] Again the exemption from secular services *exceptis triginta solidis quos prefati monachi dabunt filio eius Gospatrico* (*ND,* no 21).

[712] The claim that Gospatric was illegitimate rests on a document of the monks of Holm Cultram (*Cal. Docs. Scot.*, ii, no 64) which is of doubtful validity but which continues to inform the judgment of historians (Hedley, Northumberland Families, i, 241; Phythian-Adams, *Land of the Cumbrians*, 155).

[713] Charters to Durham, no 3; *ND,* no 21

law.[715] Here as elsewhere 'primogeniture in heritage became part of the mind-set of noble society in the twelfth century'.[716]

There are other signs in the charters that heritability in the form of primogeniture was becoming established as an integral part of the title to land. In what is probably the earliest of the extant Dunbar charters the earl's sons participate in the grant[717] but it is not until the mid-twelfth century that the son of the earl begins to be designated as such in the witness lists of charters which record benefactions.[718] The earliest charters do not convey a sense of the unique importance of the eldest son and the exclusiveness of the relationship of earl and heir. But by the second half of the twelfth century the eldest son of the earl is increasingly designated 'son and heir'. This phrase first occurs in the witness list of a charter of the late twelfth or early thirteenth century of Waldeve's son Patrick I giving additional land in Lammermuir to Melrose.[719] It is anticipated in the charters of the earls Gospatric and Waldeve granting pasture in Lammermuir and confirming Hartside and Spott to Melrose Abbey which refer to the agreement and consent of the heir.[720] About the year 1208 Earl Patrick I yielded Sorrowlessfield to the Melrose monks 'with the agreement and consent of Patrick, 'my son and heir.'[721] In 1247 his son Patrick II stated that the sale of his stud at Lauder was 'by the will and consent of Patrick, my son and heir'; and in these exact terms Sir Patrick witnessed the charter.[722] Hudson reminds us incidentally that the bland phrases may conceal some hard preliminary bargaining, though only the Lauder sale details a cash settlement on the heir in return for his consent.[723] It is surely no coincidence that the examples of the use of the term 'son and heir' first appears in the charters of the earls to Melrose Abbey. Almost certainly these were drafted by the Melrose monks motivated by their desire for a strong and continuing title to

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[714] Charters to Coldingham, nos 9-10; to Durham, nos 3-5
[715] On principles, norms and rules, see Hudson, *Land, Law, Lordship,* 10.
[716] Duncan, *Kingship*, 80
[717] Charters to Kelso, no 1
[718] Charters to May, no 1 as 'son of the earl'; to Coldstream, no 2 and to Melrose, no 2 as 'my son'.
[719] Charters to Melrose, no 9
[720] Charters to Melrose, nos 2-4
[721] Charters to Melrose, no 12
[722] Charters to Melrose, no 15
[723] Hudson, *Land, Law, Lordship*, 182 ; Charters to Melrose, nos 15, 18

the land. This was of course of mutual benefit to donor and donee.[724] In certain circumstances, such as deathbed gifts, there is some evidence that in England the consent of the heir was crucial in validating the grant.[725] For his part, the earl would welcome the emphasis on the succession of his son as useful publicity for his dynasty.

There were other significant developments. In charters of Gospatric and his son Waldeve to Kelso and Melrose, the land granted was to be held of the earl and his heirs[726] and by the thirteenth century this was the norm for new grants.[727] Warrandice was given on behalf of the earl and his heirs to Melrose by Gospatric and Waldeve, to Melrose and Dryburgh by Patrick I[728]; and thereafter all warrandice clauses as such include heirs, perhaps the clearest expression of the principle of heritability.[729] During the thirteenth century the earls began to make quitclaims and give undertakings on behalf of themselves and their heirs.[730] On both sides the advantages of including heirs were undoubtedly driving the changes and establishing heritability as an accepted principle. How far it could be described as a law of inheritance is another matter; but certainly when lawyers set out to theorise and codify, they would be shaping well-established practice into law.

The earls and the disposition of their land

Land was the fundamental asset of lordship and it was exploited in a multiplicity of ways. Some was retained as demesne, though of what proportion of the entire estate is impossible to assess: since it was not

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[724] 'The grantor and the grantee both wished the grant to be as secure as possible. Thus, e.g., the *laudatio parentum* language of inheritance in twelfth-century England (Hudson, *Land, Law, Lordship*, 194-6).

[725] Hudson, *op. cit.*, 182. Gospatric's grant of Edrom and Nisbet may have been a deathbed grant (Charters to Durham, no 1). See above, p 138

[726] Charters to Kelso, nos 4-5; to Melrose, nos 2, 4

[727] Under Patrick III, for instance in Charters to Coldstream, nos 13, 15; to May, no 5; to Coldingham, no 9

[728] Charters to Melrose, nos 2-4, 8-10, 12; to Dryburgh, no 3

[729] Only Patrick I's charter confirming Mary of Hailes' gift of land in North Hailes to Newbattle Abbey omits any reference to heirs, in an unusually-worded clause (Charters to Newbattle, no 3).

[730] E.g. Charters to Melrose, nos 14-15; to Coldingham, no 7; Charters to Melrose, no 18; to Coldingham, nos 9, 12; to Durham, nos 8-9

transmitted, it would be rarely alluded to in the charters.[731] Most other land is likely to have been granted to members of the immediate and wider family and to associates and subordinates outwith the family who, interestingly, were rarely referred to as tenants, an economic term. Other land was set at ferme. As early as the twelfth century we read of lands in east Lothian and Hume in Berwickshire set at ferme.[732] Hume was a well-organised, fairly sophisticated set-up. It is not clear whether the two instalments of 25 merks paid in the sixth and seventh year of the agreement represented the entire ferme or whether the earl and his son had put an extra charge on to the existing rent, payable in two instalments. But they obviously controlled the finances carefully. We see a similar hard-headed business-like approach in the dispute over Swinewood in which Earl Patrick's son, Sir Patrick played the major role.[733] In the Coldstream charters a witness is described as the earl's *firmarius*, someone, perhaps, in charge of the fermes, but, more likely, someone holding land in ferme.[734] The Hume lease was for ten years, but probably many leases were shorter and unrecorded. Some land was granted to the Church and in particular in the case of the Dunbars to the religious houses of Melrose, Newbattle, Dryburgh and May, all founded between 1136 and 1153, and also to their own foundations of Eccles in the 1140s or 1150s, Coldstream by 1166, and possibly St Bothans.

The evidence

For at least some of the earls' grants to lay people there would be charters. Seven such grants are recorded. For four of these no text survives – Patrick I's grants of Ruchlaw and then Tranent to Bertram Seton and his grant of land near Duns to Alan, Thomas' son, and also Earl Patrick II's grant of Dundaff and Strathcarron to David Graham.[735] The three surviving charters, all of the thirteenth century, record grants to people outwith the family.Two are

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[731] Charters to Melrose, no 16, a rare reference to the earl's demesne land
[732] *RRS*, i, nos 132-133; Charters to Kelso, no 9
[733] Charters of the Heirs, no 11
[734] *Cold.Cart.*, nos 22 and 31. Simpson, 'RQ', discusses the meaning of the term, which probably means simply someone who holds land in ferme, as in the rental survey of c. 1298 (*Cold. Corr.*, lxxxviii).

confirmations by the earl of grants of his dependants to a third party and are therefore not so informative about the terms on which land was held of the earl.[736] The third survives in the original and records Patrick III's grant of the homages and services attaching to some of his lands and holdings in the toun of Graden to Geoffrey and Margaret Caldicott.[737]

The proportion of the earls' lands granted in benefactions to religious houses may have been smaller than the volume of surviving evidence (85 of the 92 acts) suggests. There is the almost irresistible impression that most land transmission and tenure had to do with the Church, whereas in reality most probably involved laymen. We are reminded however by Dauvit Broun that the general increase in the proportion of lay charters of the thirteenth century may also reflect a real growth in the proportion of lay charters.[738] The preponderance of early charters granting in alms may, more than we have previously thought, reflect the fact that a high proportion of land transactions in the earldom of Dunbar were indeed of this genre, and that their survival rate is in part due to the fact that charters recording them *were* routinely sought and written (as well as kept). The survival of so many charters recording gifts in alms should not therefore be seen as an unfortunate shortcoming of the evidence but as a significant feature in itself. From the texts of these seventy-two acts, moreover, information can be gleaned not just on grants in alms but also indirectly and incidentally on grants to laymen and on lay tenure.

1. Grants in alms to the Church

We have already seen that in the charters of the earls, land conveyed to the Church was usually said to be given in alms, except where it was the subject of a quitclaim or the confirmation of a quitclaim or the grant of a third party.[739] The term 'in alms' was apparently unusual in England and Normandy before

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[735] Charters to Laymen, nos 1-3, 6
[736] Charters to Laymen, nos 4 and 5
[737] Charters to Laymen, no 7
[738] Broun, *Gaelic Charters,* 10
[739] E.g. Charters to Coldingham, nos 4 and 7; to Durham, no 6. See above, p 84

the Conquest but it was gradually adopted to replace inheritance language in charters to the church.[740]

'In free alms' has been described as the first to develop as a recognised form of tenure in Scotland.[741] Yet when land was granted by the earls as *elemosina* or *in elemosina* was this primarily a description or a categorisation? When, if ever, did it become a recognised form of tenure? The same question might be asked of other grants and forms of tenure such as *in foresta*, and in the case of women, *in liberum maritagium, in dotarium, in viduitate*, but it is only in the case of grants *in elemosinam* that there is sufficient evidence to trace patterns and make comparisons.

Land granted in alms was described in a memorable phrase – 'It is given to God, but it is held of the lord'.[742] Because the tenure was always said to be perpetual[743] it is sometimes regarded as not really tenure at all, but a form of ownership or possession based on perpetual alienation.[744] Yet every charter of the earls endowing Coldstream and Dryburgh, for instance, uses a form of the verb 'tenere' either in the holding clause or in the *sicut* clause. In the earliest Coldstream charters the religious are said merely to hold, but later they are said to hold of the earl and his heirs. In the Melrose charters, however, as early as the mid-twelfth century the land granted in alms is said to be held of the earl and his heirs, an echo of the other measures Melrose took to secure its title.[745] Even when the earl appears to surrender the land rather than bestow it spontaneously, the term 'alms' may be used.[746] So Edrom and Nisbet were given in alms, for ever, with the protection of a double anathema. Yet it is clear from King David's confirmation of 1147 that the touns and church

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[740] Hudson, *Land, Law, Lordship,* 90.
[741] Isabel A. Milne, 'Land Tenures in Scotland in the XII and XIII Centuries', unpublished PhD thesis (hereafter Milne, 'Land Tenures') (Edinburgh ,1953), 34
[742] Milne, 'Land Tenures', 321
[743] Every grant in free alms in the earls' charters is 'perpetual' or 'in perpetuity'.
[744] Dr Stringer, while dubbing the statement that alms is held of the grantor as 'a somewhat indelicate assertion', concludes that grants in alms established a tenurial relationship 'technically' (Stringer, 'Earl David Charters', 86). Professor Barrow stresses the spiritual countergifts which were the conditions- implicit or explicit- on which the land was held. If the recipients failed to perform these services the gifts could presumably revert. Thus the tenurial basis of grants in alms was preserved.
[745] Eg Charters to Coldstream, nos 1-7 compared with nos 9, 13,15; to Melrose, no 2
[746] E.g. Charters to Durham, no 1

were held by the monks of the earl and that though they were to perform military service for it they owed him, presumably as lord of the lands, the service of corrody or hospitality commuted to a money payment of thirty shillings per annum.[747] As late as 1261 Earl Patrick III tried to claim revenue from wardship and marriage rights in East Nisbet, as lord of the land; and though he did not succeed he re-iterated his right to the thirty shillings from Edrom and East Nisbet, now to be paid by the prior of Coldingham.[748] Whether the quitclaim by Earl Patrick in 1279 of his right to hospitality in the priory represents the ending of this particular obligation is difficult to determine – the presence of two sheriffs might suggest that the earl had been compelled to surrender his rights.[749] Yet in 1147 there was no doubt that the earl was entitled to the payment for corrody, and this could only have been on account of his lordship. Thus holding in alms here was surely tenure in the full meaning of the term.[750] Over the period there may have been a change with grants *in elemosinam* still a fluid concept in the twelfth century but more rigidly defined by the thirteenth. Or perhaps the change was rather an increasing use of an accepted and recognised formula as a way of neatly summarising a complex transaction. Possibly the same trend can be seen in the increasing use of the full-blown phrases *in puram et perpetuam elemosinam* and *in liberam et puram et perpetuam elemosinam* which first occur in charters of the middle years of the earldom of Patrick I, after about 1200, the latter and longer form predominating by the mid- to late thirteenth century.[751]

The tenurial return on land granted in alms was service of a particular kind which is almost invariably undefined. Counter gifts were spiritual services such as prayers.[752] William of Greenlaw's charter granting Hassington to Melrose mentions prayers and supplications.[753] The fourteenth-century charter of Patrick III's grandson, John, confirming a merk of silver from Birkenside to Dryburgh abbey tells us what he was to receive. John and his wife and his

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[747] *David I Charters,* no 158
[748] Charters to Durham, no 9.
[749] Charters to Coldingham, no 12
[750] As such, it could be taken back and re-granted, recalling the description of Cluny's estate as 'property in flux' (Barbara Rosenwein, *To Be the Neighbor of St Peter: The Social Meaning of Cluny's Property (*New York and London, 1989), 4.
[751] See above, p 84.
[752] Charters to Kelso, no 4, a rare allusion in the Dunbar charters to counter-gifts.

children were to be received into confraternity. They were to be permitted full participation in the masses, prayers and other benefits of the church of Dryburgh.[754] Almost certainly these would be the countergifts which Sir Patrick and his wife and family had received when he made the original grant between about 1213 and 1232 and what he would continue to enjoy as earl.[755] This evidence, retrospective in nature, is all we have.

Over the period of time covered by the charters there would clearly be movement. The *sicut* clause, as we have seen, relates grants in free alms to current accepted practice in different contexts.[756] The referencing of tenure in alms in the thirteenth century to a national standard indicate at least that some kind of uniformity was beginning to be acknowledged throughout the kingdom. Tenure in free alms in other words was evolving into an identifiable and recognisable tenure which was at least a norm and perhaps even a legal category.

2. *Lay tenure and grants to lay men and women*

In structural terms the earls disposed of land to provide for the members of the immediate and wider family. Foremost was the promotion of inheritance by the heir.[757] Younger sons were also provided for from the earl's estate. There is no surviving charter recording this type of grant, however, and no certainty that such charters were routinely issued. Dunbar younger sons might and did inherit lands from their mother or their mother's marriage portion.[758] Daughters and their husbands were provided by the earl with the marriage portion or tocher.[759] There is very little evidence of dower land given to the earls' wives;

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[753] *Melrose Liber*, no 234
[754] *Dryburgh Liber*, no 311
[755] Patrick II gifted the silver from his wife Euphemia's marriage portion of Birkenside to Dryburgh before his accession to the earldom (Charters of the Heirs, nos 5-6).
[756] See above, p 84.
[757] See above p 158.
[758] Patrick, younger son of Gospatric at Greenlaw and Hirsel, Hirsel perhaps from his mother; William, younger son of Patrick I at Fogo.
[759] Gospatric's daughter Juliana and Ranulph de Merlay were given extensive estates from her father's Northumbrian lands; Ada, Patrick I's daughter all or part of Hume (*Cal. Docs. Scot.*, i, no 1712; *RRAN*, ii, no 1848; *Kelso Liber*, no 129).

after Countess Ada they all outlived their husbands by many years, but there is no evidence of their having been given any particular estate.[760]

There was a network of family connections based on the earls' lands.[761] All involved continual land transactions with portions of the estate passing into the junior line. In all this there was a potential downside since land alienated through family grants became unavailable for other uses. But lands given to the earl's heir were not lost to the estate, and would be re-united with it when the heir succeeded, or granted to the next heir as demesne. Lands seem to have been rejoined the main estate also if there was a failure of heirs, as perhaps in Hume.[762] Greenlaw and Hirsel may offer another example, for William, Patrick's son, lord of Greenlaw and Hirsel refers to his wife as *M. Comitissa*. She has been identified as Margaret, Countess of Brittany; if so, this would have been her third marriage.[763] No children of the marriage have been recorded and the lands may therefore have reverted to the senior line. In the last analysis too, as in the case of his kinsman Patrick Edgar, the earl could use his court to re-possess the land as long as he could provide some degree of legal justification for so doing.

Where members of the family made grants from their own lordships the earl might witness the grant. Or he might give a charter of confirmation, though few such charters survive.[764] The process of grant and confirmation could become a complex business over the years. Hirsel is a case in point. Earl Gospatric's wife Deirdre's grant of a ploughgate in Hirsel with its church to Coldstream was confirmed by the earl.[765] Their son Earl Waldeve also gave a confirmation, though Hirsel had already passed to his younger brother Patrick.[766] Patrick also confirmed his mother's grant in a charter, now lost. Patrick's son William inherited Hirsel from his father and confirmed Earl Waldeve's charter of confirmation and his father's, but specifically with regard

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[760] Hirsel may have been given by Gospatric to his wife Deirdre (Charters to Coldstream, nos1-2). Euphemia, Patrick II's widow, died at Whittingehame, the family seat inland.
[761] See below, p 194.
[762] Charters to Kelso, nos 9-10
[763] *Kelso Liber,* no 78; W.P.Hedley, *Northumberland Families* (Newcastle, 1968-70), i, 237
[764] Charters to Coldstream, nos 3 and 8; to Kelso, no 8
[765] Charters to Coldstream, nos 1 and 2
[766] Charters to Coldstream, no 3

to Hirsel church.[767] William's charter was then confirmed by his cousin, Earl Waldeve's son, Patrick I.[768] Patrick II confirmed Hirsel, land and church, to Coldstream and made a new grant of land in Hirsel to Coldstream.[769] Here, therefore, are quite sophisticated structures with interracting layers of family and lordship in the one area. Almost certainly these confirmations were pragmatic affairs, occasioned by the wish to maintain and renew the relationship with Coldstream, and on practical circumstances like death or succession which sparked calls for the original grant to be renewed and secured. Again, whether any legal principle is at work is another question. Possibly legal frameworks were being created which might in time be shaped into law.

The people who held land of the earl

Among the earl's people described in the following chapter, individuals and families outwith the Dunbar family circle were granted often extensive lands in the Dunbar earldom. In the 1160's charters founding and endowing Coldstream priory we hear of thanes and drengs, perhaps former Northumbrian aristocracy native to the soil, perhaps descendants of those who came north with Gospatric in the eleventh century to Dunbar.[770] Whether they settled into estates resembling thanages and drengages or newer kinds of lordship we do not know. Haldane of Edington, *dapifer* to the earl, Ketel of Leitholm and Edulf of Lennel who witnessed or were referred to in charters to Coldstream, Melrose and Coldingham may well be descendants of those who made the transition from Cumbrian landholder or Northumbrian thane or dreng to Scottish landholder. Kilvert, also of Northumbrian, perhaps Yorkshire origin, became lord of Hailes and his descendants, the Frasers, are to be found in the earls' Lothian lands of Fortune and Hailes, and in Drem. [771]

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[767] *Cold. Cart.*, no 15
[768] Charters to Coldstream, no 7
[769] Charters to Coldstream, nos 9-10
[770] Charters to Coldstream, nos 1-2.
[771] Charters to Coldstream, nos 1-2, 4; to Melrose, nos 2-3, 6; to Coldingham, no 1; to Durham, nos 1,2-4; to Newbattle, nos 1-5

The charters of the earls to Coldstream abound in references to people who held of the earl. Their own charters show them to be people of importance, like the Frasers, who held directly of the earl – the Gordons, the Marshalls, the Huttons, the de Mailles, the Setons, and the three generations of the family who held Darnchester.[772] They too retained land in demesne, provided for wives, sons and daughters, exchanged and sold land. They granted lands to tenants for money rents and services and to religious houses in alms. Land tenure and transmission was intensely familial. In the Coldstream charters for instance a father and an heir give consent; a son, a brother, a nephew and an uncle confirm.[773] So land transmission here and elsewhere within the earldom, by the people of the earldom, in a sense mirrors the use of land by their lords, the Dunbar earls. Stephen Papedy held Manderston of the earl and granted it to his brother Thomas in heritage for homage and the service of one-eighth of a knight and for a reddendo payable at Roxburgh.[774] Richard of Fans held Mellerstain of Earl Patrick and gave land there to his nephew David de Graham. David was to hold the land heritably of Richard and his heirs. The same land however was to be held of David's father, Richard's half-brother, David de Graham by their mother Amabel, for a reddendo payable at Hexham, presumably near to her lands in England.[775] Like the earls, many of these tenants were cross-border lords, holding lands in England. The Setons are said to have derived their name from Seton, in Cumbria, part of the marriage portion given to his sister by Waldeve, lord of Allerdale and brother of Dolfin and Gospatric. Robert de Muscamp was the quintessential cross-border landholder. He was lord of Wooler in Northumberland and held Hassington in Berwickshire of the earls. On his death in 1250 his lands in Hassington passed to his daughter Marjory, wife of Malise earl of Strathearn.[776] Elsewhere in his charter confirming his gift of land in Trowhope, in the Cheviot, he styles Earl Patrick as his lord.[777] Another cross-border lord was John, son of Waldeve, who held land in Penshiel of the earl but who also land in Edlingham,

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[772] Charters to Coldstream, no 5; to Laymen, nos 1-2; *Cold. Cart.*, nos 5, 10, 31-4, 36-40, 43-47

[773] Charters to Coldstream, no 7; *Cold. Cart.*, nos 34, 43-4, 46, 58

[774] Charters to Laymen, no 5

[775] Charters to Laymen, no 4

[776] Charters to Melrose, nos 16-17; I. J. Sanders, *English Baronies* (Oxford, 1960), 100

[777] *Melrose Liber*, no 306. Earl Patrick witnessed his original gift (*ibid*, no 305), but it is not clear whether he held Trowhope of the earl.

Northumberland which he had inherited from his father Waldeve and his grandfather Edward.[778] Patrick Edgar, descendant of Edgar, Edward's brother held of the earl in Lennel, though possibly keeping a family connection with Caistron, in Northumberland.[779]

There are many indications that land was held heritably within the earldom – in Hirsel and by implication in Darnchester and Bassendean.[780] In particular areas generations of father and son can be tracked- four generations in Darnchester comprising Walter, Thomas, Walter and the great-grandson Walter, the chaplain.[781] In Lennel Edulf was succeeded by his son Norman, then by his son Norman and in turn by his son Richard.[782] In the Newbattle charters also, by the late twelfth century, land is clearly shown to be heritable. Kilvert's land at Hailes was inherited by his children, his daughter Mary holding North Hailes of the earl, her 'lord', while his son Oliver held South Hailes, also of the earl.[783] The split is particularly interesting, suggesting that male primogeniture was not a rigid rule. After Oliver's death, South Hailes passed to Ralph, whom Mary calls her nephew and who may well have been Oliver's son.[784] As in the case of the earls' grants, most of the grants in alms to Coldstream priory were of land to be held of the donor and invariably, by the thirteenth century, held of the donor and his heirs.[785] It is a powerful testimony to the settledness of the hereditary norm or principle in this area. So also is the emergence in the Coldstream charters of quitclaims on behalf of the person and also his heirs, and of warrandice extended to heirs and by heirs.[786] About 1200 land granted to Dryburgh was confirmed by Earl Patrick to be held of Richard of Fans and his heirs.[787] In the Hassington charters land passes from father to son, and from mother to daughter on marriage, in death from sister to

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[778] *Liber Vitae Ecclesiae Dunelmensis* (SS, 1841), 102
[779] See Appendix 5 (iii). On the Caistron branch, see Hedley, *Northumberland Families*, i, 244-5.
[780] Charters to Coldstream, no 11; *Cold. Cart.*, nos 21-3, 43-7
[781] Charters to Coldstream, no 11; *Cold. Cart.*, nos 20-3, 31-4
[782] Charters to Coldstream, nos 2, 3, 6; *Cold. Cart.*, nos 5-6
[783] Charters to Newbattle, nos 1, 3
[784] *Newbattle Reg.*, nos 91-2. Ralph may have been the son of Oliver or of her brother Adam who witnessed *Newbattle Reg.*, no 92, or of an unnamed brother or sister.
[785] Eg Charters to Coldstream, no 11; of the Heirs, nos 2-3; *Cold. Cart.*, nos 21-3, 25, 32-4, 36-8, 40
[786] *Cold.Cart.*, nos 22 , 27
[787] Charters to Dryburgh, no 1

brother.[788] In the Papedy family charter of the mid-thirteenth century, land is confirmed to Thomas and his heirs, in return for service on behalf of Stephen and his heirs, for which he was to be given warrandice by Stephen and his heirs.[789] The Caldicotts and their heirs were to have the homage and service of the men of Graden and their heirs, and make annual payments to the earl and his heirs.[790]

Like the Frasers in Hailes and Fortune, those who held lands of the earl in the Merse often had other lands and other lords, while within the earldom, people of one toun or area often had land in another toun or area. Alan the chaplain, the son of Gilbert of Hassington, for instance, held land in Lennel, Walter the chaplain, the great-grandson of Walter of Darnchester, land in Hirsel, Alan son of Thomas of Darnchester land near Duns.[791] Walter the chaplain was a landholder of consequence, a member of the family who held Darnchester of the earl and a reminder, as in Penshiel, of the different *nuances* of social distinction in different times. Elsewhere, in the Dryburgh charters Hugh the chaplain is said to have held a toft in Dunbar.[792] There are some glimpses in many different areas of landholders who are clearly of the humbler sort. Parsons like Orm and Nigel held land as glebe in Hume and Greenlaw, while land was held in Darnchester of Walter of Darnchester by Richard, son of Hugh the cook.[793] Bothwell shielings were held by Hugh whose only identification was that he was deaf.[794] Adam the cleric is described as 'the poor clerk' who had held a toft and croft and two acres of land in Bassendean.[795]

Though a solitary knight, Arnald, appears as witness to a charter of the 1160's of Earl Gospatric to Durham, knights as an identifiable group in the earl's retinue appear much later.[796] Some seem to have land, and are called, for

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[788] Charters to Melrose, nos 16-17; *Melrose Liber,* nos 232-3
[789] Charters to Laymen, no 5
[790] Charters to Laymen, no 7
[791] Charters to Coldstream, nos 11, 14; of the Heirs, nos 2-3
[792] Charters to Dryburgh, nos 4-5
[793] Charters to Kelso, nos 2- 3; *Kelso Liber,* no 74; *Cold. Cart.*, no 31
[794] Charters to Kelso, no 4
[795] *Cold. Cart.*, no 43
[796] Charters to Durham, no 3. This may have been Arnulf or Hernulf of Morwick (*David I Charters*, 78-9).

example, Alan of Harcarse, Adam of Edington, Robert of Nisbet, knights. They may have held their land for knight service or a fraction of it but there is no evidence that they did. Knight service features in the Papedy family charter and is discussed elsewhere.[797] Only three texts referring to lay tenure survive, all referring to very different types of tenure, but together too few from which to draw firm conclusions.

Women and land tenure

Women, including those outwith aristocratic circles, owned or held land in their own right. In the Newbattle charters, as we have seen, Mary of Hailes inherited North Hailes on the death of her father Kilvert. After her husband's death she granted *in libera viduitate* to the monks of Newbattle land in North Hailes beside the River Tyne.[798] Gospatric's wife Deirdre, as we have seen, also granted, in her own right, land in Hirsel and the church there, in the foundation of the new priory at Coldstream, presumably from land she had inherited.[799] Women issued charters on their own and also with their husbands.[800] They were associated with their husbands' grants, usually through the *pro anima,* occasionally through stating their consent.[801] They could make legal claims to land, so that by the late thirteenth century the phrase *contra feminas* was added to warrandice clauses.[802] They also could give warrandice, as Mary of Hailes did, with the support of her lord, the earl.[803] Women rarely witnessed charters, but could do so, as we have seen,when Countess Deirdre witnessed her husband's charter to Coldstream. Deirdre also witnessed her husband's charter to May priory. Countess Aelina, Earl Waldeve's wife, witnessed his grant to Melrose, while Ada wife of Patrick I witnessed one of his charters to Newbattle. All these examples of witnessing by the wives of earls, interestingly, date also from the twelfth century, the

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[797] See below, p 188.
[798] Charters to Newbattle, no 3
[799] Charters to Coldstream, nos 1-2
[800] *Cold.Cart.,* nos 6 (Amabel of Lennel), 13 (Mariota Lady of Hume); *Kelso Liber,* no 129 (Ada, daughter of Patrick I).
[801] Charters to Coldstream, nos 13, 15. As early as 1127 x 1138 the earl's wife identified with the grant to St Nicholas Church, Hume, along with their sons (to Kelso, no 1). Oliver's wife Beatrice gave her consent to her husband's grant to Newbattle (*Newbattle Reg.*, no 73).
[802] Charters to Coldstream, nos 13, 15

practice never occurring in the thirteenth century as witness lists seem to become less family-centred. [804]

When a woman married, her father would provide for her a tocher or marriage portion which would be granted to her and her husband *in liberum maritagium.* There is little information about the tocher in the Coldstream charters. Elsewhere we gather that part or all of Hume was granted by Patrick I to his daughter Ada as a marriage portion.[805] In Hassington the charters suggest that land so granted to Gilia, the sister of Robert de Muscamp, was given to her *in liberum maritagium* by her mother Mathilda, possibly from Mathilda's dower land given to her by her husband who died in 1190.[806] Gilia seems to have outlived her first husband, remarried, and died childless, and it appears that her marriage portion which had been augmented for her second marriage, then reverted to the family.[807] The fact that Robert was disposing of it in the 1230s and 1240s shows that it had come back to him possibly when his mother died, doubtless along with the other land she held in dower. The three ploughgates were then granted by Robert to William of Greenlaw for knight service.Yet knight service was said to be also part of the forinsec service owed to the king on the land, and if it were not required of him in the event of Robert's daughter Marjory having children, then he was to pay Robert and his heirs a pound of peppercorns or sixpence a year. This suggests either that the three ploughgates lay within the land which Marjory would inherit from her father or that they were to be her marriage-portion. If the latter, there is an interesting pattern whereby land given in dower became identified with the women of the family and liable to be used again as a marriage portion for a daughter or a granddaughter. From the Dryburgh charters we learn that Patrick II's widow Euphemia confirmed her late husband's gift of money to Dryburgh, from her marriage portion of Birkenside, for the beautification of the abbey church. But when she did, she changed the conditions; she kept his name before hers in the *pro anima* clause but she substituted her

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[803] Charters to Newbattle, no 3. Mary's warrandice was *per graciam Dei et auxilium domini mei comitis Patricii* (*Newbattle Reg.*, no 91).
[804] Charters to Coldstream, no 1; to May, no 1; to Melrose, no 3; to Newbattle, no 1.
[805] Charters to Kelso, no 10; *Kelso Liber*, no 129
[806] *Melrose Liber,* nos 232-233; Charters to Melrose, nos 16-17
[807] *Melrose Liber,* no 232

predecessors and successors for his. The canons were to hold the grant of her.[808] If a woman became a nun the tocher was given to the convent, as when Randolph Hutton gave part of his land near Anton's Hill early in the thirteenth century to Coldstream as dowry for his daughter Mathilda.[809] Married women might be provided by their husbands with dower land or property *in dotarium*. Amabel, Norman of Lennel's widow, was given land in Skaithmuir *in dotarium* by her husband during his lifetime. After his death it was granted in the opening years of the thirteenth century to Coldstream by her son Richard, though Amabel issued her own charter of confirmation.[810]

Widowhood might bring hardship, even for well-connected women. Thus Amabel might have chosen or been compelled to part with her dower land for money, though sometimes, as in her case, the money was not mentioned. The land in North Hailes granted by Mary of Hailes, Kilvert's daughter, to Newbattle Abbey was *in libera viduitate*, but again we have no details of her circumstances. Mary's grant followed the kind of convoluted process we find elsewhere. She surrendered her land in Earl Patrick's court to Bernard Fraser, who claimed it by hereditary right, before granting it to Newbattle. Some time after 1273, Mariota, Lady of Hume, the widow of Patrick Edgar and thus a distant relative of the earl by marriage, was obviously in need of money; she therefore quitclaimed her rights in the north toun of Lennel *in legitima viduitate…sicut aliqua vidua in regno Scocie possit concedere sive dare pro quadam summa pecunie mihi in mea urgenti necessitate soluta.* This is an interesting charter, suggesting that a grant 'in widowhood' had become a norm throughout the kingdom. Indeed the role of women in land tenure and transmission over the period of this study suggests how types of tenure might have evolved for very practical reasons. It is unlikely that lawyers first devised the various categories of tenure involving women. Rather grants and tenure *in liberum maritagium, in dotarium* and *in viduitate* addressed the particular and recurring circumstances of marriage and widowhood. A tocher or marriage-portion, for example, must be provided for a daughter and her husband. What

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[808] *Dryburgh Liber*, no 120

[809] *Cold. Cart.*, no 10. Elsewhere the donor is named as Ranulfus (*Cold. Cart.*, 5, 30) and Radulfus (*Cold. Cart.*, 42).

[810] *Cold. Cart.*, nos 5-6. Richard's charter suggests that he had inherited the land though it had been given to his mother by his father, or that he retained his right in it.

happened to the land naturally was dependent on the birth of heirs and a time-scale had to be devised to protect the interests of both sides. So land granted *in liberum maritagium* was recognised to be subject to particular codes or conventions which later might harden into legal requirements, as was land granted as dower and in widowhood. Where and when this process took place, and whether some of these types of tenure were adopted as developed forms is a complex question requiring a specialist study. But the Coldstream charters show that they had certainly passed through a transitional and formative stage to being accepted and recognised categories.[811]

Service

Land carried the traditional burdens of forinsec service and corrody and when it was granted these obligations continued.[812] The responsibilty for fulfilling them might lie with the beneficiary, as in the case of Durham and the grant of Edrom, or it might be shouldered by the benefactor, as part of the grant. There was also service due to the earl as lord, which he might reserve to himself when making the grant. In four of the five charters to Newbattle, for instance, the earl, while confirming the grant in alms, and acquitting the monks of all exactions, secular customs, and other demands including suit of court,[813] confirming elsewhere all their liberties and immunities,[814] explicitly reserves to himself the service due to him. In Penshiel in his charter of confirmation Earl Patrick reserved to himself the service of John – not of John of Methil, the granter, but of John, son of Waldeve, the earl's distant cousin.[815] We have also a charter of this John confirming the gift of John of Methil to Melrose Abbey, reserving to himself and to his heirs the service of John of Methil and his heirs, as contained in the charters of his predecessors dealing with

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[811] The different grammatical forms may have been used interchangeably, but Dr Dauvit Broun suggests that the use of the accusative may link to the land, and the use of the ablative to the category or condition of the person receiving it.
[812] Alexander II's confimation of the south toun of Lennel to Coldstream, for example, reserves the service due to him by the earl and his heirs (*Cold. Cart.*, no 56).
[813] Charters to Newbattle, nos 2-5
[814] Charters to Newbattle, nos 3-4
[815] Charters to Melrose, no 13

Penshiel which were in the possession of John of Methil.[816] Thus it appears that John of Methil owed service to John son of Waldeve who in turn owed service to Earl Patrick for the same land.The monks were to hold Penshiel of John of Methil and he continued to be responsible for the service due from the monks' portion. Whether this was service due to the earl, or service due to the king for which the earl was reponsible is not clear. There was obviously a procedure for providing the traditional services on land despite several stages of alienation; it would be greatly simplified when, as early as the mid-twelfth century in Edrom and Nisbet, the services were commuted to money payments.

There were other burdens and services in a layering of lordship and obligations which can usually be tracked only as far as those who held of the earl. Such is the nature of the evidence, for service is rarely specified in the charters. Some of the evidence is of the negative sort: charters recording grants in alms describe such grants as 'free and quit from all service and exaction and custom' or 'free and quit of all secular services and customs; but inevitably are less forthcoming on what the burdens on lay landholders were.[817] Almost certainly the 'exactions' refer to various taxes on the land and restrictions such as the compulsory use of the lord's mill and the payment of multure and suit of court.[818] Most often service is alluded to when it had not been done. Then despite ties of kinship and loyalty the earl took back the land ceremonially, by staff and baton, in his full court, as happened with Walter of Darnchester and Patrick Edgar during the earldom of Patrick III.[819] The charter to the Caldicotts alone in the collection alludes to homage and service owed to the earl. But the service again is undefined and it seems probable that like the feudal incidents of wardship, relief, marriage and escheats to which the Caldicotts were to be entitled, it had been commuted to a money payment.[820]

From a further analysis of the Hassington case which was heard in the *curia regis* in 1248, some additional aspects of service can be identified. Robert de

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[816] *Melrose Liber*, no 213
[817] Charters to Coldstream, no 6; to Melrose, no 4
[818] *Cold. Cart.*, nos 38 and 47; *Melrose Liber*, no 209 (to May); Charters to Newbattle,no 2
[819] Charters to Coldstream, nos 11, 15; *Cold. Cart.*, no 12
[820] Charters to Laymen, no 7. Grants in alms would not normally involve homage.

Muscamp, lord of Wooler, held Hassington of Earl Patrick who called him, unusually, his 'tenant' and who witnessed the first of Muscamp's charters to William of Greenlaw.[821] The three ploughgates, formerly Robert's sister's marriage portion, granted by him to William of Greenlaw for knight service, carried an exemption from castle-ward. As we have seen, if forensic service was not required of William of Greenlaw, he was to pay Robert and his heirs a pound of peppercorns or sixpence a year.[822] It would appear that the very modest knight service- one thirtieth of a knight- was some sort of equivalence which had been negotiated with the king. The earl would doubtless be responsible for the arrangement.The fraction of one-thirtieth for the three ploughgates would almost certainly link to other fractions of knight service for Hassington, which is indeed called a 'feu', and perhaps also for other Dunbar lands in the area. Whether the *fracas* over Hassington ended up in the royal court because of the service owed from it to the king remains conjectural. Notably, Robert de Muscamp drops out of the equation when the case reaches *curia regis* level, not necessarily because Earl Patrick was lord of the land, but because it was the earl who had prevented or threatened to prevent the grant being effected. He was therefore being held personally to account, and the warrandice he had to give was for what he personally had promised to do.[823]

Different structures of lordship

(i) *Penshiel*

The earls' charters alone are hardly sufficient to explore the layers and complexities of landholding within the earldom, but with others they give some idea of structures and relationships connected to the land. John, son of Michael detailed his gifts in his charters as all his land of Penshiel[824] with

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[821] Charters to Melrose, nos 16-17; *Melrose Liber,* no 232 (witnessed also by Earl Patrick's brother, William)
[822] See above, p 172.
[823] The royal confirnation of 20 April, interestingly was witnessed by William earl of Mar who later married Robert's granddaughter Muriel (Sanders, *Baronies,* 100-101).
[824] Or 'the whole of the land of Penshiel which is mine'. John's charters are *Melrose Liber,* nos 209-211.

pertinents, except for the land which he had already given to the monks of the priory of May and another portion with known boundaries which he had granted to Young Henry and his heirs.[825] All were given free and quit of all service, custom, or exaction. There was also, as has been noted, a confirmation by John son of Waldeve, the earl's relative, whose service the earl reserved.[826] We have already seen that traditional services remained the responsibility of the earl but fell on those to whom land was granted. A coherent structure of lordship and landholding thereby emerges. But though in one sense hierarchical, it operated flexibly, for Earl Patrick and John son of Waldeve simultaneously confirmed John of Methil's charter, the earl indeed also witnessing the charter of John son of Waldeve.[827] So there was a three-cornered relationship in which all cooperated over the transfer of land. A sub-tenant was in effect alienating the land by granting it in alms to a religious house, but neither Earl Patrick, the lord of the land, nor his tenant, John son of Waldeve, the immediate lord, dropped out of the process. Nor did the sub-tenant, John of Methil. The monks were to hold the land of Penshiel of him and he continued to be responsible for the service due from the monks' portion. We do not know whether he kept back demesne land in Penshiel when he made his grants to Melrose, May and Young Henry, or whether he disposed of the lot.[828] But we know that his involvement in Penshiel continued, partly through his obligation of service and also through the financial arrangements with Melrose Abbey alluded to in one of his charters. In it we learn that the grant of Penshiel to Melrose was a two-way transaction, with the prior of the day liable to pay an annual *reddendo* of three merks of silver at Pentecost. Then in piety John assigned the money to the provision of a pittance for the monks, in effect returning it to the convent.[829] The exchange, too sophisticated

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[825] Young Henry may be Henry of Belton, the co-granter alluded to in Patrick IV's charter to Melrose (*Melrose Liber,* no 365). The portion granted to the monks of May seems to have lain west of the Melrose lands (*Melrose Liber,* no 209).
[826] *Melrose Liber,* no 213; Charters to Melrose, no 13
[827] The earl's charter has a near-identical witness list to John's and the earl witnessed John's charter (Charters to Melrose, no 13; *Melrose Liber*, no 213).
[828] In a separate charter (*Melrose Liber,* no 214), John reserves the right to graze his sheep on common pasture, suggesting perhaps that he had in fact alienated all of his land; but it may mean that he retained the right of common pasture on account of land he continued to hold in Penshiel.
[829] *Melrose Liber,* no 211. The payment is not referred to in the other charter of John to Melrose (*Melrose Liber,* no 210). The witness lists are very similar, suggest that the charters were compiled around the same time but not simultaneously.

surely to be deemed a sale, developed and continued the relationship between donor and beneficiary and locked both into the structure of lordship and landholding in Penshiel. Once again, it is not a strictly hierarchical relationship but one where both cooperate to achieve what they want; and the currency is land.

Clearly land – the possession of land, the granting of land, the arrangements made concerning the obligations which went with the land – defined relationships within an area. We may speculate how far this equated with social importance. Earl Patrick united in his person the political and social pre-eminence of the earl and the status of the lord from whom the land was held and to whom service was due. John son of Waldeve, to whom John of Methil owed service, was a relative of the earl, with extensive lands north and south of the Border. His family was well-established in the area, for he and his predecessors had given charters to John of Methil relating to the land in Penshiel. He moved in the earl's circle, collaborating with him in the confirmation of John of Methil's charters and of his own, to which the earl and his sons Patrick and William were witnesses.[830] John of Methil was clearly a man of substance. He refers to "my toun" of Penshiel and we learn that he had a mill. His household contained two chaplains and indeed the fact that he could return to the monks of Melrose the silver they owed for the land indicates that he was wealthy.[831] Almost certainly he was the son of Michael of Methil and Wemyss in Fife, holding these lands of the bishop of St Andrews. John, who had succeeded his father by 1202, was a benefactor not only of Melrose, but also of his local religious house in Fife, the priory of May. [832] Penshiel was part, and only part, of his estate. He himself showed a finely tuned sense of cross-regional lordship, granting land in Lothian to the monks of May, and, conversely, endowing the hospital at Soutra, near Penshiel, with

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[830] *Melrose Liber,* no 213
[831] *Melrose Liber,* nos 209, 211, 214, 215
[832] He has been identified as the ancestor of the Earls of Wemyss (*SP,* viii, 475-7*)*. He appears as a witness to a charter of William Malvoisin, bishop of St Andrews, between 1202 and 1204 (*St Andrews Liber*, 154-5). He is described in a confirmation charter of David, bishop of St Andrews, to Soutra (1240) as Sir John of Methil, knight (*Midlothian Charters*, nos 14, 30). He is probably to be identified with the John Wemyss who had a vision of St Margaret at the time of the battle of Largs (*Chron. Bower*, v, Book X, 336-9). He is thought to have died late in 1263.

his revenue from the church of St Mary of Wemyss.[833] Such a man cannot be too rigidly categorised or given a fixed status in society. Similarly the monks of Melrose held of him, albeit in alms, but in other areas people like John of Methil might as easily hold of the monks. The holding of land, in other words, was a fluid and pragmatic affair from which neat pyramids cannot readily be constructed.

Two other charters of John of Methil reveal how the complexities of landholding and the attendant relationships occurred at different levels in a particular area. In one John records his gift of land in Penshiel to his 'man' Maurice, son of Robert. The land is defined as that which had formerly been held by Aldred the craftsman and his son Oliver. It was now to be held by Maurice and his heirs, of John and his heirs, in feu and heritage, with pertinents and easements, free and quit of all service and custom including multure.[834] Maurice was obliged to provide a pair of gilded spurs or to pay six pennies at the feast of St Michael, again a typical *reddendo* implying dependence. Yet in the second charter the same land is given to Melrose Abbey in free alms and in perpetuity, to be held of John and his heirs, likewise free of all service and custom, and also, specifically in this case, exempt from any secular exaction.[835] The land in question is described in both charters as having been held previously by Aldred and his son Oliver and this, added to the fact that Maurice, son of Robert, to whom the first of the charters was addressed, witnessed the second, suggests that they were roughly contemporaneous. If that is so, then the same land was being granted to the monks and to Maurice on similar terms, both parties apparently holding it of John of Methil and his heirs. It may be that in this case the subtenant Maurice son of Robert, was simply omitted from the text of the charter to Melrose Abbey. Maurice was in effect granting the land to Melrose but John as his lord and lord of the land directly confirmed it, Maurice's part being acknowledged by his inclusion as a witness. Alternatively the abbey may have sought security by acquiring documentation after Maurice took over the land from Aldred. Or the abbey's rights in the land may have required a charter when the

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[833] Stuart, *May Recs.*,16, no 24, cf *St Andrews Liber*, 381; *Midlothian Charters*, 13
[834] *Melrose Liber*, no 214
[835] *Melrose Liber* no 215

land changed hands. Then again, the abbey and Maurice may have acquired different things – revenue for the abbey for instance, as against a secure title to the land for Maurice. Interestingly, it is John who relates to both, much as Earl Patrick related to him and to John son of Waldeve in his charter of confirmation. Here we are observing layers of landholding. Maurice holds hereditarily of John son of Michael who holds of John son of Waldeve who holds of the earl and at different levels, the land yields services and *reddendos* and payments in a fairly sophisticated structure.

Earl Patrick had the dignity of earl but his charter and the group of charters to which it belongs remind us how much land mattered and that the giving and getting of it was an activity of central importance in twelfth-century south-east Scotland. They warn us also however of the pitfalls of over-simplification in any analysis of dependent relationships and the need for many models in our attempt to envisage how people inter-connected in even one area. In Penshiel the usual trappings of lordship – grants, confirmations, services, benefactions to the Church and countergifts – created a web rather than a ladder of relationships, and that, within that web, social importance was only one factor of many in determining how things were ordered.

(ii) Hailes and Fortune

In another area of the earldom, five charters of the earls to Newbattle Abbey relate to the area west of Dunbar shown in Map 3.[836] In the charters of those who held there of the earls a quite distinctive pattern of landholding emerges, one which is rooted in a family, the Frasers, but where the lordship of the earl figures in most transactions. It does not appear that Newbattle was an object of particular generosity on the part of the earls. Perhaps it was seen by them as a house which, unlike their own creation of Coldstream, could boast many royal and noble benefactors.[837] Perhaps too, unlike May, it offered them little by way of commercial return. A closer study of the charters suggests however a simpler explanation – that most of the Dunbar land accessible and useful to

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[836] See Appendix 4, Map 3 and Charters to Newbattle, nos 1-5.

Newbattle was already held of the earl for service and that benefactions to the abbey therefore emanated, as already noted, from the branches of the family who had the land.

From these five charters we can discern patterns of tenurial and familial relationships. We have already established that almost certainly Hailes was inherited from Kilvert by his children, Mary and Oliver, who shared it, Mary holding North Hailes of the earl, her lord, and Oliver South Hailes; and that Ralph, Mary's nephew and possibly Oliver's son, inherited South Hailes from him.[838] Fortune was held of the earl by the London family; land there was gifted to Newbattle by John of Moray's uncle, Nes son of Nes in 1205.[839] A more complex picture emerges when we look at the charters of these families. Mary surrendered her land in the earl's court to Bernard Fraser who held Drem, possibly of the earl, and who claimed that he had a hereditary right in the land. He then witnessed Mary's two charters granting the nine acres in North Hailes and the earl's charter of confirmation. Then he confirmed Mary's grant. About the 1250s Laurence Fraser, one of the circle of Patrick II, confirmed her grant anew.[840] From Patrick I's charter confirming arable and pastureland in South Hailes we learn that Oliver's nephew was Adam Fraser, son of Udard Fraser, that he had given a charter concerning the land in South Hailes and that he owed Earl Patrick service for this land.[841] These fragments of evidence suggest that the Frasers held Hailes of the earls and that Kilvert and his son and daughter held of the Frasers. Since there was a close family relationship we may speculate that Kilvert's family was the junior line holding of the senior. Fortune, too, seems to have been within the Fraser orbit, for we learn that Bernard Fraser was the brother of John of Moray, [842] whose charter granting land in West Fortune the earl confirmed, [843] and brother also of Nes of London who gave a half ploughgate of land in his 'feu' of Fortune to

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[837] With earl Duncan of Fife Earl Gospatric witnessed David I's charter of 1140 founding Newbattle Abbey (*Newbattle Reg.*, no 2).
[838] See above, p 169. See also *Newbattle Reg.*, no 91.
[839] *Newbattle Reg.*, no 109 (no reference to Fortune)
[840] *Newbattle Reg.*, no 95; charter of Laurence Fraser confirming Mary's grant and alluding to Bernard Fraser's charter of confirmation.
[841] Charters to Newbattle, no 2. The Fraser connection with Kilvert's family may of course have been through marriage, Oliver's wife Beatrice whose assent is recorded, may have been a Fraser and sister of Udard, Adam's father. See Appendix 5 (ii)
[842] *Newbattle Reg.*, nos 110, 114

Newbattle.[844] Indeed after Nes of London's death Bernard Fraser confirmed the half-ploughgate granted by his brother,[845] the same land confirmed to the abbey by Earl Patrick..[846] Almost certainly Nes of London inherited Fortune from his father John or his uncle, Nes son of Nes, and granted part of it to John of Moray, a younger brother. In a charter concerning another portion of Fortune given to Newbattle, John described Nes of London as his brother and his lord to whom he owed service.[847] In Hailes and Fortune therefore we observe structures of landholding and lordship which are hierarchical but also intensely familial, with land held of the earl by the Fraser-London family being in turn held of the senior line by junior members of the family.[848]

Clearly too this family held lands adjacent to the land they held of Earl Patrick from which they granted land to Newbattle. One charter confirming such a grant, a charter of Bernard Fraser, includes land held of the earl in Fortune and nearby land held directly of the king.[849] It is witnessed, significantly, by Queen Ermengarde and Earl Patrick. Where the land granted is not held of the earl, however, the witness list is quite different from the list of those who witnessed charters concerning the earl's lands.[850] The latter tend to be Dunbars, Frasers, local dependants and tenants of the earl; the former mainly the clergy of Dunkeld and of St Andrews diocese, the sheriffs of Haddington and Hugh Giffard, Lord of Yester.[851] We are reminded of the different allegiances and obligations of a family like the Frasers, of the different circles to which they simultaneously belonged, and of the danger of over-simplifying structures of lordship and service. Then as now human relationships based on family and social and economic and political considerations were often too complex to allow us to draw vertical lines from one to another in the hope of finding a manageable definition of how society functioned.

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[843] Charters to Newbattle, no 4
[844] *Newbattle. Reg.*, no 107
[845] *Newbattle Reg.*, no 110
[846] Charters to Newbattle, no 5
[847] *Newbattle Reg.*, no 114
[848] See Appendix 5 (ii).
[849] *Newbattle Reg.*, no 110
[850] *Newbattle Reg.*, nos 109, 111, 112. These concern land adjacent to the Peffer Burn very near to Hailes and Fortune.
[851] *Newbattle Reg.*, nos 109, 111

The pattern of benefaction is also striking. Mary of Hailes' grant was *in libera viduitate sua*, the land having been surrendered in the court of her lord, Earl Patrick . Her charter contains a warrandice clause *per graciam Dei et auxilium domini mei comitis Patricii.*[852] Here at least the process was clearly controlled by the earl, though it also involved Bernard Fraser. There are echoes here of the surrender of lands in Lennel by the Edgar family and the use of these lands by Earl Patrick's grandson, Patrick III, to endow Coldstream priory, though we need not necessarily suspect chicanery on the part of the earl.[853]

We have already noted the sparseness of the earl's generosity to Newbattle, confirming the grants of those who held of him, augmenting only one and that circumspectly, reserving the service owed to him.[854]

Three times Fortune is called a feu.[855] The land held by the monks of the king near the Peffer Burn is said to be held *de feudo Regis in Poverhow.* [856] Hailes is not referred to as a *feu* . Earl Patrick refers to Oliver's grant from the *telluris* of Hailes, a term which refers generally to earth, land, country.[857] Elsewhere South Hailes is described as a tenement.[858] The term *feu* is not applied to Drem or Pitcox or any of the other Dunbar lands in the area; but it is difficult to judge whether this was a matter of substance, or merely of style. What is striking about the nomenclature at least, and possibly also the structures it describes, is its variety.

Lordship and service

Despite the limited number of charters of confirmation by the earls, the charters from the different areas of the earldom convey the sense of an all-pervasive Dunbar lordship. The collection of Coldstream charters make the point with force. Of the fifty-four twelfth and thirteenth-century charters granting land and property to be held by the priory in Scotland outwith the

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[852] *Newbattle Reg.*, 91
[853] *Cold. Cart.*, nos 12-13; to Coldstream, no 15
[854] Charters to Newbattle, nos 1-2, 5
[855] Charters to Newbattle, no 5; *Newbattle Reg.*, nos 107, 110
[856] *Newbattle Reg.*, no 109
[857] Charters to Newbattle, no 1
[858] Charters to Newbattle, no 2

burgh of Berwick, only five make no explicit reference, directly or indirectly, to the earl, his family, or his land.[859] Thirteen are charters of the earls, and a further eleven are of the earls' family. Of the remaining thirty, ten are witnessed by the earl's family, five by his employees and four by the earl himself. Others variously cite the earl in the *pro anima*, or relate to lands of the earl. As a *corpus* they reveal much about how land was held and transmitted within the lands of the earldom and how patterns evolved over the period of some 160 years, so that by the mid-thirteenth century there was clearly a perception of the earldom as an entity with norms of land tenure and transmission.[860] Similarly the five Newbattle charters of the earl and the charters associated with them offer powerful evidence of the reality of Dunbar lordship in the area. The earl's involvement in one sense is less direct, but in reality he is everywhere, witnessing, confirming, reclaiming, regranting, occasionally adding to the grants, and usually safeguarding his right to the service due to him from those who hold his land. In the small and, perhaps even then, relatively insignificant Penshiel area of Lammermuir, there is a remarkable criss-crossing of relationships and lordship, with people holding lands in Fife, east Lothian and Northumberland interacting within the earldom and under the lordship of the earl.

We can only guess at the extent of his powers of lordship. We know remarkably little about the earl's jurisdictional powers, or about the nature of his 'court', still less about its relationship to other courts. We do know that other lesser lords, like William son of Patrick I, and John of Leitholm also had courts but not whether there was a hierarchical structure.[861] There are infrequent but significant references to the earl's court which probably met in different places and certainly used the formal and traditional procedures used in the royal courts.[862] From the charters to Melrose it appears that William of Greenlaw dissaised himself of the land of Hassington in the earl's court at Edrom, an interesting piece of information, since Edrom had been ceded to

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[859] The Berwick charters (c.1220s x 1260's) relate to grants of land mainly held of the king for which rent and sevices were due, and to one grant of money (*Cold. Cart.*, nos 48-52).
[860] Charters to Coldstream, no 10; *Cold. Cart.*, nos 22, 23, 32, 34
[861] *Hist. MSS. Comm. 12th Report, Earl of Home*, Appendix, part viii ,173-4, no 291

Durham a hundred years before William of Greenlaw surrendered his lands there.[863] Clearly jurisdictional and territorial lordship did not always coincide.[864] It appears from the scanty evidence we have that the courts dealt primarily with disputes and settlements connected with land, but this impression is almost certainly brought about by the scanty and segmentary nature of the evidence we have.

References to assignees, those to whom land was or would be granted on by the donees, appear late in the thirteenth century.[865] When land was alienated, the earl can be seen to be involved by giving consent or confirmation. All five of the Newbattle charters, as we have seen, contained confirmations by Patrick I of grants of those who held land of him.[866] The same earl confirmed Richard of Lennel's grant to Coldstream of the land in Skaithmuir which had been his mother's dower, John son of Michael's grant of Penshiel to Melrose and, to Dryburgh, the land and the peatery granted to them by his tenant Richard of Fans.[867] He or his son confirmed Richard's charter granting land in Mellerstain to his half brother David de Graham. Patrick II certainly confirmed Stephen Papedy's gift of Manderston to his brother Thomas Papedy.[868] The most comprehensive confirmation charter was that given by Patrick II when he confirmed to Coldstream priory everything granted to the nuns or given to them in exchange by himself, his predecessors and anyone else within the earldom.[869] Whatever the circumstances which occasioned the giving of this wide-ranging charter, it stands as an impressive statement of robust and confident lordship. Nevertheless it is clear that for much of our period confirmations by the earls occur in a haphazard fashion, not wholly to be explained by the uneven survival of their charters. With the exception of the Newbattle charters, where confirmation by the earl sems almost invariable, the incidence of confirmation appears more pragmatic than systematic.

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[862] Charters to Coldstream, nos 11 and 15; Charters to the Heirs, no 8. All describe the procedure of surrendering land by staff and baton, the first two in the earl's court, the last in the royal court, probably the Justiciar's court.
[863] Charters to Melrose, nos 16-17
[864] This does seem an important corrective to any view of the earldom as a feudal lordship, with feudal courts and jurisdictional powers derived from the lands they held.
[865] *Cold. Cart.*, nos 25 and 47
[866] Charters to Newbattle, nos 1-5
[867] Charters to Coldstream, no 6; to Melrose, no 13; to Dryburgh, no 1
[868] Charters to Laymen, nos 4, 5

It has already been argued that in the surviving Dunbar charters there is little evidence of lordship being consistently exercised or expressed through the giving of warrandice, for with few exceptions, the earls offered warrandice for their own grants and those of their predecessors which they reiterated.[870] Its occurrence is uneven and tells us more about the religious houses to whom the charters relate, than about the earls as lords.[871] By the time of Patrick III, it yields in each of his charters to corroboration, the ultimate statement of the power of the sealed document.

Was the earldom of Dunbar a feudal lordship?

As noted already, there is no firm evidence of the terms and conditions on which the lands of Dunbar and the lands subsequently acquired by the earls in the Merse and elsewhere were granted, nor whether the earldom was ever conferred by charter. By the mid-thirteenth century feudal language makes a tentative appearance in the earls' charters, particularly those to laymen; but whether this reflects a change in substance or in terminology is hard to determine. So also is the significance of the twenty-two royal charters of confirmation. They do not prove that all land was the king's, nor that the king's consent as 'feudal overlord' was necessary for every transaction, for they are as likely to have been sought by anxious monks and nuns seeking to strengthen and protect their title to their estates. We may further doubt whether the lordship of the earl rested on sound feudal doctrine, or on the practicalities of how land should be securely transmitted and sensibly deployed.

The defining of feudalism, of course, has always been problematic.[872] So too has been the reliance on the language of the charters which can conceal meaning and coax the facts into misleading models and structures. Are the

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[869] Charters to Coldstream, no 10

[870] See above, p 93.

[871] The uneven survival of the charters of the earls may well explain the apparent decline under Patrick I and his grandson Patrick III, for much depends on the religious house to which surviving charters were given.

words simply a new way of saying old things – 'ancient institutions under new names'?[873] Given the scarcity of surviving charters to laymen in the Dunbar collection, are we to assume that isolated occurrences of feudal language are glimpses of an otherwise hidden pattern, while ignoring the facts which do not easily fit in?

The overwhelming preponderance of charters addressed to the Church is indeed a powerful reminder that there were structures and models, customs and procedures which are not "feudal" in the sense of the 'feu' or 'fief'.[874] Certainly the word 'feu' occurs early in relation to Dunbar land, in an episcopal charter to Kelso Abbey which has all the hall-marks of later editing.[875] But in total only three charters of the earls in the entire period allude to 'feus' apparently within the earldom. All three date from the mid-thirteenth century. Two relate to Hassington in Berwickshire, one to Fortune in East Lothian.[876] The word 'feu' does not occur in any of the three surviving charters of the earls to laymen, but does appear to have been used in the lost act of Earl Patrick granting the Stirlingshire forest lands to David de Graham 'in feu and heritage'.[877]

Yet even this evidence is far from conclusive. When Hassington is described as a 'feu' it may be used not of land held of the earl but of land held by William of Greenlaw of Robert of Muscamp. What in any case did contemporaries who called Hassington a feu understand by the term? In the Hassington charters forinsec service and knight service seem unusually intertwined. The charters refer also to castle-ward, and contain 'feudal' terms such as 'assignees', and 'saisin'. But what lay behind the words– a fully-developed feudal template known and shared by all participants, or a transaction which could be equally well expressed without using 'feudal' terminology at all? When Earl Patrick

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[872] Reynolds, *Fiefs and Vassals*, 1; E.A.R. Brown, 'The Tyranny of a Construct: Feudalism and Historians of Medieval Europe', *AHR*, lxxix, (1974), 1063-5

[873] W.C. Dickinson, rev. A.A.M. Duncan, *Scotland from the Earliest Times to 1603* (Oxford, 1977), 86

[874] Though Susan Reynolds notes the resemblance of relationships between bishops and priors and their tenants to the kind of ties associated with later concepts of 'feudal' tenure (*Fiefs and Vassals*, 6).

[875] *Kelso Liber*, no 426

[876] Charters to Melrose, nos 16-17; to Newbattle, no 5

[877] Charters to Laymen, no 6

confirmed land in the 'feu' of Fortune to Newbattle Abbey, his charter simply repeats *verbatim* the words used in the charter of Nes, son of John of London.[878] What did Nes or the Newbattle monks or whoever wrote the charter mean by a 'feu'? The writer may not have used the term with technical precision, but rather to strengthen the force of the grant. Twice in the charters to Coldstream of the earls' tenants and dependants a grant in free alms is described as an infeftment, even though quit of secular service and certainly with no requirement of knight service.[879] It is a matter of semantics, of matching word and concept, and of testing the charter vocabulary against the reality behind it.[880]

Undoubtedly two of the three surviving charters to laymen contain feudal 'language'. Yet again we may question its meaning in a thirteenth century context. In the earls' charters, for example, the word 'vassal' is never used, but in the two charters to laymen, the word 'homage' occurs in the phrase 'homage and service'. The Caldicotts became recipients of the homages and sevices of the men of Graden but also of '*reddendo*s, wardships, reliefs, marriages, escheats and all other liberties and pertinents of their lands and tenements'.[881] The earlier charter in which Earl Patrick confirms Stephen Papedy's grant of Manderston to his brother Thomas Papedy contains also a reference to knight-service: Thomas and his heirs are to render homage and service to Stephen, and in particular are to perform the service of one-eighth of a knight and pay a *reddendo* of half a mark of silver annually at the feast of St James at Roxburgh Fair.[882] This terminology was obviously used, accepted and understood, at least by them. But, notably, the lands were not called feus. There was no mention of the Caldicotts or the Papedys doing homage to the earl. So there is no explicit evidence of a feudal hierarchical structure. The Caldicotts were to perform services for the earl and pay the same amount

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[878] Charters to Newbattle, no 5; *Newbattle Reg.*, no 7

[879] In 1273, for instance, Patrick Edgar, a distant cousin of Patrick III, surrendered his land to the earl ceremonially by staff and baton in the earl's court 'for the infeftment of the nuns of Coldstream'. Yet Earl Patrick's charter describes it as a gift in free, pure and perpetual alms, "as free and quit... as any alms...in the entire kingdom of Scotland." (*Cold. Cart.*, no 12; Charters to Coldstream, no 15).

[880] On the loose use of the term 'feodum 'in English texts, including *Glanvill*, see Hudson, *Land,* 96; Reynolds, *Fiefs and Vassals*, 477-8

[881] Charters to Laymen, no 7

[882] Charters to Laymen, no 5

annually which their new tenants used to pay directly to the earl. Alongside service, then, money payments were already well-established. We may wonder whether the homage owed was ever anything other than a money transaction, an extra payment called homage introduced as a way of making the land pay and to establish jurisdictional rights. Language and reality may be becoming inexorably out of step. The third of the earls' charters to laymen states that David de Graham is to hold the land of his half-brother Richard of Fans but his mother, Lady Amabel is to hold the land of him and make him an annual cash payment a year for it.[883] It is a far cry from the feudal model and it may be as typical, or as untypical, as the other two.

A similar point could be made with regard to the one example of feudal incidents given in the charters of the earls.[884] The charters speak of wardship and marriage and the possible disparagement of the heirs of East Nisbet. We know that in the late thirteenth century both the priory and the earl were seeking to maximise their revenue from their lands by exploiting feudal incidents as energetically as possible, that Nisbet had been split into East Nisbet and West Nisbet since the original grant to Durham and that the earl may have regained West Nisbet, which appears among Dunbar lands in the fifteenth century.[885] These charters may record a compromise by which the earl and the priory agreed on a division of the revenues with certain of the incidents going to the priory as long as the earl's entitlement to corrody and the priory's liability for forinsec service was acknowledged. In due course the monks were excused even the corrody, perhaps as part of a further deal of which there is scant documentation.[886] There is reason to doubt that the earls had ever exercised the rights of wardship and marriage in Edrom and Nisbet, or were ever 'vest and saised' of Edrom and Nisbet in the eyes of anyone but themselves. But if the priory who held the land in alms of the earl, or the earl himself, were to choose to exploit the land financially, then the other party would act to safeguard its interests. It was a different use of land which fits well with the commercialisation which was so marked a feature of the twelfth

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[883] Charters to Laymen, no 4
[884] Charters to Durham, nos 8-9
[885] See above, p 140.
[886] Charters to Coldingham, no 12

and thirteenth centuries in Scotland and elsewhere and which does seem to undermine 'static concepts such as feudalism'. [887]

In summary, even a cursory analysis of the evidence has shown that simplistic structural models cannot apply. Land tenure and land transmission had norms and traditions and evolving patterns, but there is little evidence of hard and fast codes or even rules, let alone rigid law or a feudal 'system'

The evidence, however, does allow us to observe something of the tenurial patterns in the Dunbar earldom which can be described perfectly adequately without unnecessary labelling. The title of earl and the lands of the earl were hereditary, as far as can be judged, from the beginning, though Earl Gospatric who was called brother of Dolfin was almost certainly not the eldest son. Throughout the period land was held as demesne, sold, leased, and granted to relatives, associates and employees, and granted in alms to the Church. Forinsec service and corrody, the traditional services, were due from the land and the earl usually continued to take responsibility for these. Other services and obligations, including taxes, were undoubtedly owed though there is little information on the form they took. Failure to perform service could compel resignation of the land in the earl's court. Women had an accepted place in the holding and granting of land with recognised forms of grant and tenure at their disposal. The Coldstream and Newbattle charters of the earls in particular depict the different ways in which land was held and the different terms used. In the Newbattle charters a variety of terms are used, including 'feu' '*telluris*' and 'tenement', and these may reflect a variety of practice.[888] Most lands and land holdings are called nothing at all. Yet there seem to have been, by the thirteenth century at least, norms of customs and types of tenure which were becoming recognised and accepted throughout the earldom of Dunbar.[889] It is just that we do not know what exactly they were or how accurate the terminology was.

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[887] Duncan, *Kingship*, 76
[888] Charters to Newbattle, nos 2, 5
[889] Charters to Coldstream, no 10

Lordship was exercised powerfully and pervasively in the Dunbar earldom. The earls disposed of land and property including churches, confirmed grants by their predecessors and members of the immediate family, and grants by those who held of them. They exacted service and penalised those who defaulted.[890] People of consequence, such as family members and close associates like the Frasers, families whose roots like the earls' probably lay south of the Border, held of the earls; so too did employees such as chaplains. They were the earl's people in the sense that they lived in his orbit, often referred to him as lord, sometimes cited him in the *pro anima* of their charters, owed him service or payment in cash or kind and witnessed his charters. Those who had these lands often had other lands and other lords, but this complexity does not seem to have caused logistical problems, though they might spoil a feudal diagram.

Commercialisation rather than feudalism was affecting relationships and structures by the mid- to late thirteenth century. The few charters to laymen demonstrate the routine use of money in land transactions, even within the family.[891] Land was being reclaimed by the earl from existing tenants probably as a cheap way of maintaining a modest endowment to a religious house. Land was also being sold and leases had been introduced. Homage and feudal incidents make a suspiciously late appearance, perhaps as revenue-raisers.[892]

About most of the people who lived in the earldom we know predictably little. Nowhere is the feudal model more defective than in relation to the men, women and children of doubtless varying degrees of skill and prosperity who formed the bulk of the population, but who are rarely mentioned in the charters except in passing reference. They are referred to as the 'men' of the earldom, who went with the land when it was granted, who led the earl's cattle to and from pasture, dug boundary ditches, felled his trees and loaded peat-carts. There were people who lived in touns with common grazing on the hill and moor, and shared farming practices and resources. There were shepherds

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[890] Charters to Coldstream, nos 11, 15
[891] Charters to Laymen, nos 4, 6
[892] Charters to Durham, nos 8-9

who lived in temporary structures. Maurice and Aldred and Young Henry and their families whose names occur in the Penshiel charters have at least an identity and an individuality but within Penshiel there would be others, unnamed – free, partially free, perhaps unfree – who are alluded to only because of their lack of rights. So when Maurice, son of Robert, was exempted from multure, the men of the land by contrast must come to John of Methil's mill. [893] There were people who were given away as families, to Kelso abbey, for instance. To such people the intricacies of lordship and land exchange probably made little difference, for dues must still be paid, and services performed, and a new lord, or an extra lord would in all likelihood demand at least as much of them as the one before. They have no voice in the charters and certainly can be allotted no place in a feudal scheme of things. And though the most respectable feudal pyramids never claimed to include everyone, these many excluded souls are part of the reason we may balk at imposing a template on society and calling it feudal.

Is there enough here to justify the term 'feudal' in relation to the Dunbar lordship? The verdict suitably enough, has to be 'not proven'. Despite its rich complexities the Dunbar lordship is comprehensible as long as it is not atrificially forced into the feudal mould. It is more logical and reasonable in view of the nature and indeed the limitations of the evidence to confine ourselves to the observation and recording of the variety of forms of tenure in the twelfth and thirteenth centuries. Of course things were changing. By the thirteenth century, feudal words and phrases, and, for all we know (and we can put it no higher than that), feudal concepts and practices too, were appearing. The charters reflected this: perhaps the charters created it. But what drove structures of law and lordship were family, bonds of loyalty, local prestige, the economics of the land, burgeoning royal authority. Behind these lay the usual human needs- shelter, food and safety. Then after these, and for a few people only, the accumulation of power, of land, of wealth, of security in the after-life. It is what the sociologists call the 'hierarchy of needs' which inform our behaviour individually and collectively and are always a far more powerful reality than any legal system. Moreover, the nature of the land, the

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[893] " Domus autem sua propria erit quieta de multura sed homines sequentur molendinum

history of settlement, the passage of time and the interaction of practice and written record all affect that reality and any analysis we might make of it; and all point to a conclusion more open and more untidy than proponents of the feudal model might favour.

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meum.." (*Melrose Liber*, no 214)

The earl's people

In the previous chapter we have observed something of the structures of landholding in the earldom, both by the earls and by those who held land of them. In deploying their land, the earls created a network of family, tenants and dependants who were their people. It was in the nature of lordship for the earl to surround himself with people he could trust and who would be loyal to him, while they in turn benefitted from his grants of land, his patronage and his protection. This was the personal aspect of lordship, which, like the tenurial aspect with which it was tightly interwoven, operated through a mutuality of interest and support.

The family

The Dunbar charters testify to the importance of kinship as one of the many layers of group identities 'conceived, articulated and sustained' in medieval society.[894] It operated as a two-way process: the family drew status, wealth and influence from the earl and in return strengthened and supported his position, buttressing his lordship, representing his power in the locality, extending his sphere of authority.[895] In the Dunbar earldom, lands in Lothian and the Merse were held by members of the family through the gift of the earl or through inheritance from the earl or his wife. In the case of people like Haldane and Ketel who received lands at Edington and Leitholm repectively we may suspect a family relationship.[896] In other cases there is firmer evidence. In the Dunbar and Lammermuir area there was Edward, younger son of Earl Gospatric brother of Dolfin, at Belton, and near to Edmonstone, where the monks of Melrose had a grange.[897] At Penshiel, Edward's grandson

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[894] Keith Stringer, 'Social and Political Communities in European History: Some Reflections on Recent Studies' in *Nations, Nationalism and Patriotism in the European Past*, ed. Claus Bjorn, Alexander Grant and K. J. Stringer (Copenhagen, 1994), 9-10 .

[895] The Dunbar family seem to have been more in evidence than, for instance, members of the Quincy family. Grant Simpson, 'The *Familia* of Roger de Quincy, Earl of Winchester and Constable of Scotland' (hereafter Simpson, *Familia*) in Stringer, *Nobility,* 113.

[896] See below, p 214.

[897] He retained his lands at Dunbar 'perhaps so that he might serve (and shine in the reflected prestige of) his brother, the earl' (Duncan, *Kingdom,* 374). Edward granted a chalder of meal annually to the monks of May from his mill at Belton (*May Docs*, no 54, 1147 x post 1180). King Malcolm's confirmation of Hartside and Spott to Melrose included the land which they

John, son of Waldeve, nephew of Earl Gospatric, held land, in the 1220s, which was probably part of his grandfather's estate.[898] In Berwickshire, Patrick, younger son of Earl Gospatric and younger brother of Earl Waldeve became lord of Hirsel and Greenlaw.[899] William, younger son of Patrick I, was given the lordship of Fogo, where he had a chapel and a court and which passed on his death to his sons Nicholas and Patrick.[900] Land was held of the earl in Lennel, and perhaps Hume, by Patrick Edgar, distant cousin of Earl Patrick III, and possibly also in Lennel by another cousin, who appears as a benefactress of the new priory of Coldstream.[901] Ada, Earl Patrick I's daughter, had land in Hume, her brother Patrick land near Duns.[902] Patrick also seems to have been given by his father the land at Swinewood, near Coldingham, which caused much trouble.[903] All these and doubtless other unrecorded examples of Dunbar lands held by the immediate and wider family suggest a network of relationships throughout the area. They centred on the earl, for there is ample evidence that the earl did not relinquish his lordship over what he had granted.[904] Of Edward's lands in Scotland we know little except that those in or near Edmonstone were set at ferme to Melrose Abbey.[905] But John son of Waldeve owed service to the earl for his Lammermuir land.[906] So also did Patrick Edgar for his lands in Lennel.[907] Patrick, Earl Waldeve's brother, may have inherited Hirsel from his mother and handed it on to his son William,

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held of Edward brother of Earl Gospatric. This is referred to as Edmonstone in the endorsement (*RRS*, i, nos 132, 133).

[898] Charters to Melrose, no 13. John's father Waldeve was the son of Edward, younger son of Gospatric brother of Dolfin (*Cal. Docs. Scot.*, i, no 146). He inherited Edlingham and other lands in Northumberland from him. John's charter confirming the grant of Penshiel to May Priory is *Melrose Liber,* no 213.

[899] *Cold.Cart.*, nos 15, 18, App II; *Kelso Liber,* no 74 and no 75, where he refers to his court and his chapel.

[900] *Pontificale Ecclesiae S. Andreae,The Pontifical Offices used by David de Bernham, Bishop of S. Andrews,1239-1253* (hereafter Bernham, *Pontifical Offices*) (Edinburgh, 1885), Introduction, xi, 1242; *Kelso Liber,* nos 303, 305-7

[901] Charters to Coldstream, no 15. Patrick Edgar's own charter of resignation of 1273 is *Cold. Cart.*, no 12 . The identity of Addoc is discussed briefly in notes to Charters to Coldstream, no 2. Patrick Edgar's widow Mariota describes herself as Lady of Hume but whether this is in her own right or by virtue of her late husband's lordship of Hume is unclear (*Cold. Cart.*, no 13, Charters to Coldstream, no 15).

[902] Charters to Kelso, no 10; of the Heirs, nos 2-3

[903] Charters of the Heirs, nos 7-14 ; to Coldingham, nos 4, 7, 8

[904] Professor Barrow reflects that this is 'begins to look suspiciously like what is usually conceived as feudalism' (Comment, June 2003). But it could be argued that it is a picture of lordship of any kind, the lord retaining rights in the land he has granted.

[905] *RRS,* i, nos 132, 133

[906] Charters to Melrose, no 13

[907] Charters to Coldstream, no 15

but the earls continued to make grants of land from Hirsel and to issue confirmations of at least some of their relatives' grants of the church and the land, perhaps in response to the nuns' anxiety to make their title as secure as possible.[908]

What was being created through the endowment of the family was an extension in the working of lordship rather than a diminution. Like others who held of the earls, the members of the junior line of the family replicated within their lands the patterns of lordship glimpsed in the charters of the earls.[909] They granted lands and churches to religious houses. They received rents and services from those who held land of them and they confirmed their charters. They held courts and built chapels. Huge areas of territory in Lothian and the Merse were in effect controlled by the Dunbar family headed by the earl who witnessed and confirmed their charters and whom they served, attending him, forming part of his household, acting as his most trusted officials.[910] They were dependent on his support and he was dependent in different ways on theirs. They were conscious of the status he conferred on them. 'Son of the earl' was a title both William and Robert, sons of Patrick I, were apparently reluctant to relinquish after the death of their father, or to exchange for the arguably less prestigious title of 'brother of the earl'.[911] The inscriptions on William's seal and, unusually, on his counterseal, proclaimed him to be son of the earl.[912] There were other benefits for them and for the earls. Robert, younger brother of Patrick II, represented him in his absence on Crusade at the inquest on the

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[908] In *Cold Cart.*, no 15, Patrick's son, William, confirmed Hirsel church to Coldstream priory referring to charters of Earl Gospatric (Charters to Coldstream, nos 1-2), Earl Waldeve (to Coldstream, no 3) and Patrick his father (now lost). Earl Patrick subsequently confirmed Hirsel church to Coldstream (to Coldstream, no 7) and granted land in Hirsel to the priory (to Coldstream, no 11). Though Patrick, William's father, is called also Lord of Greenlaw (Charters of the Heirs, no 18) the church of Greenlaw was confirmed to Kelso abbey along with its chapels by Earl Waldeve (to Kelso, no 5), Patrick I (to Kelso, no 7) and Patrick II (to Kelso, no 11). Patrick I also confirmed to Kelso the grant of land in Greenlaw by William. (to Kelso, no 8).

[909] See above, p 168.

[910] See below, p 213.

[911] Both Robert and William continued to be styled 'son of the earl' in charters many years after their father's death (Charters to Melrose, nos 16 -17). Robert also witnessed his brother Patrick II's charter to Stephen Papedy (to Laymen, no 5) as 'son of the earl'. In the 1240's William was known as 'William son of the earl' (Bernham, *Pontifical Offices*, xi).

[912] The inscription on the obverse of William's seal which depicts a lion fighting a dragon reads + SIG' WILL'I FIL' COMIT' PATRICII. D' DVBAR; on the counterseal, a horseman riding over a figure on the ground is shown with the caption SIGIL': WIL'MI: FIL'I: PATRICII COMITIS (Durham Seals 2813)

March in 1248, and he also acted as his steward.[913] Roger de Merlay was steward to Patrick I and Patrick Edgar was steward of Patrick III.[914] Patrick son of Alan and cousin of Patrick Edgar was clerk to Patrick I.[915] Members of the family were appointed to churches in the earls' patronage. Adam, younger son of Gospatric brother of Dolfin moved from Edlingham, in Northumberland, to become parson of Dunbar. Waldeve rector of Dunbar was the younger son of Earl Patrick II.[916] There may have been family links with the prioresses of Eccles and St Bothans where the name Ada persisted.[917] Promotion in the Church was not confined to the bounds of the earldom. Adam of Harcarse, a relative, became abbot of Newbattle 1216-1219 and of Melrose 1219-1245.[918] Almost certainly the earl's grant of land in Harcarse to Melrose was linked to Adam's election.[919]

The family of course was constantly being extended through marriage. We have already seen that the marriages of daughters of the earl which might deplete the comital estate could also extend the family network and develop new and supportive patterns of involvement. Juliana's marriage to Ranulf de Merlay, lord of Morpeth gave them a generous slice of her father's Northumbrian lands. But these were never incorporated into his barony, and service seems to have owed to the earls from them.[920] Thereafter the De Merlays were part of the Dunbar establishment in Scotland, holding land in east Lothian by c.1200.[921] Richard and Henry de Merlay witnessed charters of the earls to Coldstream, Durham and Melrose.[922] Roger de Merlay, Patrick I's steward, witnessed eleven of the surviving charters of Patrick I and Patrick II

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[913] G. Neilson, 'The March Laws', *Stair Society Miscellany,* I, (1971), 15-24; Charters to Melrose, no 15

[914] Charters to Coldingham, no 4, to Melrose, no 9; to Coldingham, nos 9-10.

[915] Charters to Melrose, no 13. On the descendants of Edgar, see Appendix 5 (iii)

[916] Adam's death is recorded in 1179 (*Chron. Melrose,* 42). He is called brother of the earl in a charter of Gospatric, father of Waldeve, to Durham (Charters to Durham, no 3); Waldeve is named as son of Earl Patrick and rector of Dunbar in a papal indult of 1245 (*Cal. Papal Letters,* i, 214). See below, p 247

[917] *HRHS*, 73, 192

[918] Harcarse was Dunbar land and Patrick I granted land there to Melrose (Charters to Melrose, no 6). Adam of Harcarse is not the earlier Adam abbot of Melrose (1207-1213) with whom (to Melrose, no 10) Earl Patrick perambulated land in Lothian which he was giving to Melrose (*HRHS,* 150). He attended the earl in his last days (*Chron. Melrose,* 82, s.a. 1232).

[919] Charters to Melrose, no 6

[920] See Appendix 6.

[921] *Melrose Liber*, no 220. They also held lands in Fife (*St Andrews Liber*, 283).

(three as steward) and charters of other members of the family.[923] Alice or Helen daughter of Earl Waldeve is said to have married Philip [de] Seton, relative of the Bertram or Bertrand de Seton to whom Patrick I gave land in Ruchlaw and Tranent before 1200.[924] The marriages of Ada, Patrick I's daughter, forged links with the de Courtenay family and the Lascelles family both of whom had connections south of the Border.[925] After William de Courtenay's death she was given possession of lands in Essex and Northampton which presumably had been given to her in dower, and when Theobald de Lascelles died, she raised a court action at Lincoln regarding her dower in Alesby.[926]

The marriages of daughters, then, could be costly but could bring returns through the extension of the family network and the acquisition of new contacts, fresh talent, ties of kinship loyalty. The marriages of the males on the other hand were intended to be profitable, materially and politically, and they were. Hirsel probably came into the Dunbar family through Deirdre, wife of Gospatric, and passed from generation to generation of the Dunbar family. Of Aelina, wife of Earl Waldeve, we know little except the date of her death.[927] Marriage to Ada, natural daughter of William the Lion, gave the family an undoubted royal connection. Her son Patrick II was acknowledged as 'nephew' and referred to as such by Alexander II.[928] It was probably not the first connection beween the House of Gospatric and the royal house. The

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[922] Henry de Merlay witnessed Charters to Melrose, no 9; Richard de Merlay Charters to Coldstream, no 3 and to Durham, no 5.

[923] He witnessed, for instance, the charter of Patrick I late in his life witnessed also by the earl's doctor (Charters to Coldingham, no 7); charters of Patrick II before and after he became earl (Charters of the Heirs nos 2-3, 7; to Durham, no 7); charters of William, Patrick I's son (*Cold.Cart.*, nos 15, 18 and 24; *ND,* nos 133, 134).

[924] *Family of Seton,*i, 69, which, however, offers no evidence for the marriage (see also *SP*, iii, 252). For the grants of land, see *RRS,* ii, no 578-9 (Charters to Laymen, nos 1-2). Bertram's father was Alexander (who witnessed *RRS*, i, no 42 x 1153) and so Philip and Bertram may have been brothers.

[925] *Cal.Docs.Scot.,* i, 308. One branch of the Lascelles family were sheriffs of Fife in the 1260's (Reid and Barrow, *Sheriffs*, 19). There was also a connection with Bolton in Cumberland and with Northumberland (Hedley, *Families*, 237, 240, 243). Barrow finds connections also in Yorkshire and Westmorland (*Era*, 182).

[926] *Cal. Docs. Scot.*, i, nos 677, 694, 753, 921 (1217-1225)

[927] Aelina died 20 August 1179 (*Chron. Melrose,* 42). She witnessed a charter of her husband granting pasture rights to Melrose (Charters to Melrose, no 3).

[928] Charter of Alexander II of 1235 granting forest in Dundaff and Strathcarron to Earl Patrick II in exchange for Troqeer in Galloway (*Handlist of the Acts of Alexander II 1214-49*, compiled by J.M. Scoular (Edinburgh 1959), no 202; Anderson, *Diplomata*, no 30). Charter of Alexander II of 1248 anent Hassington (*Melrose Liber,* no 237)

identification of the first Gospatric's father Maldred as brother of Duncan I has been convincingly disproved;[929] but Gospatric's daughter Octreda is said to have married Duncan II between 1087 and 1094.[930] In the thirteenth century valuable alliances were built up on the strength of the marriages of the earls. Patrick I's second wife Christina was the widow of William Bruce who gave her dower land in Hertness and an income from Hartlepool market and fair.[931] Christina was in all probability a Stewart by birth, daughter of Walter fitz Alan I from whom she acquired Birkenside in Lauderdale.[932] Euphemia, probably Christina's daughter, who married her step-brother Patrick II about 1212, had Birkenside for her marriage portion when she married Christina's stepson, the future Patrick II. Birkenside eventually passed to Euphemia's son Patrick III and in turn to his younger son John, styled lord of Birkenside and to his grandson, John.[933] Cecilia, wife of Earl Patrick III is a more enigmatic figure; she is often styled in the charters 'daughter of John' and she has been identified as the daughter of John of Warkworth, in Northumberland, and of Ada de Balliol of Barnard Castle.[934] According to Wyntoun, the eldest daughter of Alexander Comyn married an earl of Dunbar and if this is so, then chronologically it must refer to Patrick IV.[935] Younger branches of the family also married well. Edgar younger son of Gospatric brother of Dolfin acquired considerable lands in Cumberland, Westmorland and Coquetdale in Northumberland from Ivo, father of his wife Alice.[936] The wife of William,

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[929] G.W.S.Barrow, 'Some problems in twelfth and thirteenth-century Scottish history – a genealogical approach', *The Scottish Genealogist*, xxv, no 1 (March 1978)

[930] F. Barlow, *William Rufus* (London, 1983), 295. Barlow cites as his source R.L.G. Ritchie, *The Normans in Scotland* (1954), 62 n3. Possibly his source was Skene (*Celtic Scotland*, I, 438) who admits that his source, *Chron. Cumbriae (Dug. Mon.*, I, 400) is not authoritative. Octreda of Dunbar is stated to have married Duncan II in *The Handbook of British Chronology* (Royal Historical Society, 3rd edn., 1986), 57. Hedley states that the daughter who married Duncan II was Ethelreda and that she and Waldeve were the only two legitimate children of the first Gospatric (Hedley, *Families*, i, 238-41). The *Scots Peerage* agrees that Duncan II married Ethelreda (*SP*, iii, 245). On Gospatric's daughters, see *Register of the Priory of Wetheral*, ed. J.E. Prescott (Cumberland and Westmorland Antiquarian and Archaeological Society, 1897), 386.

[931] Earl Patrick refers to Christina as his countess in Charters to Melrose, no 10. On 11 November 1218 Earl Patrick and Christina made an agreement with her son Robert concerning her lands in Hertness and her rights in Hartlepool (*Cal. Docs. Scot.*, i, 700)

[932] Malcolm IV granted Birkenside to Walter fitz Alan 1161 x 1162 (*RRS*, i, no 183).

[933] *Dryburgh Liber,* nos 120, 311.

[934] Andrew B.W. MacEwen, 'A Clarification of the Dunbar Pedigree' (Maine, 1997)

[935] *Chron. Wyntoun* (Historians of Scotland series, ed. Laing, ii 310-11. See also *The Original Chronicle of Andrew of Wyntoun* (STS, 1903-4). Alan Young confuses Patrick III (1248-1289) with his son Patrick IV (1289-1308) in 'Noble Families and Political Factions in the reign of Alexander III', *Scotland in the Reign of Alexander III* (Edinburgh, 1990), 11.

[936] *Newminster Cartulary*, 117-118, no 61a

Patrick I's cousin, as we have seen, was called by him *M. comitissa*; she is thought to have been a daughter of Earl Henry, a sister of Malcolm IV and widow of Conan of Brittany, Earl of Richmond and Humphrey de Bohun.[937] Patrick I's son William married Christina, heiress to the Corbet lands of Makerstoun.[938] Among the wider family there were marriage connections with Fife and Galloway through Waldeve brother of Dolfin whose daughter Gunnilda married Uchtred lord of Galloway.[939] What all these links meant in practice is hard to assess, but they certainly created through marriages a network of connections and alliances which potentially reinforced the lordship of the Dunbar earls, strengthening their position economically and politically and raising their profile nationally. Undoubtedly the Turnberry Bond of 1286, whatever its political significance, represents one strand of their many connections, illustrating links with the Stewart and Bruce families forged through marriages some eighty years earlier.[940]

Nowhere are kinship and family solidarity more powerfully expressed than in the process and procedures of benefaction enacted and re-enacted throughout the period. The family made grants on their own behalf to religious houses [941] but also were seen to participate in the earls' benefactions through different mechanisms of consent and association.[942] These might include, though only rarely, individual grants supplementing those of the earl, as when Countess Deirdre granted Hirsel church and land to the new community of Coldstream.[943] Or they might be grants in which the whole family participated. One such, the endowment of St Nicholas Church in Hume by Earl Gospatric brother of Dolfin, has a strong resonance of family presence and

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[937] *Kelso Liber*, no 78; Hedley, *Northumberland Families,* i, 237
[938] *St Andrews Liber,* 262-3. The Corbets were a long-established family, Walter Corbet witnessing Malcolm IV's charter to Kelso of 1159 (*RRS*, i, no 131).
[939] *Holyrood Liber,* no 24 (I1164 x 1174). Waldeve retired to Holyrood as a canon and this charter of Uchtred and Gunnild granting Torpenhow church to the abbey with the consent of their heir may have been occasioned by his death. See also K.J. Stringer, 'Acts of Lordship: The Records of the Lords of Galloway to 1234' in *Freedom and Authority* (Tuckwell, East Lothian, 2000), 216.
[940] Stevenson, *Documents*, I, 22-3, no 12
[941] E.g. *Kelso Liber,* nos 76, 129; Charters of the Heirs, nos 5-6; *Yester Writs*, 8, no 14; *May Docs,* no 54
[942] The immediate family here includes parents, wives, children, siblings, uncles, nephews and nieces, first cousins and the wider family more distant cousins and in-laws.
[943] Charters to Coldstream, 1-2.

participation.[944] Most of the benefactions recorded, however, were grants by the earl himself, or confirmations by him of grants of his predecessors or of his tenants and dependants.[945] When the earl granted, family consent and support involved attendance at the service of benefaction, being included by name or category in the *pro anima* clause, giving explicit consent to the benefaction, standing surety for the agreement, and being named as a witness to the act.[946]

The recitation of the *pro anima*, which occurs in nearly two-thirds of the charters of the earls, was a mystical act, when past present and future members of the family participated in benefaction as kin to the earl who granted to the saint and the saint's servant family on earth.[947] The presence and solidarity of the family gave solemnity and security to the gift. Originally, as we have seen, those who were included in the *pro anima* and alive at the time of the ceremonial grant, would be physically present and would as family share in the spiritual countergifts, but over time this declined, as did the use of the *pro anima* clause. This may reflect a reduction in first benefactions and a higher proportion of confirmations, and perhaps also a greater emphasis on what is done by the earl and his heir than through the support of members of the family.

What does the use and form of the *pro anima* reveal of the role and significance of the Dunbar family? As noted earlier, the *pro anima* in nearly all of the charters specify the earl and about three-quarters his predecessors and successors, while a much smaller proportion (about one-third) include wives or parents and a further tiny proportion his children. This suggests that even in the earliest years the significance of the *pro anima* was not exclusively or even primarily spiritual. The earl, plainly, was not trying to get to Heaven without bothering about his immediate family. Similarly, the inclusion of father and mother in the early charters and the growing importance of the predecessors

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[944] Charters to Kelso, no 1
[945] See above, p 34.
[946] On ceremonies of benefaction and aspects of family association see Stephen White, *Custom, Kinship and Gifts to Saints*: *The 'Laudatio Parentum' in Western France, 1050-1150* (Chapel Hill, NC, 1988) (hereafter White, *Custom, Kinship, Gifts)*; Barbara Rosenwein, *To Be a Neighbor of St Peter: The Social Meaning of Cluny's Property*, 909-1049 (Ithaca, NY and London, 1989) (hereafter Rosenwein, *Cluny*), 27. Note however that White warns (*ibid*, 126) that studies of the *laudatio* 'provide only fatally flawed evidence about the medieval family'.

and successors in the *pro anima* in later charters, do not signal personal or religious priorities. Rather, all suggest that the *pro anima* in its various forms was, among other things, a way of putting the gift in context which suited the purposes of both the giver and the recipient.The role of the earl as donor and as the present representative of a line, all of whom participate in the act of benefaction, are stressed. The *pro anima* in other words is an opportunity to publicise lineage; that is not the entirety of its purpose, but it is a consistent feature of its use.

Witnessing, too, was a form of assent, a statement of support, probably though not invariably a sign of physical presence.[948] Family witnessing may be taken as an indication of a kinship solidarity, a grouping round the earl as the centre as well as the head of the family by people whose lives revolved at least in part round him. They were were his kin by blood or marriage, and as such they derived land and livelihood from him. When they witnessed his charters, therefore, they witnessed not just as family, but as tenants, officials and employees. Family ties were complex affairs, and so family witnessing was a multi-faceted thing, reflecting and expressing the intricacies of their relationships with the earl, re-inforcing his lordship through their support and presence, expressing their loyalty, publicising his strength. On the other side of the coin, they were seen publicly to associate with the earl's act, and thus tied him – and themselves – into it. As witnesses therefore they would be particularly valued.

As we have seen, family witnessing varied according to circumstances and would be affected by distance and inconvenience. Only one of the earls' charters to the priory of May, Gospatric's charter given at Dunbar, is witnessed by family members.[949] Two others, issued late in the thirteenth century, obviously at St Andrews, have no family witnesses.[950] Then certain charters dealt with specific matters, and witness lists would be constructed to reflect the special nature of the gift. Members of the Dunbar family witness only one of

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[947] On the occurrence and form of the *pro anima* in the earls' charters, see above p 86
[948] See attestation section above, p 106.
[949] Charters to May, no 1
[950] Charters to May, nos 5-6

the Kelso charters (which record the granting of churches), in this case a receipt.[951] In the charters of Durham and Coldingham the absence of significant family witnessing is marked; [952] only in chirographs or charters issued in connection with chirographs where there was at least the semblance of cordial compromise do members of the family figure prominently.[953] Substantial family witnessing occurs therefore in particular contexts only where it would be deemed to be appropriate and was more specifically associated with benefaction – principally in the charters, that is, to Coldstream and Newbattle and in part to Melrose.

All of the thirteen surviving charters of the earls endowing Coldstream priory, a quintessentially family foundation, were witnessed by members of the immediate and wider family who formed a core group comprising approximately one-sixth to one half of the total witness list. Ten, perhaps eleven, were witnessed by at least one, five of them by two or three of the immediate family. Of these ten or eleven, the eldest son witnessed seven or eight. Members of the wider family witnessed eight of the thirteen. Charters to other houses such as Melrose and Newbattle however also record a high level of family witnessing. Three of the five charters to Newbattle of Patrick I were witnessed by his sons Patrick and William, and another, the earliest, by Countess Ada. The Newbattle witness lists have almost certainly been shortened in the copying and it is therefore not possible to determine the proportion of family witnesses. Nine of the eleven earls' charters to Melrose where witness lists survive are witnessed by members of the immediate family, and eight by members of the wider family, witnessing by all family members ranging in proportions from 11% to 50%.

In some cases unusual circumstances might actively encourage family witnessing, as in the Hassington case of 1248.[954] The involvement of particular family members as witnesses can often be circumstancial. Eldest sons, for

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[951] Charters to Kelso, no 9. Witness lists to the earls' charters have survived for nos 1, 2, 9, and for Charters of the Heirs, no 1, most including high-ranking churchmen.
[952] See above, p 112. Examples are in Charters to Coldingham nos 2,4, 7 and to Durham nos 1,2,5,6, 7, 8 and 9 where there seem to be no witnesses of the immediate family.
[953] Charters to Coldingham, nos 1, 9- 10.
[954] Charters to Melrose, nos 16-17

example, witnessed about half of the charters of the Gospatrics, Patrick I and Patrick II, and one-third of the charters of Patrick III. Yet none of Earl Waldeve's charters were witnessed by his son, the future Patrick I, perhaps just because he was of an age to have an establishment of his own. Sons of the earls frequently witnessed together. Two sons of Patrick I, Patrick, his heir, and William, witnessed their father's charters to Newbattle; Patrick and another son Fergus a charter to Coldstream.[955] These charters belong to the middle or late period of Patrick I's earldom, at a time when his sons had reached adulthood.[956] Together the three sons of Patrick III, Patrick, John and Alexander witnessed charters of the earl to Coldstream Priory and to the Caldicotts.[957] Brothers figure in ten witness lists- Adam brother of Earl Gospatric, Patrick, brother of Earl Waldeve. [958] William witnessed his brother's charters to Coldstream during their father's lifetime.[959] William and Robert, another son of Patrick I, witnessed the charters of their brother Patrick as earl, Robert once as steward.[960] William witnessed the charter of his stepmother Christina founding the house of Red Friars in Dunbar, in 1247.[961] After his brother's death in Marseilles Robert witnessed the charters of his nephew Patrick III confirming half of the marshland of Billie to Coldingham.[962] Where brothers or relatives were stewards of the earl, of course, they straddle two categories as members of the family and as estate or household officials.[963] And here again context is all-important. Brothers were more likely to witness when sons were young and so the survival of charters from a particular decade can give a misleading impression of changing principles and patterns of family witnessing. The reality was rather that circumstances changed and consequently relationships altered within the family. There is the impression – no more – that the high incidence of witnessing by the brothers of Patrick II

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[955] Charters to Newbattle, nos 2-5; to Coldstream no 7. The identity of *Fergus filius comitis* in Charetrs to Coldstream, no 7 is doubtful, but he may well have been a son of Patrick I.
[956] Earl Patrick married Ada in 1184, two years after his accession to the earldom. It is likely, but not certain that William and Robert were both her sons; Patrick, later Patrick II undoubtedly was, as he was referred to as the nephew of Alexander II (see above, p 26).
[957] Charters to Coldstream, nos 11, 15; Charters to Laymen, no 7
[958] Charters to Coldstream, no 3; to Melrose, no 3; to Durham, nos 3-4
[959] Charters of the Heirs, nos 2-3
[960] Charters to Melrose, nos 15-17 (in 16 and 17 as sons of the earl, Patrick I); to Coldstream, no 10; to Laymen, no 5
[961] *Yester Writs*, 8, no 14
[962] Charters to Coldingham, nos 9-10. These were not chirographs but in essence repeated the text of the two earlier charters.

was because he was closer to his brothers than to his son, the future Patrick III, who may or may not have deserved the unflattering description of him by the Lanercost chronicler.[964] Similarly, William, cousin to Earl Patrick, witnessed four of the earl's charters, the earl and his eldest son at least three of William's,[965] possibly because the cousins were almost certainly of similar age and seem to have continued the close relationship of their fathers, the brothers Earl Waldeve and Patrick.[966] Again, members of the family might be used as witnesses because of their dual role as relatives and employees. Witnesses of the wider family included distant cousins, Walter and Alan, sons of Edgar, brother of Earl Gospatric, father of Waldeve, Alan's son Patrick, Walter's sons Gilbert, Patrick and Walter; also Malcolm, John and Henry, sons of Waldeve and grandsons of Edward, younger brother of Earl Gospatric.[967] Prominent also among the wider family were their de Merlay in-laws, Richard and Henry and Roger, who witnessed a total of fifteen charters of the earls and twenty Dunbar family charters. [968]

There were other forms of family participation. Standing surety for an agreement, for instance, occurs only once in the charters, when the son and the brother of Earl Waldeve stood surety for the agreement reached on Renton.[969] Warrandice, where it was given, involved only the earl's heirs and never members of the wider family, for there had to be a direct and effective link between the grant and the guarantor.

The longevity of the earls, especially of Patrick I, who was earl for fifty years, and of his grandson Patrick III, who was born in 1213 and died in 1289 at the age of seventy-six, gave a particular role to eldest sons during their fathers' lifetime. This was certainly the case with Sir Patrick, eldest son of Patrick I, who was obviously prominent in his father's latter years. The impression of

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[963] Eg Robert, Roger de Merlay, Patrick Edgar
[964] I.e. *vir quem vidimus multis vitiis deditum* (*Chron. Lanercost,* 59)
[965] Charters to Coldstream, nos 4, 7; to Melrose, nos 9, 10. William's charters witnessed by Earl Patrick and his son are *Cold. Cart.*, nos 15 and 35, Appendix no II. None of the witness lists to his charters to Kelso have survived.
[966] Patrick witnessed three of the five charters of his brother whose witness lists survive. (Charters to Coldstream, no 3; to Melrose, no 3; to Durham, no 4).
[967] See Appendix 5 (i).
[968] Charters of the earls to Coldstream, Kelso, Melrose, Coldingham, Durham
[969] Charters to Coldingham, no 1, for Renton

disputatiousness recorded in Sir Patrick's charters issued during his father's lifetime to Coldstream, Coldingham and Dryburgh accords with the pen-pictures of the chroniclers of a complex character- turbulent, idealistic, exhibiting the frustrations often associated with the heir-in-waiting.[970] He endowed Coldstream and confirmed his father's grants to the priory.[971] He quarrelled with Coldingham over Swinewood, in a high profile case involving his elderly father and settled eventually in the *curia regis*.[972] He made a cash contribution to Dryburgh for the new church building and confirmed boundary agreements made between his father and the canons. Yet though he was undoubtedly active and involved in affairs of the estate there is no hint that he sought to displace or upstage his father. His endowments related to lands which he himself held within the earldom, with the exception of his donation to Dryburgh from Birkenside. Almost certainly Swinewood had been given to him by his father for he refers to the unjust seizure of the land by his predecessors.[973] The tone of his letter to his father is affectionate and respectful. His seal which is affixed to seven of his charters is a modest, rough-and-ready affair compared with the seal of his father and his own seal as earl: it is considerably smaller and plainer, the shield not charged with the lion rampant.[974] The knight rides to sinister, compelling him when he succeeded as earl to have his seal struck depicting a knight riding, unusually, to dexter.[975] There is no mistaking the message of this larger and grander seal that his accession to the earldom vastly added to his importance and status. In the last analysis, an heir was just an heir, even when his father was very old and somewhat out of things.

The account of the death of Patrick I in December 1232 is unusually poignant and evocative, reminding us of the quintessential role of the family in the lives of the earls. The old earl who had held the earldom for fifty years called together his sons and daughters and relations and neighbours to celebrate

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[970] See above, p 27.
[971] Charters of the Heirs, nos 2-3
[972] Charters of Heirs, nos 7-10. The earl's charters are to Coldingham, nos 4, 7, and probably 8. The quarrel over Swinewood was not necessarily of Sir Patrick's making and the settlement in the *curia regis* less favourable to the monks than at first appears. See above, p 144
[973] Charters of the Heirs, no 7
[974] Charters of the Heirs, nos 7-10, 12, 14. A fragment only is attached to an eighth charter of Sir Patrick, no 13.

Christmas joyfully with them. Four days later he became gravely ill. Adam abbot of Melrose, his kinsman and friend, was called and from him he received the sacrament of extreme unction and the monk's habit. At the last, the chronicler tells us, he bade farewell to all, died, and was buried at Eccles.[976]

Tenants, dependants, associates

The endowment and settlement of associates and dependants of the earls outwith the family in the Dunbar lands has already been outlined.[977] Over the period covered by the charters many different individuals and families have been traced. In Lothian there were the Setons at Ruchlaw and Tranent, the Frasers at Fortune, Hailes and Drem. In Berwickshire the Papedy family at Manderston, the Grahams at Fans and Mellerstain, the le Maille family at Bassendean, the Marshalls, the different generations of the Gordons and Huttons, and the descendants of Walter who held Darnchester are all readily identifiable.[978] Edington was held by Haldane and his descendants, Leitholm by Ketel and his son Ketel and grandson John, part at least of Lennel by Edulf, his son Norman and Richard his grandson.[979] There were those like the Grahams who held lands of other lords. David de Graham held lands in the Merse but also in West Lothian, Ayrshire, Renfrewshire, Stirlingshire,and in the east of Lennox.[980] The Muscamps held Hassington, north of the Border but were lords of Wooler south of the Border. [981]

Certain individuals and families are particularly prominent. In Coldstream charters members of the Leitholm family provide an example of continuous service. Ketel of Leitholm witnessed three of the four charters of Patrick I to Coldstream which survive and he or his father witnessed also the later of the

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[975] Durham Seals, no 2806
[976] *Chron. Melrose,* 82, s.a. 1232; *Chron. Lanercost,* 41, s.a. 1231
[977] See above, p 165.
[978] Charters to Coldstream, no 2; to Newbattle, nos 1-4; to Laymen, nos 1-2,4, 6; *Cold. Cart.,* nos 5, 21-23, 27-8, 36-40, 43-47, 58
[979] Charters to Coldingham, no 1; to Coldstream, nos 1-2; *Cold. Cart.*, nos 5-6; *Hist. MSS. Comm.,* 12th Report, viii. Earl of Home, 173, no 291
[980] G.G. Simpson, *Handlist of the Acts of Alexander III, Guardians and John*, no 19, December 1253.
[981] Charters to Melrose, nos 16-17

two charters to Coldstream of Patrick's grandfather, Earl Gospatric.[982] John of Leitholm, probably the son of Ketel referred to above, witnessed two charters of Sir Patrick, son of Patrick I, a third after Sir Patrick succeeded as earl, and three of the four extant charters of Patrick III. [983] Of the Frasers, Gilbert Fraser, witnessed a charter of Earl Gospatric and another of his grandson Patrick I. Thomas Fraser, Patrick I's clerk, witnessed two of this earl's charters, and Bernard Fraser appeared twice on the witness lists of the charters of Patrick I and twice on those of his son Sir Patrick.[984] The Gourlay and Papedy families have already been identified, but Alan of Ormiston, Walter of Darnchester, Philip of Halliburton and Robert of Ellem all appear more than once. To the Frasers in the Newbattle area can be added from the shortened witness lists Roland son of William, almost certainly the Roland of Greenlaw who was at one time steward to Earl Patrick.[985] Also identifiable are Warin or Gavin le Maille who held of the earl in Bassendean [986] and William of Boltby, witness to charters of Patrick I to Melrose and of his son Sir Patrick to Coldstream.[987] Nes son of Nes was a member of the Fraser family and probably related to Nes of Waughton, a frequent witness of twelfth and thirteenth-century charters to Durham, Coldstream and Melrose.[988] Thomas of Gordon is a fourth witness in the charter in which Earl Patrick confirms and augments grants of land in South Hailes.[989] The Gordon family like the Frasers and Papedys and Leitholms was close to the earls and were major benefactors of Coldstream.[990] Thomas witnessed two charters of Sir Patrick son of Patrick I and Adam, probably his grandson, a charter of Patrick III, all to Coldstream.[991] From the much fuller Melrose lists we can include, apart from witnesses from the immediate family, the steward, Haldane and his son Adam, and Stephen

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[982] Charters to Coldstream, nos 4-6 (Patrick I). Ketel of Leitholm who witnessed Gospatric's later charter to Coldstream (to Coldstream, no 2) may have been his father. Earl Waldeve's chirograph concerning Renton was witnessed by 'Ketel of Leitholm and his son Ketel' (to Coldingham, no 1).

[983] Charters to Coldstream, nos 10, 13-15; of the Heirs, nos 2-3

[984] Charters to Coldstream, nos 2, 4-7; to Durham, no 4; to Coldingham, no 4; to Melrose, 3, 6, 9-10, 12-13; to Newbattle, nos 2-4; of the Heirs, nos 2-3, 7-8

[985] Watt, *Grads.*, 242-3

[986] Charters to Melrose, no 3; to Newbattle, no 1. See also reference to him *Cold. Cart.*, no 46

[987] Charters to Melrose, no 13; to Newbattle, no 1; of the Heirs, nos 2-3

[988] Nes son of Nes in Charters to Newbattle, no 1; to Melrose, no 10. Nes of Waughton in Charters to Durham, no 5; to Melrose, nos 6, 9, 12; *Cold. Cart.*, nos 24, 27, 28; *Melrose Liber*, no 302

[989] Charters to Newbattle, no 2

[990] *Cold. Cart.*, nos 36 -40

Papedy, a future steward of Patrick. Six others, Gilbert Fraser, Warin or Gavin le Maille of Bassendean, Gamel of Pitcox, Hugh of Duns, Adam of Fogo, and Adam of Edington held of the earl, three of them witnessing his charters elsewhere.[992] The witnesses of the early charters to Durham are different from those who witness other charters of the earl – Ulkill and Adam, sons of Maldred, Gospatric son of Crinan and Haldane his brother, Ketel son of Dolfin, and their sons.[993] But from the mid-twelfth century witnesses to the Durham and Coldingham charters tend to be found as witnesses elsewhere, a sign perhaps of a new cohesion and settledness in the history of the earldom. Charters of the earls to Durham were witnessed by Haldane, *dapifer* of Earl Gospatric and then *senscallus* of his son Earl Waldeve, by his son Adam in the time of three earls, Gospatric, Waldeve and Patrick I; and in due course by Adam's son Patrick who also witnessed Patrick I and Patrick II's charters to Coldstream and Melrose.[994] Adam of Polwarth witnessed charters of Patrick I and his sons Patrick and William variously to Durham , Coldingham, Coldstream and Melrose.[995] So also the family of Ketel of Leitholm over three generations,[996] and the Frasers, one of whom, Bernard Fraser of Drem, as we have seen, was witness to charters to Coldstream, Melrose and Newbattle.[997] The picture, as elsewhere, is one of a fairly small number of individuals and even more strikingly of families who witness a high proportion of the surviving charters of the earls.

The names of the earls' people show that a markedly high proportion of them were or came from families whose origins at least were south of the Border. In addition to the people of Northumbrian origin who may have accompanied Gospatric north, others of more modest rank are found in later centuries with land or position in Lothian and the Merse – David of Burradon, John of

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[991] Charters of the Heirs, nos 2-3; to Coldstream, no 14
[992] Charters to Melrose, no 3. Witnessing elsewhere by Gilbert Fraser (Charters to Coldstream, no 5; to Durham, no 4; to Coldingham, no 1); by Gavin (or Warin) le Maille (to Newbattle, no 1); by Adam of Edington (to Coldstream, no 3)
[993] Charters to Durham, nos 1-4
[994] Charters to Coldstream, nos 2,4,6; to Melrose, nos 2-3, 9-10; to Durham, nos 2-6; to Coldingham, nos 5-6
[995] Charters to Melrose, nos 9, 13; to Coldingham, nos 4-6; of the Heirs, nos 2-3, 7
[996] Charters to Coldstream, nos 2, 4- 6, 10, 13-15; to Melrose, no 6; to Durham, no 4; to Coldingham, nos 1, 5-6; of the Heirs, nos 2-3
[997] Charters to Coldstream, nos 4, 6; to Melrose, nos 6, 13; to Newbattle, nos 2-4 no 4; of the Heirs, nos 2-3, 7-8; *ND,* nos 133-4

Eslington, the chaplains Adam of Branxton and Geoffrey of Wark, all whose names were still connected with these Northumbrian lands. We know that the Meyners or Menzies family were associated with Etal, Robert Morel (possibly a descendant of the Northumbrian Morel who killed his sworn brother, Malcolm III, in 1093) with Styford. William of Boltby had Northumbrian lands but also, like Richard de Tweng, was of Yorkshire origin. The Papedy family were from Islandshire; the families of Adam Hastings and the Caldicotts probably originally from Huntingdon – though both had strong Northumbrian associations.[998]

A particularly valuable insight is given into the Dunbar following in 1244, already alluded to. In 1244 Henry III compelled Patrick II and Walter Comyn earl of Menteith to swear by a bond of good behaviour, and the listing of the 39 jurors who swore with Earl Patrick reads as a roll-call of the Dunbar party at that time. Yet Earl Walter's jurors include Henry of Halliburton who held of Earl Patrick and so too facile a connection of lord, land and tenant cannot be assumed.[999] Malise earl of Strathearn who heads the Dunbar list, married Marjory, daughter of Robert de Muscamp who held Hassington of the earl. Robert de Brus who comes after him, was the step-brother of Earl Patrick, son of his stepmother Countess Christina. William son of the earl, Earl Patrick's brother is there, as is William son of Earl Patrick, perhaps a double copying or an error, perhaps an allusion to a little-known son of Patrick II, and then John son of Waldeve, a cousin. Robert and Roger de Mowbray, relatives by marriage, are present.[1000] There are representatives of the Balliol and Olifard families and of lesser families such as the Melvilles, Sinclairs and Lockharts. Powerful neighbours are there, such as William de Vieuxpont, the earl's neighbour in Langton near Duns. Prominent individuals who hold of the

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[998] On the families of Morel, and of Meyners (Menzies), see Hedley, *Families*, ii, 239, 243 ; on the de Normanville and de Colville families, see Barrow, *Era*, 103, 177. See also Hardy, 'Papedy' for the Papedy family. William of Boltby in Yorkshire is in Hedley, *Families*, i, 233, Adam Hastings in Milne, 'Land Tenure', 13, and Watt, *Grads.*, 256. Richard de Tweng was a knight of Yorkshire. The Caldicotts probably took their name from Caldecote in Huntingdon (*RRS*, i, 241) but also had lands in Northumbria.

[999] *Cal. Docs. Scot.*, i, no 2672. See Young, *Comyns*, 46-7 for a comparative study of the forty jurors who swore with Earl Walter.

[1000] Philip de Mowbray married Galiena, daughter of Waldeve, lord of Dalmeny and Inverkeithing. The Mowbray family had Yorkshire origins (Barrow, *Era*, 185-6; *Dunf. Reg.*, nos 165, 166, 211).

earl are also listed – David de Graham, William of Mordington, Philip of Pitcox, Thomas de Normanville and his brother, and representatives of the leading families of the earldom, Laurence and Nes Fraser, Adam of Gordon, and Richard de Maille. From the earldom, or on neighbouring lands, the Marshalls, William Gifford, William of Ormiston, Alan of St Clair, and possibly John of Keith. Robert of Congleton possibly of Cheshire origin[1001] and David and Walter Burdun or Burradon, doubtless of Nothumbrian origin were also of Earl Patrick's party.

The witness lists to the earls' charters give a domestic and intimate perspective on the Dunbar following, whereas this assemblage of supporters is in a national context, revealing ties of blood and marriage, important personal and tenurial links, connections with 'newer' families of magnate and lesser status. It links to the question posed earlier of how significant connections through intermarriage, locality and land tenure were in reality, and it suggests that they were indeed influential and useful, and that they were fully recognised and understood.

Household and estate officials

Dr Grant Simpson has rightly stressed the importance of the study of magnate followings as 'a source of a magnate's social influence and prestige ...and the essential base of a lord's political and administrative activities'.[1002] Studies of the followings of Earl David and the earls of Chester have appeared since Dr Simpson's ground- breaking study of the following of Roger de Quincy. [1003] The developing organisation and professionalism of the Chester earls' establishment in the late twelfth century, for instance, has been charted and the emergence of the 'sonorous titles of seneschal, butler, chamberlain, constable, and the like' noted.[1004] Over the period of the acts of the earls of Dunbar the evidence is tantalisingly meagre; but some attempt at reconstruction can be made from the charter texts and their witness lists,

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[1001] Professor Barrow has suggested a connection with Congalton in East Lothian.
[1002] Simpson, '*Familia*', 104.
[1003] Sipmson, 'RQ', chapter 3; K. J. Stringer, *Earl David*, chapter 8; Crouch, 'Administration', *Chester Charters*, 73-90
[1004] Crouch, op. cit., 74

however piecemeal. It is a picture of change: Dr Simpson's view that Roger de Quincy's household and retinue was 'not elaborate...at a half-way stage of development' could be usefully be applied to the Dunbar establishment under Patrick I.[1005] But there are signs of a more organised and sophisticated set-up in the middle and later years of the thirteenth century.

The office of steward, initially the *dapifer*, appears first in the charter of Gospatric, brother of Dolfin, granting Edrom and Nisbet to Durham.[1006] Thereafter it occurs in charters of Earl Gospatric, father of Waldeve, to Coldstream, Melrose and Durham.[1007] The earliest named steward was Lambert, perhaps the man called Lambekin in the Coldstream charter.[1008] The office, variously called *dapifer* and *senescallus,* was held also by Haldane, probably Haldane of Edington, whose son Adam and grandson Patrick also witnessed charters of the earls.[1009] The steward, Gamel, was called *dapifer* in Gospatric's grant of Hartside and Spott to Melrose; though not said to have been steward specifically to the earl, he occurs again, this time as *senescallus*, along with Haldane and Roger(possibly steward to the priory) as a witness to Earl Waldeve's charter to Durham of 1166.[1010] The stewardship of Haldane and of Gamel indicate therefore a transitional stage in the vocabulary of the office, perhaps, though not necessarily, coinciding with an evolution in its functions and reponsibilities.[1011] The term *dapifer*, however, persisted into the earldom of Patrick I, when Stephen Papedy was described as such in a charter of c.1200.[1012] With that one exception, in all surviving charters of Earl Patrick and his successors, the term *senescallus* was invariably used for their

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[1005] *Ibid.*, 122. Roger de Quincy died in 1264, Patrick I in 1232.
[1006] Charters to Durham, no 1
[1007] Charters to Coldstream, nos 1 and 2; to Melrose, no 2; to Durham, nos 2-3
[1008] Charters to Coldstream, no 1
[1009] Charters to Durham, no 1 (Lambert), to Coldstream, no 1 (Lambekin- possibly a mis-copying). For Haldane, Charters to Coldstream, no 2; to Melrose, no 2 (as *dapifer*), no 3 (as s*enescallus)*; Durham, nos 2 –3 (as *dapifer*), 4 (as *senescallus)*. Adam is a witness to Charters to Coldstream, no 4; to Melrose, no 3; to Coldingham, no 1; to Durham, nos 2-6. Patrick witnessed Charters to Coldstream, nos 4, 6; to Melrose, nos 9-10, to Coldingham, nos 5-6; to Durham, nos 5-6.
[1010] Charters to Melrose, no 2, to Durham, no 4. He may well be the Gamel of Pitcox who, along with Haldane who was designated steward, witnessed Earl Waldeve's charter granting pastureland to Melrose (to Melrose, no 3).
[1011] Charters to Melrose, no 3, to Durham, no 4. Crouch suggests that *senescal* was in tune with the spirit of the times; the office was going up in status and the duties were becoming more honorary (Crouch, 'Administration', *Chester Charters,* 76).
[1012] Charters to Coldstream, no 5. On the family, see Hardy, 'Papedy'.

stewards. As early as the 1150s Earl Gospatric had more than one steward, and it is possible that there was a division of duties between them, as may have been the case in Earl David's household.[1013]

Although the office tended to run in families, we encounter the names of many stewards over the period. There was Roland, probably Roland of Greenlaw, father of William of Greenlaw.[1014] Stephen Papedy and perhaps another relative held the office.[1015] Other stewards were members of the earls' circle, dependants, tenants, clergymen who enjoyed their patronage – men like Gilbert of Hume, steward to Earl Patrick I, Philip of Pitcox, Patrick II's steward, and Hugh de Gourlay and Alan of Harcarse, who served Patrick III.[1016] The clergyman of Northumbrian origin, Patrick of Lemmington, was rector of Chirnside and Dunbar but also steward to Patrick III.[1017] Roger de Merlay witnessed 11 of Earl Patrick I's charters, some under the designation of *senescallus.*[1018] The employment of a relative in this most important position was continued by Patrick II, whose younger brother Robert and distant cousin Walter served as his stewards, and by Patrick III, who employed Patrick Edgar as steward.[1019]

Certain points can be made from these fragments of evidence. The employment of the earl's family and close associates as stewards emphasises the importance and high status of the office.[1020] It ensured a degree of trustworthiness- a quality which frequently surfaces in twelfth and thirteenth century charter references to the *probi homines* who participated, for example,

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[1013] Stringer (*Earl David*, 150) suggests that the office of *senescallus* may have been applied to the steward of the earl's lands, while *dapifer* implied household duties. The view here is that the distinction between the two terms is chronological.
[1014] Charters to Coldstream, no 6, to Melrose, no 6, to Durham, nos 5-6, all of the earlier part of Patrick I's earldom. Or he may have been Roland de Gourlay who witnessed Charters to Coldstream, no 5.
[1015] Charters to Coldstream, no 9. The witness 'Lord Papedy, the steward' may be Stephen but there is no conclusive proof of his identity. See Hardy, 'Papedy', on the recurrence of names in this family.
[1016] Charters to Coldingham, no 2; to Laymen, no 5; to Durham, no 9; *Cold. Cart.*, nos 41-2; *APS*, i, 413
[1017] Charters of the Heirs, no 16; to Coldstream, nos 13, 15
[1018] Charters to Melrose, no 9, to Coldingham, nos 5-6; to Durham, no 7. He (or his father) may also have been the *senescallus* of Earl Waldeve (Charters to Durham, no 4).
[1019] Charters to Melrose, nos 15-17; to Coldingham, nos 9-10

in the perambulation of the land granted to Melrose Abbey by Patrick I between 1207 and 1213.[1021] The tendency for it to run in families like the Gourlays, the Papedys and the family at Pitcox is therefore unsurprising. We have only one administrative writ addressed to the earl's steward, a brieve *de nativis* of Patrick I or Patrick II ordering the return of any unfree men of Coldingham priory found in the earl's lands.[1022] The position was not therefore entirely honorary. It also, however, appears traditionally amateur rather than newly professional, even by the time of Patrick III. It is difficult to estimate whether it altered much in character over the period. It seems to have changed hands more frequently after the departure of Haldane, who held office under Earl Gospatric and Earl Waldeve in the 1150's and 1160's. Haldane is usually (though not invariably) given his title *dapifer* or *senescallus*. He seems therefore to be something of the faithful retainer, but he may well be the Haldane brother of Gospatric the son of Crin' or Cren'(presumably Crinan) who witnessed Earl Gospatric's grant of Edrom and Nisbet to Durham in the 1130's. If so, it is tempting to speculate from the names of his father and brother that he was related to the earl.[1023] That would mean that the use of family by later earls would not be so much of a departure from earlier practice. He and Gamel may have been two of the thanes and drengs addressed by Gospatric, descendants of those who accompanied the first Gospatric north.[1024] The Papedy family, already alluded to as stewards, are thought to have originated in Islandshire, and may also have come north at that time. They prospered under the earls, acquiring Manderston and other lands, marrying well, later becoming established at Dunglass.[1025] They seem to bridge the old and the new in some respects for though holding land of their own they continued in the service of the earl.[1026] They remind us of the multi-faceted nature of lordship, of the variety of links forged over time between the lord and his men, and how these developed and became ever more complex.

[1020] Crouch suggests (Crouch, 'Administration', *Chester Charters*, 76) that *senescallus* was in tune with the spirit of the times; the office was going up in status and the duties were becoming more honorary.
[1021] Charters to Melrose, no 10
[1022] Charters to Coldingham, no 3. For similar writs see *RRS*, i, 192; *RRS*, ii, no 387
[1023] Charters to Durham, no 1. Both the brothers Gospatric and Haldane who witness this charter seem to have sons called Adam, as indeed did Earl Gospatric.
[1024] Charters to Coldstream, nos 1-2. Presumably, however, there was a resident population of this class in Lothian before the period (*ND*, no 100).
[1025] See Hardy, ' Papedy', *passim.*

They are a powerful corrective, surely, to the view that ties were either tenurial or personal, and that one category must be seen to predominate. What seems to emerge is that any view of twelfth and thirteenth-century Dunbar lordship as a one-dimensional relationship is simply anachronistic.

There are few scattered references to demesne offficials. The earliest allusion to a grieve or *prepositus* comes in a charter of Waldeve dating possibly to the period 1161-2 x 1164, before his father's death, witnessed by Uchtred *prepositus*.[1027] Patrick I and his father Earl Waldeve had a grieve, Adam Hastings, almost certainly the Adam the grieve who witnessed a charter of Waldeve concerning Renton, and who, as Master Adam Hasting, the grieve, witnessed a charter of Waldeve's son Patrick I confirming land in Skaithmuir to Coldstream priory. Adam is an interesting character. His Huntingdon and Northumbrian origins have already been noted[1028] and has been identified as a knight of king William who held land in Peeblesshire.[1029] Hugh, forester of Duns, witnessed a charter of Sir Patrick, the future Patrick II.[1030] Patrick IV was presumably not the first of the earls to have a falconer .[1031]

By the twelfth century, it appears, many English and French noble houses could boast a chamberlain or finance officer. A chancellor was a prestigious addition to the comital household.[1032] There are no allusions to these officials in the earls' charters, nor to many others of the humbler sort. Only the butler, Roger, is mentioned in a charter of Patrick I of the late twelfth or early thirteenth century.[1033] Patrick I's doctor appears in the witness list of his charter confirming Swinewood to Coldingham.[1034] Certain household officials were obviously connected to financial and legal matters. Before his accession to the earldom in 1232 Sir Patrick's seal was in the keeping of his notary,

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[1026] Charters to Laymen, no 5; *ND*, no 388; Hardy, 'Papedy', *passim*
[1027] Charters of the Heirs, no 1
[1028] See above, p 210.
[1029] Charters to Coldstream, no 6. Adam, called only '*prepositus*', witnessed a charter of Earl Waldeve regarding Renton (to Coldingham, no 1). See Watt, *Grads.*, 256, for details of his career.
[1030] Charters of the Heirs, no 3. He may have been a descendant of the Hugh of Duns who witnessed a charter of Earl Waldeve to Melrose, 1166 x 1179 (Charters to Melrose, no 3).
[1031] Stevenson, *Documents,* ii, 137
[1032] Crouch, 'Administration', *Chester Charters*, 80, 87
[1033] Charters to Melrose, no 9
[1034] Charters to Coldingham, no 7

Robert of Lambden.[1035] By the 1260s at the latest there was a *receptor* of the earl who issued receipts presumably in connection with rents or debts like those incurred by Coldingham Priory in the Swinewood case.[1036] There is reference in the Sorrowlessfield case to Patrick I's procurator who appeared for him in court.[1037] John, Patrick III's chaplain, was said also to be his procurator.[1038]

Though we may guess that the earl's retinue would also include household knights, there is little firm evidence of their existence. In the witness lists the *milites* who are not linked to particular lands are Patrick son of Walter, a distant cousin of the earl; Ralph de Lascelles, possibly an in-law through Ada's marriage to Theobald de Lascelles; Laurence Fraser, whom we know had lands, Richard de Tweng and Nicholas de Rutherford – the last perhaps a territorial description.[1039] All other references to knights connected with the Dunbars include the lands they held.

We have already noted the appearance of a clerk to the earl, first under Patrick I – Gilbert, then Thomas Fraser, and Patrick son of Alan son of Edgar.[1040] Tracing the development of a writing office or chancery is more problematical. As we have seen, there is some evidence from the Dunbar charters of a developing house style which may be linked to the use of clerks or even to a writing office.[1041] A cautionary note must, however, be sounded. Even the most cursory study of other contemporary private charters suggests that trends and developments of form and language were by no means individual phenomena, but rather the product of imitation and emulation and the development of a more professionalised bureaucracy which operated cross-Border and which drew its inspiration from royal, papal and episcopal

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[1035] Charters of the Heirs, no 11
[1036] Charters to Coldingham, no 11 (1260 x 1263), a reference to John, formerly *receptor* of the earl
[1037] *Melrose Liber*, no 101
[1038] Charters to Coldingham, no 9
[1039] Charters to Coldstream, no 13; to May, no 6; to Durham, nos 8-9; to Laymen, no 7
[1040] Gilbert witnessed Charters to Melrose, no 6 (1182 x 1214); to Coldingham, no 2 (1182 x c.1200); to Durham, no 6 (probably c.1200). Thomas Fraser, clerk to Patrick I, witnessed Charters to Coldstream, no 7 (1203 x 1209). Patrick witnessed Charters to Melrose, no 13 (c.1227 x 1232).
[1041] See diplomatic section above, p 64.

chanceries.[1042] The evidence of late thirteenth-century charters of similar form and language does not necessarily imply the existence of an establishment with agreed rules of vocabulary and phrasing. Nevertheless there are traces of individuality. The recurrence of more ornate though not identical forms of the salutation in contrast to royal usage [1043], and the move to the almost invariable use of forms of 'noscere' in preference to 'scire' in the notification[1044], the strengthening of warrandice and the unvarying corroboration of the document, come together in over 90% of the late thirteenth-century charters of the earl to a variety of recipients[1045]; and though these features do occur elsewhere in contemporaneous private charters the possibility exists that some at least were composed and written by clerks and scribes and lawyers of whose existence we learn elsewhere [1046].

Chaplains and clerks appear under these separate designations in the same witness list. [1047] There is no evidence that the earls'chaplains doubled as clerks, though this is possible.[1048]The earliest occurrence of a chaplain to the earl is John, chaplain to Gospatric, brother of Dolfin.[1049] Waldeve and Patrick I also each had a chaplain called John, almost certainly another man.[1050] Nigel was chaplain to Waldeve's father, Earl Gospatric.[1051] Apart from John, Waldeve had two chaplains, Ralph and Walter, who appear to have remained as chaplains to his son Patrick I.[1052] Henry and Peter occur also as chaplains to Patrick I, Peter also as one of the six chaplains of Patrick II whose names we know.[1053] They are to be distinguished from the clergymen of the parish churches who are also to be found in the earls' retinue.[1054]

[1042] As, for instance, in the charters of Earl David, Roger de Quincy, and the earls of Chester.
[1043] *RRS*, v, 5
[1044] 'Noscere' is used, for example, in all but one of the twelve charters of Patrick III (1248-1289).
[1045] Almost 100% when allowance is made for updated charters which repeat earlier phraseology eg Charters to Coldingham, no 10.
[1046] Charters of the heirs, no 11; *Melrose* Liber, no 101
[1047] As in Charters to Coldingham, no 2; to Durham, nos 6-7
[1048] See *David I Charters*, 33, where Professor Barrow suggests that the terms 'chaplain' and 'clerk' could be interchangeable.
[1049] Charters to Durham, no 1
[1050] Charters to Melrose, no 3; to Coldstream, no 5
[1051] Charters to Durham, nos 2-3
[1052] Charters to Coldstream, nos 5-6; to Melrose, no 3; to Coldingham, no 2; to Durham, no 6
[1053] Charters to Coldstream, nos 9-10 (Peter, Henry, Alexander, Geoffrey, Adam); to Melrose, no 15 (Peter, John); to Durham, no 7 (Peter)
[1054] See below, p 248.

There is a strong impression in the evidence that the strength of any lordship rests on the allegiance and support of a significant number of people: family, dependants and employees who form a recognisable group around the lord, serving him, working for him, replicating in their own lands patterns of tenure and service. It was not just a matter of personal and psychological support. In the Dunbar earldom there must have been many associates of the earl, many tenants and officials and people of his household of whom we know little or nothing, for the estate was huge and his establishment would be large and substantial. The management of land, the organisation of livestock farming, the exploitation of demesne, were all aspects of economic lordship to which the charters of the earls constantly refer. They form the basis of the following chapter.

Economic activity within the earldom

The extensive lands of the Dunbar earls embraced some of the most fertile land of Scotland in east Lothian, desirable pastureland on the high land of Lammermuir, and the mixed arable and pasture lands of the Merse. Altitude and soil varied significantly, allowing for a diversity of interests in a period of economic expansion.[1055] The theme of this section is the exploitation by the Dunbar earls of the rich assets of their land, the 'economic underpinning of power'.[1056] From the evidence of their charters to the priory of May and the abbeys of Newbattle and Melrose, some models of how the lands and resources in these areas were managed and used and developed can be recreated. From others of the earls' charters a more generalised picture of arable and pastoral organisation and practices emerges. All point to an active and astute exercise of lordship, through judicious benefaction, through interconnected economic activities, and through a hard-headed and pragmatic use of the land, its resources, its infrastructure, and its people.

Charters to the Priory of May

The earls' charters to the priory of May are a useful starting-point for an analysis of these economic activities for they illustrate something of the diversity of the comital economy and its links to wider markets and neighbouring estates. The situation of the priory on the rocky and rugged island of May meant that the monks' survival there depended on communication with the mainland, with safe berthing, bases and lodging, and on access to pastureland for their cattle and sheep to supplement their income. For the earls, there was an obvious economic advantage in meeting these requirements, and also the prestige of associating with the generous grants made by David I, Malcolm IV and William I to this vulnerable community.[1057]

[1055] See Appendix 4, Map 1.
[1056] Stringer, 'Galloway Records', 208
[1057] *May Recs,*. nos 2-6, 9-19; *May. Docs,* nos 42-50. They were involved as witnesses to royal charters to May; Earl Gospatric witnessed Malcolm IV's confirmation of David I's gifts to May (*RRS*, i, no 61), his son Waldeve William I's charter of confirmation of David and

In a charter datable to c.1140 x 1159 Earl Gospatric, father of Waldeve, granted to the brothers of May a full toft near his harbour of Biel, a mile from his castle at Dunbar.[1058] This harbour, Belhaven today, served as a natural haven and trading port long before vessels called directly at the walled harbour built later below the castle.[1059] Belhaven has firm sands where flat-bottomed trading craft could be safely beached between tides and their cargoes unloaded; when full tide came the ships would be refloated. It was an ideal base on the mainland for the monks of May, offering accommodation for prior and monks, and lodging and shelter for travellers and merchants and traders engaged in the traffic of commerce and pilgrimage, even perhaps limited storage facilities. Earl Gospatric's gift, which was confirmed by Pope Adrian IV, parallels David I's grants of a toft in Haddington and another in Berwick, and may well have been one of a basket of endowments set in place by the king at the foundation of the priory.[1060] It is possible that this toft in Biel was later exchanged for the lodging with a toft in Dunbar which was given by Earl Gospatric and confirmed to May Priory by William I, for King William's charter of confirmation does not mention a toft at Biel.[1061] It is tempting to assume that these tofts are one and the same, the identification of Biel as the port of Dunbar causing the place names to be used interchangeably.[1062] Yet William's charter may not have contained an exhaustive list of the grants to the priory and it may be that the monks were given more than one mainland base by Earl Gospatric to facilitate marketing and trading.

King's William's charter, which confirms a charter of confirmation, now lost, of his brother, Malcolm IV, refers not only to the earl's grant of a lodging with a

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Malcolm's grants, and his charter concerning Balgallin (*RRS,* ii, nos 8, 109; *May Recs.,* no 10, 1153 x 1162).

[1058] Charters to May, no 1. A further toft, with a saltpan, in Biel was given to the Melrose monks by Earl Waldeve (*Melrose Liber,*no 365; Charters to Melrose, no 5*)

[1059] The coastal wall was built in the seventeenth century by Cromwell; the entrance to the walled inner harbour was blasted through the rock below the main part of the castle in the 1860's. The castle itself was reduced to a ruin in 1568 (A. Graham, 'The Old Harbours of Dunbar' *PSAS*, xcix (1966-7), 173-190; David M. Anderson, *Dunbar and District,* 1996).

[1060] The bull of Adrian IV(x 1159) confirmed *Ex dono comitis Gospatricii . domum unam in portu* (Holtzmann, *Papsturkunden in England,* no126). No charter of foundation of the priory survives. David I's grants of the tofts in Berwick and Haddington are found in *May Recs.*,no 2 and *May Docs., n*o 42 (Egerton MS 3031. f. 60v) respectively.

[1061] *RRS,* ii, no 8

[1062] Duncan, *May Docs.,* 75

toft in Dunbar but also of the right to berth a ship for carrying the goods necessary for the priory.[1063] A dependable line of supply to the monastic community on May was thus established by Earl Gospatric.The grant was not entirely disinterested. We know that David had granted the monks an exemption from all cain and toll and custom throughout the kingdom.[1064] Presumably the earl's concession regarding the ship included free access to the harbour. But we may assume that the ship would take on goods at Dunbar and that the merchants and traders of the town and those who came from the landward areas to sell at the market would thereby do substantial business. Then the ship would not leave May Isle without a cargo, perhaps of fish, and again there is the strong likelihood that curing and smoking and salting gave business and employment and profit to the town. Earl Gospatric had saltpans, one of which he gave to Melrose Abbey, and the control he would certainly have of the local salt industry would make trade links and access to the rich fishing stocks of May an attractive prospect for him.[1065]

Whether the monks merely received an income from those who fished the seas round the island or were directly engaged in large-scale commercial fishing is difficult to determine.[1066] Recent archaeological research on May has shown the remains of cod, haddock, ling, saithe, pollack and whiting in the context dated to the thirteenth and fourteenth centuries.[1067] All would be caught by line, younger cod throughout the year from the shore, larger cod and ling in the summer from a boat in deep water. There are no traces however of the remains of herring, which was certainly fished off the east coast at that time; it may be that these were caught by net by the fishermen

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[1063] King William's confirmation of 1166 x 1171 is printed in Stuart, *May Recs.*, no 12 (*RRS*, ii, no 8). King Malcolm's charter, now lost, is noted in *RRS*, i, no 279. Gospatric's act is no 2 of Acts for which no charter is recorded.

[1064] *May Recs.*, no 6 (1147 x 1153); *May Docs.*, no 44 (1128 x 1153)

[1065] *Melrose Liber*, nos 7, 8. Melrose was given a saltpan by Gospatric, Waldeve's father, which may have been the same saltpan gifted by Waldeve and confirmed to the abbey in the fourteenth century by Earls Patrick IV and V (*Melrose Liber*, nos 365, 431). Saltpans are recorded at Prestonpans and, in Fife, at Kirkcaldy and Wemyss. But note the claim that home salt was not suitable for curing fish and that salt for this had to be imported in I.F.Grant, *The Social and Economic Development of Scotland before 1603* (Edinburgh and London 1930), 316.

[1066] The abundance of fish round the shores of May is well documented. The twelfth-century life of St Kentigern tells that "many fishermen, English, Scots and men from the shores of Belgium and France " came to fish there and used the harbours of May Isle (*ESSH*, ii,129; *May Docs.*, 56, n 1).

from England, France and the Low Countries who used the harbours of May and paid their tithe to the priory. Dunbar was to become became a major centre of the herring industry in later centuries when ships from the Low Countries landed their catches at Belhaven and merchants travelled the Herring Road between Dunbar and Lauder bringing quantities of salt herring to the inland abbeys and touns and buying wool and hides for export to the Continent. From the twelfth and thirteenth centuries, however, the evidence is only of trading activity centred on Dunbar requiring commercial or residential bases and harbour access. These the earls gave, to Melrose and to May, as a means of stimulating manufacture and commerce. Whether there was then any substantial export trade from Belhaven is difficult to assess, in view of the dominance of Berwick and the control of the export of wool. The customs on exports of 1378-9 after the loss of Berwick record Dunbar as ninth of ten burghs exporting wool and we can surmise from the various records of customs receipts for the fourteenth century that there would be a modest trade in hides and wool in earlier centuries which the earls sought to foster.[1068] Their involvement in sheep and cattle farming and the competitive relationship with Melrose over grazing lands and rights would certainly suggest that the wool and hide trade was a major source of income within the earldom.[1069]

The Dunbar toft alluded to in king William's confirmation may have been the same property which was the subject of a dispute in 1242 between May Priory and Patrick, the chaplain of Dunbar. In the chirograph recording the settlement of the case it is described as a house with a croft and two perches of arable land.[1070] Like those tofts granted to May in Berwick and Haddington, it was clearly a town tenement, but with limited land, a useful and convenient base on the mainland. The acute shortage of grazing for the livestock which the monks kept of necessity on the mainland was a problem also addressed by the Dunbars and those who held of them. In the early years of the thirteenth century the May monks acquired pastureland near Drem from Bernard Fraser

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[1067] *The Isle of May Excavations,* 1994 (GUARD. 101.3), 65
[1068] Grant, *op. cit.*, 308. Dunbar had a bigger share in the export of wool fells where it ranked sixth in 1327-33. In 1375-80 it was eighth for wool fells, ninth for wool, and eleventh for hides (*Atlas of Scottish History to 1707,* ed P McNeill and H. MacQueen (Edinburgh, 2000), 242).
[1069] Charters to Melrose, nos 3, 8, 11
[1070] *May Recs.*, 26, no 35

who probably held Drem of the earl and who was a member of the Dunbar circle. The pastureland was held in perpetual ferme by the priory. There was a subsequent dispute over it between Fraser and the monks which was settled in August 1233 at Stirling.[1071] Again, John son of Michael, a Fife landowner in the Methil area, gave to the monks of May, as to Melrose, grazing land in his estate of Penshiel. This was the land which he held of John, son of Waldeve, Earl Patrick's father's cousin, who in turn held of the earl.[1072] Earl Patrick confirmed this charter, though the earl's charter is lost.[1073] John's charter defined the boundaries of this land, which still bears the name of Mayshiel, south of the Kell Burn, along with one acre of meadow and extensive pasture for three hundred ewes, thirty cows in calf, twenty-four brood mares and ten sows with their litters. Possibly the same earl, but certainly his son Patrick II at the latest, granted what appears to be different grazing land in Lammermuir to May, a grant confirmed by his son and successor Patrick III.[1074] A charter of this earl reminds us that for the fairly extensive area of pasture the priory had customarily made the modest annual payment of a cow to the earl, an obligation from which they were released by him in the 1270s.[1075] The land in Lammermuir, in other words, was granted for grazing purposes to the monks by the earls, their relatives and their tenants, in return for a payment in cash or kind. It was clearly used to graze a variety of livestock, and we are thus made aware of the interraction of the monks of May and the Dunbars and their people in a wide range of economic activity.[1076] The involvement of a Fife landholder, John of Methil, with the Dunbars and with the monks, encourages us to make a tentative connection between his grants of pastureland to May and Melrose and the fish and wool trading which centred on the port of Biel. We have already noted saltpans at Wemyss, where John's family lands were

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[1071] Bernard Fraser's grant is recorded in the 'Rotulus Cartarum', entry no 16 (*May Recs.*,cxii). The charter is lost, but the settlement of the dispute was confirmed by Alexander II in a charter given at Stirling on 17 August 1233 (*May Recs.*, no 20 ; 'Rotulus Cartarum'; *May Recs., cxii*).

[1072] Two of the charters of John son of Michael are recorded in the 'Rotulus Cartarum' (*May Recs.*, cxii) and survive also in copy (*St Andrews Liber*, 380-1; *May Recs.*, nos 23, 24). *Melrose Liber,* no 209, is a copy of John's grant to the monks of May (*May Recs.*, no 24) which they shrewdly retained in the Melrose archive.

[1073] Charters to May, no 3

[1074] Charters to May, nos 4-5. The *Tabula* of the cartulary, however, refers to this land also as Mayshiel; it may therefore have been the same land, differently described.

[1075] Charters to May, no 6

[1076] *May Recs,* no 24

situated. In Lothian, the relative ease of road transport across Lammermuir and the favourable wind conditions which allowed ships to sail on one tack from May to Dunbar would support the view that the island and the mainland were in some respects an economic unit, with people like John son of Michael engaged with the earls and their family and with the monks of May and Melrose in a lucrative and highly developed and integrated commercial system of shipping, fishing, and salt processing, of wool and hides and grain production.

The last of these, grain, suggests further links. Biel stood in rich arable land; even today the mills and granges of the area continue to testify to the importance of its fields and farmlands and streams.[1077] Edward, brother of Earl Gospatric, held lands there, perhaps of the earl, perhaps in his own right, by gift of his father, part of which may have been fermed to Melrose and part retained as demesne. From his mill at Belton he gave the priory of May a chalder of meal annually, perhaps for the sustenance of their establishment in Biel or in Dunbar. There is another possibility. An entry in the 'Rotulus Cartarum' records the grant to the priory by Earl Patrick, probably Patrick I, of five acres of land near to Biel.[1078] This was almost certainly a new grant extending May's lands in the area near the coast. We may be glimpsing another kind of benefaction or business arrangement with the priory allowing the monks further to diversify their sources of income through cultivation of fields on the mainland. Or if, as it seems, this was the area in modern Belhaven still known as Monks' Croft where a brewery has long operated with access to barley and oats and spring water in abundance, then these charters may record the first arrangements for brewing at Biel and a further example of economic partnership between the monks of May and the earls of Dunbar.[1079]

We can speculate only on the degree and complexity of the economic activity in which the earls and the monks and others were involved in twelfth and

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[1077] The harvesting of barley in the east Lothian lands near Dunbar takes place a month earlier than elsewhere in Sco tland. *Historic Dunbar, the Archaeological Implications of Development* (Scottish Burgh Survey, 2003).
[1078] Charters to May, no 2
[1079] According to Stuart, the croft at Biel was feued in 1553 under the name of the Belhaven Croft or The Monk's Croft (*May Recs.*xxxix).

thirteenth-century Lothian. There is evidence of the abundance of natural resources such as fish, salt, and spring water, of fertile soil producing rich harvests of grain and of the huge areas of pastureland for a large variety of livestock from which wool and hides as well as food were derived. There are many references to ports and ships, to harbours and to trading bases. Fuel was readily available, for Lammermuir was a rich source of peat and turf. We know also that there was an infrastructure of roads and tracks to facilitate transport to and from suppliers and purchasers and manufacturers and exporters.[1080] Property, as we have seen, was granted in Biel to both May and Melrose.[1081] In this context, and with the evidence of the charters of the ongoing endowment of May Priory by the Dunbar family and their dependants, we can at least construct the hypothesis that at a time of economic expansion in western Europe generally the earls were actively engaged in promoting and developing Belhaven and Dunbar as centres of trade and commerce, exploiting their remarkable natural features. By 1232 at the latest the earl was describing Dunbar as his burgh.[1082] Dunbar was to prosper in time as a fishing centre particularly in the high era of herring fishing.[1083] As for Belhaven, it seems to have lost out from the sixteenth century onwards to Lamerhaven, to the east of the headland, even before the new harbour which was built in 1656 at Cromwell's expense. Archaeological evidence points to evidence of the loading and unloading of ships on the sands at Belhaven during the medieval period, but even by the early nineteenth century these were faint traces. For centuries, it seems, Belhaven had been the quiet backwater which it is today.

Charters to Newbattle Abbey

The Newbattle charters provide another model of how land was organised and worked in the comital estate in the twelfth and thirteenth centuries. Fertile lands stretched inland from Dunbar along the course of the Biel Burn, the latter flowing past the site of what we may guess became the main residence in

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[1080] See R.P. Hardie, *The Roads of Medieval Lauderdale* (Edinburgh and London, 1942), *passim.*
[1081] See above, p 220.
[1082] Charters to Dryburgh, no 4
[1083] *Historic Dunbar*, 2003

Lothian of the earls, at Whittingehame.[1084] To the north and west, along the River Tyne, there was mixed arable and pasture which also can be identified as Dunbar land from the charters of the earls and of their dependants and tenants.[1085] The charters of the latter frequently allude to the earls as their lords; in some cases, though not all, we have the confirmation of their gifts and grants by the earls as lords of the lands and pertinents conveyed. The charters relating to their benefactions to Newbattle Abbey, the Cistercian daughter-house of Melrose founded in November 1140 by David I and Earl Henry, furthermore, give some insights into the pattern of land use and organisation in this area.

The monks of Newbattle in the twelfth and thirteenth centuries were heavily involved in the salting industry, in demesne farming, and in sheep farming and the wool trade. From surviving charters it seems that grants of arable land and pasture formed the bulk of the benefactions of the earls of Dunbar and their people to the abbey. Significantly, most of these grants, mainly in Hailes and in Fortune, were made not by the earls themselves but by those who held of them, and in particular, as we have seen, by the Fraser family; and were sometimes confirmed and sometimes augmented by the earl. This suggests that a lower proportion of the land in that area was retained by the Dunbars as demesne. The benefactions were usually confirmed and, in some cases only, augmented by the earl, seemingly because most of the Dunbar land accessible and useful to Newbattle was already held of the earl for service. Benefactions to the abbey therefore emanated, as already noted, from the families who had the land, and from the Fraser family in particular.[1086]

This was mixed arable and pastureland with areas of land seemingly being brought newly into cultivation, and other areas already cultivated in the territory of a toun like Hailes. When Nes of London gave Newbattle the half-ploughgate in his feu of Fortune he had it perambulated in the presence of

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[1084] See Appendix 4, Map 3.

[1085] From c.1100 documentary sources show mixed farming in the east of Scotland, and there is archaeological evidence that this was the pattern in the Iron Age. G. Whittington, 'Prehistoric Activity' in M.L. Parry and T.R. Slater, *The Making of the Scottish Countryside'* (1980), 41.

[1086] See above, p 181.

himself and a company of his men including his brother John of Moray and Alan, his steward, and he marked the boundaries where necessary with stones.[1087] But the half-ploughgate of Southrig in South Hailes confirmed to the monks by Earl Patrick was in four portions, marked already by boundary stones, surely an indication of cultivated land attached to a toun having been divided up, with the villagers holding rigs in different portions.[1088] The five acres of land near the Tyne given by the widowed Mary of Hailes were clearly in the vicinity of a mill. At Hailes, Newbattle Abbey was granted pasture rights and access for three hundred sheep by Oliver, son of Kilvert, the earl's tenant. The earl confirmed the grant, and added pasture for a hundred more.[1089] Pastureland lay adjacent to arable land and clearly for common pasture there were well-defined arrangements for access and stocking levels. The only livestock alluded to in the charters are sheep. Something of the agricultural practices of the time are revealed, for the Newbattle sheep were to graze in the common pastureland of South Hailes, both on the arable land from which the crop has been harvested and on the other pasture of the toun. Clearly the use of arable was maximised, by using it as grazing after the harvest and thereby manuring it for its next sowing.[1090]

Charters to Melrose Abbey

Both pastoral and arable farming were of course key elements in the economy of the Dunbar lands. A group of their charters to Melrose relate to the area lying inland and to the south-west of the town of Dunbar, and extending into the north-west slopes of the Lammermuir hills. The lowland area where the monks of Melrose had two granges, one at Hartside and the other at Edmonstone, was rich and fertile, while the rising ground to the south, with poorer soil, provided pastureland for the huge flocks of sheep necessary to

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[1087] *Newbattle Reg.*, no 107. The earl's confirmation is Charters to Newbattle, no 5.
[1088] Charters to Newbattle, no 2. The distinction is discussed in Duncan, *Kingdom*, 314. The first explicit reference to runrig occurs in the fifteenth century but there are clues to its existence much earlier such as this (Dodgshon, *Land and Society in Early Scotland* (Oxford, 1981), 146-7). An act of King Malcolm confirming land with Selkirk church to Kelso Abbey refers to a half ploughgate of land 'dispersed throughout the field' in the time of David I (*RRS*, i, no 187).
[1089] Charters to Newbattle, nos 1-2. The land added by the earl is defined by its position between two stretches of pastureland.
[1090] Charters to Newbattle, no 2

meet the demands of the thriving wool trade.[1091] For both uses, arable and pastoral, it was much coveted land, and subject therefore to competing demands and to the danger of over-exploitation. The earls' charters give some insight into the ways in which they sought to manage these problems and how, despite, or perhaps by means of, generous benefactions to Melrose Abbey, they retained considerable control over the use of the land, framing their grants and confirmations to protect their own interests and forest rights and to regulate the use of pastureland and the balance of arable and pasture. Their charters often define conditions already in existence rather than new restrictions. There are some consistent themes- their resistance to ploughing and their insistence that any agricultural buildings should be temporary structures which would be removed as soon as the grazing arrangements terminated. The issue of the forest was dominant in such areas. We know of forest held by the earls in Stirlingshire in the thirteenth century,[1092] and indirectly also at Earlston, part of the Gala-Leader Forest where there was ongoing friction between Melrose Abbey in particular and Richard de Morville, Alan fitz Walter, and the men of Wedale.[1093] We need not doubt that the nervousness about encroachment on land through ploughing and building was linked to the preservation of hunting areas.[1094] But as sheep farmers they were also concerned about access to grazing, the perils of overstocking and the irritations of inadequate demarcation of areas and control of livestock.

In his charter of confirmation to Melrose Abbey of the various gifts and agreements made to the abbey by his family and others within his earldom, Earl Patrick IV (1289-1308) cited first land in Hartside and Spott gifted by Gospatric during the years 1138-1152 and by his son Earl Waldeve (1166-1182).[1095] Though Gospatric's grant is the first of which there is written record, the lands of Hartside and Spott seem to have been held by the monks by the

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[1091] Charters to Melrose, nos 3, 8, 11. Hartside and Spott survive as communities, but Edmonstone has been lost. See Charters to Melrose, no 10, for a discussion of Edmonstone's former location in East Lothian. On the Cistercians in Scotland and the European wool trade, see Duncan, *Kingdom,* 427-33.

[1092] Charters to Laymen, no 6; *Dryburgh Liber*, no 310

[1093] *Melrose Liber*, nos 97-8; 110-12

[1094] J. Gilbert, *Hunting and Hunting Reserves in Medieval Scotland* (Edinburgh, 1979), 250-3

[1095] *Melrose Liber,* no 365, charter of Patrick IV; *ibid*, no 431, charter of Patrick V in similar vein which refers to his father's charter

gift of Gospatric's father, Gospatric brother of Dolfin, in the reign of David I.[1096] The boundaries between Hartside and Spott and the lands of Stenton were known and recognised in the time of this Gospatric but were defined and guaranteed in the charters of Gospatric his son and of his grandson Waldeve. Clearly in areas of valuable arable land they mattered and so warrandice was given for them. [1097] Almost certainly the grant of Hartside and Spott from the first included access to the common pasture and easements of the moor which the charters confirm. This moorland would be part of Dunbar Common or Outer Common which does not seem to have been used by the people of the toun to graze their animals even as late as the eighteenth century.[1098]

Between 1153 and 1159, at Roxburgh, Malcolm IV confirmed the grant embodied in Gospatric's charter. There are two versions of the royal confirmation.[1099] Both include a saltpan granted by Earl Gospatric.[1100] The version in current writing does not include Spott. It does reserve to the king his service due from Edward's lands.[1101] There is no mention of this service in the confirmation in charter hand, but here Spott is explicitly stated to be part of the grant of the earl.[1102] The latter charter undoubtedly favours the monks, while the other is less careful of the monks' rights and more careful of the king's. This may be unintended. There are after all other minor variations in wording which may reflect a somewhat casual approach to copying.[1103] The omission of Spott may have no particular significance, for from various Melrose charters it becomes clear that Hartside might appear without reference to Spott, and

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[1096] Charters to Melrose, nos 2,4. The earl and later his son Waldeve refer to the fact that that the land was held by the monks of his father Gospatric

[1097] Charters to Melrose, no 2. Pressmennan Burn to the south of Stenton was one of the landmarks given. The boundary question here re-surfaced early in the thirteenth century in a dispute between the monks of Melrose and Robert of Stenton who held of Walter fitz Alan (*Melrose Liber,* no 54).

[1098] Dunbar Common was huge, comprising 4397 acres of the moor. The toun grazing, the Inner Common, adjoined the toun and amounted to a mere 50 acres (*Historic Dunbar,* 3.6). See I.H. Adams, 'The Division of Dunbar Common', *TELAS,* xv (1976), 75-6, 78; T.W. Fish, 'Some Notes on Old Dunbar', *ibid,* iii (1938), 26.

[1099] *RRS,* i, nos 132, 133

[1100] The saltpan is not in the earl's charter and must have been granted separately (Charters to Melrose, no 1*).

[1101] I*bid.*, no 132

[1102] *Ibid.*, no 133

[1103] E.g. 'fratribus'(no 132) cf 'monachis' (no 133); 'Scottis' (no 133) is omitted in no 132. No 132 is generally shorter, with several phrases omitted- or perhaps it would be more accurate to see no 133 as an expanded version of no 132, depending upon the interpretation of how they came to be constructed.

that even when the text of the charter includes Spott, it is omitted in the endorsement.[1104] Nevertheless the possibility remains that two charters of confirmation in differing hands reveal a small but significant difference of emphasis, each favouring its originator.

On his accession William I gave to the monks of Melrose another charter confirming Gospatric's grant, referring to the charter of the latter and to the confirmation by Malcolm IV.[1105] It includes confirmation of the grant of the saltpan but not of the land they had at ferme from Edward, though we know that the latter was still alive.[1106] Perhaps the lease was short-term, one of many strategies employed by the earls and others to prevent land being permanently occupied or altered, whether through cultivation or building. As heir, Waldeve consented to his father's grant, and as earl he confirmed Hartside and Spott to them, with stated and guaranteed boundaries, along with his father's grant of access to common pasture and easements of the moor.[1107] He made a further grant of common pasture on Lammermuir, stating explicitly that the grant referred to a specific and well defined area of the moor, with given boundaries, and indicating that the grazing rights were to be shared with the earl and with his men.[1108] It is not entirely clear whether this was the same area of moorland to which the monks already had access or whether it was an extension of the previous area, to the south-east.[1109] He stipulated that if the monks at some future time left the pastureland they had in nearby Innerwick then they were to take with them the sheepfolds with any huts or lodgings connected with them in the area designated in the charter.[1110] The earl, in other words, was again making it clear that he did not want any trace of permanent occupation such as shielings in the pastureland. Only his own

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[1104] In *Melrose Liber,* no 51, Melrose abbey is said to have two granges, Edmonstone and Hartside and Spott, implying that the last two names were used jointly. The endorsement of this particular charter refers only to Edmonstone and Hartside. In nos 50 and 52 the grange is called Hartside only.

[1105] *Melrose Liber,* no 53; *RRS,* ii , no 83. The charter makes no reference to Earl Waldeve and may almost certainly be dated 1165 x 1166.

[1106] Edward witnessed a charter of his nephew Earl Waldeve (Charters to Melrose, no 3, 1166 x 1179).

[1107] Charters to Melrose, no 4. See White, *Custom, Kinship, Gifts*, especially chapters 3 and 4.

[1108] Charters to Melrose, no 3

[1109] The boundary as described is difficult to follow but it almost certainly ran between Bothwell and Innerwick.

[1110] Perhaps the land they held of the knights of Alan fitz Walter (Charters to Melrose, no 8) and perhaps also the land they once had at ferme from Edward.

buildings and houses or huts at Belton were to remain. Clearly here he was protecting both his pasture and his forest rights.[1111]

Waldeve's son and heir Patrick I, whose agreement and consent was given to the grants in both of his father's charters, defined matters even more closely. In his charter to Melrose given between 1184 and 1195-6, Earl Patrick fully confirmed the grant of Hartside and Spott as made by his father and grandfather, and the common pasture and easements of the moor and he added five acres of land to the south of the Mossy Burn.[1112] His charter plainly signals an attempt to control the use of land by the monks and in particular to tackle the problem of overstocking.[1113] The pastureland to which the monks were entitled, by grant of the earl, was to sustain three flocks of sheep, and so the five acres were expressly given to the monks so that they could build a sheepfold. There would be no contention between his heirs and the monks in the future as long as the number of wedders in each flock did not exceed five hundred, giving in total a maximum of fifteen hundred. The five acres, which was a generous provision for a fold for even such a large flock, could be used as the monks wished, as long as they did not turn them over to arable.[1114]

The conditions set by the earl are part of a pattern beginning to be discernible in his father's charters of using the mechanism of grants and confirmations to protect the land and his own interests. Protection was necessary.The demand for wool for the cloth industry of the Low Countries which exploded in the period 1150-1250 put pressure on both the abbey and the earl and his tenants to increase their flocks and thereby risk overstocking and debasing the land and reducing its value. Then lack of proper provision for night and seasonal quartering caused animals to stray. This could be highly destructive, and certainly was a source of annoyance and friction.[1115] As both landlord and as neighbour, therefore, the earl had a strong interest in discouraging the practice. The encroachment of arable, an element in many land disputes of the twelfth and thirteenth centuries, may have been encouraged by William I and

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[1111] See also Richard de Morville's charter in *Melrose Liber*, i, no 106 for a similar strategy.
[1112] Charters to Melrose, no 8
[1113] Dodgshon, *op. cit.*, 126-7
[1114] Charters to Melrose, no 8
[1115] Ibid. These issues were to surface again in the Sorrowlessfield dispute (nos 11-12).

Alexander II; but it reduced available pastureland and disturbed the forest.[1116] The earl, consequently, wrote into his charter safeguards against his gift of extra pastureland, intended to solve one problem, being used to create another. In return there was a concession by the earl to the monks that he would relinquish to them any claim he had in common in the meadowland they held of the knights of Alan fitz Walter the Steward in Innerwick.[1117] The charter was duly confirmed by King William who repeated the conditions laid down by the earl and reserved his service.[1118]

A further grant of land in Lammermuir was made to the Melrose monks by Earl Patrick when in addition to the five acres for the sheepfold he gave them another 51 acres in an adjacent holding of their own which they could enclose.[1119] There is no reference in this charter to the common pasture and whether the monks' access to it was to continue but almost certainly they would continue to have these rights through their possession of Hartside and Spott. The pastureland probably encroached on the common pastureland of Lammermuir, and should be seen as part of the drive by religious houses to create ' pastoral farms' in upland moorland areas, effectively denying access to the touns to their hill pasture.[1120] But it allowed the earl to signal unambiguously where he wanted the monks and their livestock to be. We learn from the charter that his men had measured out the area and had ditched it. It was to be used by the monks for meadowland, for a garden and for folds and for any purpose which seemed best to them- except cultivation involving ploughing. This charter on one level records a benefaction, in free alms, unburdened and guaranteed. Yet it represents as much the determination of the earl to control the use of Lammermuir by giving the monks a large but limited area of moorland and making firm stipulations about how it was to be used.

[1116] *APS*, i, 382, 397

[1117] Possibly the charter was issued partly because of a dispute over this meadowland , which should be distinguished from the arable land granted to Melrose by Alan fitz Walter's father, Walter fitz Alan (*Melrose Liber*,no 4*)* and confirmed by Alan's son Walter (*ibid*, no 46). It may however be the land once held by the monks at ferme from Edward, Patrick I's great-uncle (*ibid*, nos 7- 8), in which the Dunbar family had continued to claim some right.

[1118] *RRS*, ii, no 386

[1119] Charters to Melrose, no 9

Livestock farming

From the earls' charters to May and to Melrose and Newbattle, then, it is clear that grazing land was deployed flexibly by the earls, yielding returns in cash and kind as in the case of May, supporting vast numbers of sheep and cattle, yet available also for benefaction and disposition in ways which allowed the earls effectively to control their use. Melrose and Newbattle were not the only beneficiaries. Before 1152 Kelso Abbey received Bothwell shielings, beside Bothwell Water in Lammermuir, an extensive area of hill pasture lying close to Dunbar Common and the Whiteadder.[1121] To the canons of Dryburgh, Patrick I granted land in Earlston with common pasture and to Coldstream priory, common for pasturing their livestock in conjunction with land in Whitchester, in the Lammermuir near Duns.[1122]

In some cases the grants were highly and specifically conditional. The original grant of Bothwell shielings has probably been lost and Earl Waldeve's grant of pasture to Coldstream does not reveal the terms on which it was given. But Newbattle was to keep its four hundred sheep in the common pasture of South Hailes on the land from which the grass had been cut as well as on the other pastureland of the toun. Dryburgh's use of common grazing was limited to one hundred sheep, twelve cows, twelve pigs and two horses. These formulas were based on well-established practice and they occur in many charters of the time.[1123] They permitted the earls and their tenants to lay down limits on numbers and land use and to impose cooperation and restraint in the use of common grazing. They may have applied less exacting standards in their own use of grazing land. When Patrick I and Prior Thomas of Coldingham and his monks clashed over the marsh of Billie in the 1220s the settlement which was eventually arrived at refers specifically to competing claims on the grazing lands. Billie was frontiersland, a marshy area on the banks of the Billiemire Burn, a tributary of the Whiteadder River and one of the ancient boundaries of Coldinghamshire. Billie Castle is reputed to have been a stronghold of the

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[1120] Dodgshon, *op. cit.*, 128
[1121] Charters to Kelso, nos 4, 7. The boundaries are described in the later charter of Patrick I confirming his grandfather's grant.
[1122] Charters to Dryburgh, nos 2, 5; to Coldstream, no 3
[1123] See above, p 223.

earls.[1124] The dispute almost certainly focussed on the importance of the area as a boundary zone, but it demonstrates also how much pressure there was to find animal pasture, even on this kind of land. In the chirograph announcing the settlement, which was probably made in the court of the sheriff of Berwick, the marsh was divided between the prior and convent on the one hand and the earl who granted half of Billie to them.[1125] In a separate charter with an identical witness list Earl Patrick granted and confirmed the agreed half portion of Bilie to the prior and monks.[1126] The fairly extensive area designated was the eastern half of the marshland, between the two Restons and Auchencraw in the north and Chirnside and Blackburn in the south. Only in the chirograph however is there the stipulation that each must keep out of the other's part and, specifically that neither must attempt to use the land of the other for grazing or for any other purpose.

It would be rash to assume that Earl Patrick alone had been compelled or persuaded to yield. Prior Thomas's acceptance in the charter of agreement of only half of the territory may represent a considerable concession on his part. Thomas was famously active in pursuing claims for his priory. Or the impetus may have come from the earl or from his son Sir Patrick, who had been involved in several bruising encounters with Coldingham over Swinewood in the period to which these charters belong, and who heads the witness list of each. Whether the settlement represented a victory for one side or the other, or a sensible compromise arrived at or imposed in court, must remain a matter of conjecture.[1127]

Certainly the earls pursued their own interests elsewhere aggressively, quarrelling with Melrose in a celebrated case over pastureland beside Sorrowlessfield.[1128] This is often seen as a dispute over the rich arable land of Sorrowlessfield between the Gala and Leader waters, but in truth the issue was the highly-desirable pastureland nearby. It appears that with the exception

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[1124] 'Canmore', Billie, Berwickshire (RCAHM)
[1125] Charters to Coldingham, no 5
[1126] Charters to Coldingham, no 6
[1127] The dispute probably flared up again, in the earldom of Earl Patrick's grandson, Patrick III (Charters to Coldingham, nos 9-10). Billie today is immensely fertile arable land, and may have been seen as potentially so in earlier centuries.

of Sorrowlessfield the land in the area between the Gala and the Leader had been used as pastureland for sheep and cattle by both earl and abbey. It was higher and hillier, rich in natural resources of woodland and peatbogs. Clearly there were tensions over the boundaries of the portion grazed by the abbey's livestock.This portion may well have been granted at an earlier date to Melrose as well as to Dryburgh by the Dunbars, out of the lands and common grazing of Earlston, for we learn that part of the settlement permitted the earl to retain the rights to the wood. There were also problems of access for the livestock of the abbey and of the overnight quartering of the earls' cattle. These were the issues addressed in the settlement eventually arrived at in the *curia regis* around 1208..

The pastureland to be used by the monks was carefully defined as grazing for fifty-seven sheep and twenty cattle, oxen or cows, in or outside the woodland area and within stated boundaries. The earl's cattle were not to cross the road to Lauder and were to return every night to their quarters in Earlston, weather permitting. The livestock of the abbey were to have free access from the cattle stalls and sheepfolds to the pastureland. More significantly perhaps, the settlement also covered questions of the use, exploitation and development of the land and its natural resources. The earl was to have the wood from the trees on the pastureland used by the monks, but he was to supply six cartloads of peat annually to the abbey from his peatery nearby. Two further clauses of the agreement touch on what was perhaps the most contentious element in the dispute. Neither the monks nor the earl were to build houses or huts or sheepfolds or enclosures of any kind within the designated pastureland. Nor was the pastureland to be tilled- converted, that is, to arable land. Only Sorrowlessfield was to be cultivated and that, the agreement reiterated, was the property of the monks, gifted by the earl.

What are we to make of this agreement? The issues of access and trespass and maximum numbers have a familiar ring. But the argument over the use and conversion of land hinted at in the settlement belongs to a particular set of circumstances. There were competing pressures on the land for pasturage

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[1128] Charters to Melrose, nos 11-12

and for arable in south-east Scotland resulting in widespread assarting and conversion to arable.[1129] It is unclear from which party in this dispute the impetus for change was coming but undoubtedly there was serious friction over land use. Then there was the related major issue of the forest. The Gala-Leader area was undergoing major disafforestation and the prohibition on building in this charter echoes Waldeve's charter to Melrose. We know that forest at Earlston was granted to Dryburgh for grazing and can guess that, as in the Lammermuir area, the Melrose monks were anxious to resist substantial erosion of their forest rights. Thus in the Sorrowlessfield settlement there is evidence of competing pressures on the land and on the uses of the land, and evidence too of the attempts of the earl to control the process.[1130]

In doing so he set in motion a protracted and acrimonious legal process in which neither side could claim outright victory. The monks got Sorrowlessfield back, and a clear title to a designated area of pastureland. They were ensured free access to it and protection from any encroachment by the earl. Their supply of fuel from the area was guaranteed. On the other hand, the earl secured his interest in the pastureland – timber rights, and, most notably, restraints on building for livestock farming within it. Lines had been drawn-between ecclesiastical and lay jurisdiction, between royal and comital power, between monks' land and earl's land, between pasture and arable, between forest and non-forest. This was no simple case of land seizure and restitution. Rather we glimpse through it a society and an economy in flux with competing claims and priorities leading to confrontation, then litigation, and, finally, accommodation.

The importance of livestock farming to the economy of the earldom is underscored by references to a wide range of animal for which pastureland was required. The trade in hides focussed on Berwick; though fourteenth-century figures for the customs on the export of hides do not suggest that

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[1129] The east Lothian area and the Merse contains some of the finest arable land in Scotland. (*Atlas*, 15) Since a large proportion of land in Scotland, even of the south-east, was unsuited for arable farming, there was obvious pressure on fertile land but also a tendency to use higher southern-facing slopes for crops.

[1130] *Dryburgh Liber*, no 310, where Patrick V confirms the land called 'Venatoris' to Dryburgh with common pasture for three hundred sheep and other livestock.

Dunbar was a major player, the earls undoubtedly were heavily engaged in cattle farming.[1131] They had property in Berwick, and may well have used this partly as a trading base in that mighty port and burgh.[1132] There are allusions to the grazing of pigs and to horsebreeding.[1133] Near Lauder the earls had a stud, which was probably established after the marriage about 1212 of Euphemia and Sir Patrick, the future Patrick II.[1134] Earl Patrick's departure on crusade in 1248 has been linked with his decision in 1247 to sell his stud at Lauder to Melrose Abbey.[1135] A charter of his records his assent and that of his son Patrick to the sale which is said to have taken place on or about 29 August, 1247. A charter of confirmation was given three months later, at Holyrood, by Alexander II and a third charter issued some years after the earl's death, in 1251, by his son, now Patrick III, in which he confirmed the sale. In addition, the charters contain a quitclaim by Patrick II, agreed to and confirmed by his son, of his right to the common land which he had for his stud and for the feeding and pasturing of other livestock within the lands held and possessed by the Melrose monks within Lauder, an interesting reminder of the complexity of landholding and land use in thirteenth century southern Scotland. The sale and quitclaim may well have been connected with Earl Patrick's expedition. They also show an abbey keen to develop animal stockbreeding and to acquire or regain control of pastureland, a consistent feature of the abbey's dealings elsewhere in Berwickshire and in Lothian.

Arable farming

Arable land was a major commodity in the Dunbar earldom. Evidence of the extent of demesne farming in secular lordships is not generally plentiful and the Dunbar charters seldom refer to demesne, unless when there is a point in

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[1131] Charters to Dryburgh, nos 2,5; to May, no 6; to Melrose, nos 11-12
[1132] Charters of the Heirs, no 16
[1133] Charters to Dryburgh, nos 2, 5. The prevalance of pig grazing in the south-east is reflected in place names such as Swinton and Swinewood. Horses were included in the lists of maximum numbers of livestock which could be grazed on certain areas of pastureland (Charters to Dryburgh, nos 2, 5; *May. Recs.*, no 24).
[1134] Euphemia's marriage portion was Birkenside, in Lauderdale (*Dryburgh Liber,* no 120). The earl describes his stud as being within the feu of Lauder, formerly the great de Morville lordship.
[1135] *SP*, iii, 255; Duncan, *Kingdom,* 447

doing so.[1136] When, for instance, Patrick II undertook to compensate the monks of Melrose from his demesne lands if they lost Hassington, he was effectively giving the firmest and most reliable guarantee he could offer.[1137] Inevitably therefore the charters provide only a piecemeal picture of lands held by the earls in demesne. Often the evidence is of the negative sort, when, for instance, we learn of arable which was not in their hands. In Hume, for instance, arable was set at ferme; in Fortune and Hailes in Lothian and in Hassington, and in part of Lennel and Hirsel in Berwickshire it was held of the earl.[1138]

Though there is some disagreement over whether there was a shortage of land or simply of cultivated land in early medieval Scotland, there is no gainsaying the importance of arable and the evidence of increased cultivation in that period.[1139] The earls' lands included rich arable in Lothian and the Merse. Their charters abound in incidental references to mills, the sign of a settled agrarian economy.[1140] To Paisley, perhaps on the occasion of his son's marriage to Euphemia, Patrick I gifted a chalder of corn annually, reminiscent of the gift of his great-uncle Edward to May priory, to supply the Paisley abbey mill or perhaps a brewery.[1141] In an era of expansion and breaking out of new land by religious and lay landlords, the distinction between arable and pastureland or meadow becomes blurred, particularly in the record. Land measured in oxgangs and ploughgates, units of cultivation, and land with which proportionate common grazing is granted, can generally, though not

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[1136] Dodgshon, *Land and Society*, 126 ff. Dodgshon commenting on the thinness of the evidence nevertheless quarrels with the assertion (Duncan, *Kingdom*, 426) that from the mid-thirteenth century there was a move away from demesne farming to money rents by secular lords. Dodgshon notes the continuation of demesne farming after 1300, partly to feed the lord's household.

[1137] Charters to Melrose, no 16

[1138] Charters to Kelso, no 9, to Newbattle, nos 1-5; to Melrose, no 16; to Coldstream, nos 1-3, 11, 13, 15

[1139] Dodgshon suggests that the problem was not a shortage of land but a shortage of food – hence King William's warning against over-grazing in 1209 and Alexander II's law of 1214 compelling the cultivation of land (*APS*, i, 382, 397). See R.A. Dodgshon, 'Medieval Settlement and Colonisation' in Parry and Slater, *The Making of the Scottish Countryside* (London, 1980), 45-68.

[1140] Charters to Coldstream, nos 11, 13, 15; to Durham, no 3 (land surrendered to Durham); to Laymen, no 5

[1141] Acts for which no charter is recorded, no 3 (to Paisley)

invariably, be regarded as arable, carrying with it as it did the right to a proportionate share of common grazing.[1142]

An elusive but consistent strand throughout the charters is the evidence of the breaking out of new land, even arguably the creation of new touns through the grants of the earls. A very detailed description of the arrangements by which new land would be conveyed to a religious house is found in a charter of Earl Patrick I who between 1198 and 1214 confirmed to the monks his grant of one ploughgate of land near to their grange of Edmonstone, quitting them of all accompanying obligations, including forinsec service.[1143] It was valuable land, in a richly fertile area, and the charter sets out the minute details of the perambulation of the area which had taken place. The description is a particularly vivid one – the earl, probably at this time in his late forties or early fifties, along with his men and Abbot Adam of Melrose, apparently pacing out the boundaries in person, using natural features such as Luggate Burn as points of reference, positioning boundary stones, turning at St Cuthbert's Well. Neither earl nor abbot was risking any future ambiguity. The charter conveys graphically the value put on such land by contemporaries.[1144] Though such perambulations often appear as pioneering ventures, they could be used in other contexts – in delimiting areas of pastureland, or in boundary disputes such as that between the earls and Dryburgh Abbey over the boundary between his lands of Earlston and their grange at Kedslie.[1145] In this last instance, as in the perambulation at Edmonstone and another recorded at Hirsel, the strong likelihood is that the land was arable.[1146]

[1142] As for instance in grants of ploughgates to Coldstream (Charters to Coldstream, nos 1-3) and grants with grazing of Whitchester (to Coldstream, no 3), Earlston (to Dryburgh, no 2) and Hartside and Spott (to Melrose, nos 2, 4, 8). See also Charters to Newbattle, nos 1, 2, 5.

[1143] Charters to Melrose, no 10. The name Edmonstone or 'Edmundestun' does not survive but the grange can be located with some certainty near Biel and Luggate (*Melrose Liber*, no 219). It was established in all likelihood following the grant to the abbey by Walter fitz Alan, the Steward, of four carucates of land in Edmonstone in free alms, a grant confirmed by Malcolm IV and William I, and, some fifty years later, by Walter's grandson (*RRS*, i, no 307; *RRS*, ii, no 81; *Melrose Liber*, no 46). Edmonstone grange attracted also grants of lands from Eva de Quincy, widow of Robert de Quincy (d. 1197).

[1144] The perambulation by the earl, though striking, was not unusual. King David, for instance, perambulated the bounds of Coldingham and Bunkle in person (*ND*, no 4).

[1145] Charters to Dryburgh, no 3

[1146] The Hirsel perambulation is recorded in Charters to Coldstream, no 9.

From their huge areas of arable land in Lennel, Earlston, Hume, Fogo, Greenlaw, and the fertile lands of the East Lothian coastal plain successive earls from the mid-twelfth century endowed the religious houses of Coldstream, Dryburgh, May, and Melrose, and they confirmed gifts of mixed arable and pastoral land by their tenants to Coldstream, Kelso, and Newbattle.[1147] They endowed also the churches of Hume, Fogo and Greenlaw, which were later given to Kelso Abbey, with land, usually a ploughgate, which would serve as the glebe for the parsons of these proprietorial churches. It could be in two stages, as in the example of Greenlaw church which was first given half of a ploughgate, then the other half at a later date, perhaps connected to the subsequent grant of Greenlaw to Kelso and the need to give life tenure to the incumbent.[1148] Such was the exercise and the expression of lordship. The earls' gifts of arable to the religious houses slowed by the thirteenth century, partly no doubt because the religious houses were deemed to be adequately endowed, partly perhaps through a shortage of available land. Late thirteenth-century grants to the priory of Coldstream, for instance, were mainly re-grants of land surrendered to the earl, usually for default of service.[1149]

Resources and Infrastructure

The easements or natural resources of the lands of the earls, and the infrastructure they created provided the necessary framework for economic activity. Efficient use of these depended on cooperation and some compromise, as is made clear in a charter of Earl Patrick to the monks of Durham at Coldingham concerning their mill at Oldcambus. Prior to 1198 Edward of Oldcambus made an agreement with the monks of Durham to give up the toun and mill of Oldcambus in exchange for Greater Lumsden, another of the group of estates gifted to Durham by Edgar in 1095. In addition, he was

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[1147] Charters to Coldstream, nos 1-3; to Dryburgh, nos 2, 5; to Kelso, nos 4, 5, 7, 8; to Melrose, nos 2, 4, 6, 8, 10. Confirmations of grants of arable land by tenants include Charters to Coldstream, nos 1-3; to Kelso, no 8, to Newbattle, nos 1- 5.
[1148] Charters to Kelso, no 3; *Kelso Liber,* no 74
[1149] E.g. Charters to Coldstream, nos 11, 15

to receive a sum of money from the monks.[1150] He apparently required to raise money to pay a judicial fine and so surrendered the toun, mill, and all pertinents of one estate for another of presumably lesser value. Thereafter the monks of Coldingham held the toun and the mill of Oldcambus. Patrick I earl of Dunbar granted them the easement of the rivers of Aikieside and Elmedene for their mill there for as long as they continued to hold the toun in their own demesne. His lands adjoined Oldcambus and the monks would require access upstream to build or maintain a lade to drive the mill.[1151] Possibly the monks had used the opportunity to move a long-established tenant from land which they wished to work as demesne. The charter of Patrick I granting easements in the rivers may represent no more than a previous arrangement, renegotiated by the monks when they took over Oldcambus and set to lapse if and when they feued it to another. It was one of a series of agreements by both parties in mutual self-interest. A charter of German, prior of Coldingham (1260 x c.1263) which is his half of a chirograph made with Patrick III and which bears the third seal of the earl, records that the monks had fermed to the earl their part of the Aikieside River as far as the mouth of the River Elmedene. The *reddendo* was one pound of cumin on 24 June each year. Interestingly the monks got the earl to agree never to claim any right within their wood beyond the river as a result of the agreement. He therefore got access to the river and the monks got the payment and the boundary they wanted.[1152] In the Sorrowlessfield case access to fuel was safeguarded by Patrick I in his settlement with Melrose; but here again a kind of mutuality operated, for although the earl was to have the wood from the trees on the pastureland used by the monks, he was to supply six cartloads of peat annually to the abbey from his peatery nearby. Outwith the period, in 1327, Patrick V allowed the Coldingham monks to build and operate a conduit over his land on the south bank of the river Elmedene up to the mill at Oldcambus.

[1150] Edward's charter (*ND*, nos 177) was confirmed by King William (*RRS*, ii, no 445). It has been stated (*RRS*, ii, 415) that the mill was in Coldingham but Earl Patrick's charter (Charters to Coldingham, no 2) makes it clear that there was a mill at Oldcambus to which the agreement between Edward and the priory surely refers.

[1151] Charters to Coldingham, no 2

[1152] Charters to Coldingham, no 11

His charter asked only for prayers in return for himself and his wife Agnes, his predecessors and successors.[1153]

The importance attached to peat as a source of fuel is well illustrated in one of the five surviving earls' charters to Dryburgh, a charter probably of Patrick I, but possibly of Patrick II, in which the earl confirms the grant to Dryburgh of two peateries by Richard of Fans, who held of him land in Berwickshire to the north east of Earlston.[1154] The charter also reveals something of the topography of the area and how the land was exploited. One peatery extended for one and a half acres between known channels or ditches. The other was smaller, a half acre of peatland to the south of one of the ditches. The peatery was worked by oxen and horses, and the right to common pasture for the animals was given with it. Land used to extract peat and turf was in time returned to meadow or pastureland and in this eventuality the canons were to have freedom to decide on its use. Richard's charter does not allude to a dispute with Dryburgh over the possession of a meadow called Kingside; but we know this took place, for in confirming the grant of the peatery the earl confirms also the settlement which had been reached and recorded in a chirograph concerning this meadow. We have already seen that an important component of the Sorrowlessfield agreement was the arrangement over fuel, with the earl able to harvest the trees for wood but at the same time bound to supply peat to the abbey.

Here and there in the charters are glimpses of the infrastructure of the lands of the earldom, allusions to wells, boundary stones and ditches, to a harbour, to bridges and roads.[1155] The facility given to May of using the earl's harbour at Belhaven would bring rewards in terms of trade and revenue, as would the bases provided for the monks in Biel and Dunbar and for the Coldstream nuns

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[1153] *ND*, no 141

[1154] Charters to Dryburgh, no 1. The earl in question was probably Patrick I but may have been Patrick II. Richard of Fans was the older half- brother of David de Graham the close asociate of Patrick II and Patrick III, and a prominent member of the Dunbar circle in the late twelfth and early thirteenth centuries, appearing as a witness to Coldstream charters of that period.[1154]

[1155] Wells in Charters to Melrose, no 10; boundary ditches in Melrose, nos 8- 10 and Durham, no 6; boundary stones in Charters to Dryburgh, no 3, to Melrose, no 10, and to Newbattle, no 2; the harbour in May, nos 1-2; bridges in Charters to Coldstream, no 9. For roads, see Charters to Melrose, nos 11 and 14.

in Berwick.Communications as always were vital and the numerous references to roads, some, like Dere Street, of great antiquity, testify to a more crowded and busy way of life in south-eastern Scotland than we might today envisage. Charters of the earls to Dryburgh and Melrose refer to Malcolm's road, supposedly named after Malcolm IV who may have founded founded and did endow the hospital at Soutra, to where the road runs north.[1156] The Sorrowlessfield agreement referred to the disputed pastureland as lying between Kedslie and Faw Hope Burn (now Packman's Burn) and between Malcolm's road going north to Lauder and the river Leader. The road here was described as being in the form of causeways.[1157] Patrick I had a disagreement with the monks of Melrose over access and use of Malcolm's Road. An agreement was reached but subsequently there was further conflict over its terms. Eventually the earl seems to have made peace, or so he claimed, and he quitclaimed any right he had regarding the road . Presumably the trouble was over only that part of Malcolm's Road which went through the monks' land, for they were to hold it by the boundaries between themselves and the earl. Earl Patrick also quitclaimed any rights to the use of the public road west beyond the causeways – perhaps another stretch, or perhaps another road.[1158]

[1156] Charters to Dryburgh, nos 2, 5; to Melrose nos 7, 11, 14. It seems likely, however, that the name is much older.
[1157] Charters to Melrose, no 11
[1158] Charters to Melrose, no 14

The earls and the churches of Lothian and the Merse

The Church in twelfth and thirteenth-century Scotland, as elsewhere in western Europe, was in a process of reform, focussing on the issues of spiritual independence and authority, and seeking to impose more exacting standards of order and of professionalism amongst the clergy at all levels.The major players were the popes, the bishops and the great religious houses, sometimes united, sometimes uneasy allies, at times at odds; while outwith the Church establishment, kings, magnates and lesser lords, and the parish clergy of the old order, held their ground on some issues, and came to terms on others, relinquishing powers and lands and rights and revenues where these could no longer be justifiably held or exploited. It is against this background of change and conflict, and also of accommodation, that the charters of the Dunbar earls as patrons and benefactors but also as litigants and parties to dispute should be placed.

From the evidence available, some reconstruction of the links between the earls and the churches of their earldom in east Lothian and the Merse in the twelfth and thirteenth centuries can be made. An early charter of the earls, the only surviving one of its kind, relating to the foundation or re-foundation of the parish church of St Nicholas, Hume, records that Earl Gospatric endowed the church with one ploughgate, presumably for the glebe, and identified the toun of Hume and half of Gordon as its parish. It was a solemn affair, the earl's three sons, Gospatric, later earl, Edward and Edgar, and his wife giving their consent in the presence of Robert, bishop of St Andrews, Thor, the dean, and Deldred or Aelred the priest.[1159] We can speculate only on the circumstances. The earl may have recently acquired Hume and wished to demonstrate the power and prestige of his lordship, to forge and re-forge local links. Doubtless there was genuine piety, or thanksgiving, or preparation for a battle or for death.[1160] The reference to half of Gordon and the presence of the bishop may hint at some dispute between churches over boundaries or teinds –

[1159] Charters to Kelso, no 1. Thor is probably Thor, later archdeacon of Lothian, occurring 1144 x 1163 (Watt, *Fasti*, 399).

[1160] Perhaps in connection with the earl's departure south with the king in the summer of 1138 prior to the Battle of the Standard

certainly the issue of Gordon and its parish was to re-surface.[1161] Within twenty years Hume church was to be given to Kelso Abbey by the earl's son Gospatric who was present on this occasion.[1162]

There is more plentiful evidence of the foundation of churches by lesser lords, 'pious laymen of the richer sort', who held of the earls, and built and endowed chapels on their lands.[1163] St Mary's Church of Bassendean was endowed by the de Maille family and was apparently gifted by William de Maille to Coldstream in the late twelfth century.[1164] There is some doubt over its status at this time. In the charters of the de Maille family granting lands in Bassendean to Coldstream, it is twice stated to be a chapel: Robert de Maille identifies part of the land he is confirming to the nuns as that lying between the chapel and his house, while William, his uncle, grants to them a toft and croft in the toun of Bassendean formerly held of him by Orm, brother of Uhtred the chaplain of Bassendean, who witnesses the charter.[1165] It does not appear as a parish church on Bagimond's Roll.[1166] The 1457-8 instrument of prioress Margaret describes it as a chapel.[1167] Yet in endowing St Mary's, Bassendean, William de Maille includes two acres given by his nephew Robert 'to the said holy mother church of Bassendean', a phrase which suggests parochial status.[1168] Though the earl's involvement was at one remove, Bassendean church, through the relationship of the de Mailles to the earl, became part of the network of Dunbar patronage in the Merse. So also in the parish of Greenlaw, lands held of the earl from the 1160s by the junior Dunbar line. Perhaps on the occasion of the bishop's visit to Hume, Walter of Stirling was given permission by Robert, bishop of St Andrews, to build a chapel at

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[1161] See below, p 256. Gordon church, a chapel of Hume church, was given to Durham before 1153 and in 1171 was given to Kelso in exchange for Earlston chapel. Why half of Gordon was given here is not clear. This may have been a grant in two stages, with a chaplain, unusually, being given life tenure. Alternatively, the toun may have been split by this date into East and West Gordon.

[1162] Charters to Kelso, nos 2, 4

[1163] C. R. Cheney, *From Becket to Langton* (Manchester,1965), 166; Charters to Kelso, no 4; *Kelso Liber,* nos 268, 426, 453

[1164] *Cold. Cart.*, no 43

[1165] *Cold. Cart.*, nos 45-6

[1166] 'Bagimond's Roll', ed. A.I. Dunlop, *Miscellany of the Scottish History Society*, vi, (hereafter 'Bagimond's Roll') (Edinburgh, 1939), 25-77

[1167] NAS, RH 6/ 359

[1168] *Cold. Cart.*,no 43. The two acres in Bassendean formerly held by Adam the poor clerk may have been a benefice.

Lambden. Bishop Robert's charter states that the earl had himself consented, and indeed had petitioned the bishop to give his permission for it to be built.[1169] David fitz Truite built a chapel also in Greenlaw parish, at Halliburton, probably in the 1160s.[1170] Wedderlie, a pendicle of Hume, was probably founded by the family of Haldane of Hume.[1171] These chapels built by lords on their estates seem like mini-proprietorial churches serving an area within the parish and are to be distinguished from the private chapels built by lords within their houses for their personal use, such as those built at Greenlaw by Patrick I's cousin, William son of Patrick, and another at Fogo by the earl's younger son, William.[1172] Some chapels are hard to categorise. Drem, given by David I to Gospatric, possibly (though not certainly) Gospatric brother of Dolfin or his son, was held by the Fraser family who built a chapel there.[1173] The priory of St Andrews which held the parish church of Haddington in which Drem chapel was situated was jealous of its rights and its revenues though, perhaps because, a charter of protection given to St Andrews suggests that the Drem chapel was not purely for private use by the Frasers.[1174] Such chapels may have had an ambiguous semi-private, semi-public status more acceptable to the Church authorities, and might in future evolve into parish churches as a result of the subdivision of larger parishes.

The earls as patrons of the parish churches and clergy

The picture emerges of a kind of parallel ecclesiaistical lordship exercised by the earl. His control operated both directly and indirectly. Members of the Dunbar family and circle served the churches and served the earl. Churches of which the earls were patrons in the twelfth and thirteenth centuries were

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[1169] *Kelso Liber*, no 426 (x 1159). The charter refers to Walter of Stirling holding Lambden 'in feu and heritage' from the earl, almost certainly a scribal insertion.
[1170] He gave the chapel to Kelso, for the soul of his lord Earl Gospatric, probably in 1172 or shortly thereafter (*ibid*, no 268).
[1171] It was gifted to Kelso in the late twelfth century by Gilbert, son of Haldane of Hume, probably to be distinguished from Haldane of Edington, the steward. The church was confirmed to Kelso *in proprios usus* by Bishop David (*Kelso Liber*, nos 299, 455).
[1172] *Kelso Liber*, nos 75, 305-6. William also built a chapel at Makerstoun, probably in memory of his wife Christina Corbet who inherited Makerstoun from her father and who died in 1241 (*ibid*, no 239).
[1173] On the doubt over Drem, see above, p 124. For the Fraser family, see above, p 180, and Appendix 5(ii). Bernard Fraser witnessed at least a dozen of the charters of Patrick I (1182 x 1232) but whether the earl was his lord in Drem is remains uncertain.
[1174] *St Andrews Liber*, 322

clearly used as placements for younger sons and brothers much as nunneries became retirement homes for widows or establishments for unmarried daughters or sisters.[1175] The church of Dunbar is first alluded to by the Melrose chronicle, which records the death of Adam, parson of Dunbar, in 1179.[1176] Adam was the younger son of Gospatric, brother of Dolfin; he was originally named Waldeve but adopted the name of Adam and was active as a churchman in the 1160s.[1177] In the mid-thirteenth century, Waldeve, rector of Dunbar, witnessed a charter of Patrick II confirming Manderston to Thomas Papedy before 1247, a charter of Alexander Seton to Melrose concerning Edmonstone, and the charter of Countess Christina founding the house of the Red Friars in Dunbar (1240 x 1248).[1178] Waldeve was the younger son of Patrick II and brother of Patrick III. His name occurs in an indult by Innocent IV to hold an additional benefice dated at Lyons 3 February 1245.[1179] This may not be the first example of pluralism among the clergymen of the churches in the earls' patronage. When Ralph, priest of Dunbar, accepted the cure of Eccles in 1209, the church almost certainly had already been given to Eccles priory, founded or re-founded in the1140s or 1150s.[1180] If appropriated, it would be served by a vicar by 1209; indeed Ralph's appointment in that year may signal the point at which the church parsonage revenues were annexed, for only in exceptional circumstances would a parson of a well-endowed parish like Dunbar be translated to a vicarage. The likelihood is that his acceptance of the cure of Eccles meant no more than the acquisition of a second income. The 'cure' of Eccles may, however, refer to the position of Master of the convent, for in the Dryburgh records we read of a rector of Eccles and of a Master of Eccles.[1181] In 1273, and again in 1296 there is reference to the Master of Coldstream priory.[1182] We know also of a Master of

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[1175] D.E. Easson, 'The Nunneries of Medieval Scotland', *Transactions of the Scottish Ecclesiological Society,* xiii /2 (1940-1), hereafter Easson, 'Nunneries', 33 for evidence of this use of convents increasing among aristocratic women. The first recorded prioress of Eccles, in 1296, is Ada Fraser, whose name signals possible links with the Dunbar family and circle. Ada was also the name of the prioress of St Bothans in 1296 (*HRHS*, 73, 192; *Cal. Docs. Scot.*, ii, 196, 206).

[1176] *Chron Melrose,* 42, s.a. 1179

[1177] Adam witnessed Charters to Durham, no 3, as the earl's brother.

[1178] Charters to Laymen, no 5; *Melrose Liber,* no 223; *Yester Writs,* 8, no 14

[1179] *Cal.Papal Letters,* i, 214 where Waldeve is named as rector of Dunbar and son of the earl

[1180] See below, p 265; Cowan, *Parishes,* 58.

[1181] *Dryburgh Liber,* nos 193, 220 (probably thirteenth-century). Such positions were filled by parochial clergy (Easson, 'Nunneries', 23).

[1182] *Cold.Cart.*, no 12 and p 77

St Bothans.[1183] Either explanation underlines the the close connection between the parish church of Dunbar and the convent of Eccles and their dependence on the patronage of the earl as proprietor of one and almost certainly the founder of the other.

The witness lists of the earls charters demonstrate further close links between the earls and the parsons of Lothian and the Merse. Thus Nigel, priest of Greenlaw, who was to have life tenure of that church when it was given to Kelso by Earl Gospatric, witnessed the earl's charters to Melrose and to Kelso in the 1150s.[1184] Gilbert and Waldeve, parsons of Whittingehame, and Waldeve's brother Nigel, were witnesses to Patrick I's charters to Durham, Melrose, and Coldstream.[1185] The parsons of Linton, Chirnside, Duns and Dunbar, the four parish churches later erected into the Collegiate church of Dunbar, witnessed charters of Patrick I, Patrick II (as heir and as earl) and Patrick III to Coldstream, Durham, and Melrose.[1186] John, parson or rector of Oldhamstocks church, appears four times as a witness to charters of Patrick III, two to Coldstream and two to Durham.[1187] These clergymen clearly formed part of the earls' circle, attending on them and witnessing their charters at some distance from their parishes.[1188] Two prominent clerics in the group had Northumbrian connections- Patrick and Henry of Lemmington, near Alnwick, rector or parson of Dunbar and Chirnside, and of Duns respectively; Patrick of Lemmington was also Patrick III's steward.[1189] Adam, parson of Hirsel church, witnessed one charter of Patrick I in the period 1182 – c.1200 and six charters of the earl's tenants including William de Maille, Ranulph Hutton, Richard son of Norman of Lennel, and William, son of Patrick, the earl's cousin, and heir

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[1183] *Cal. Docs. Scot.*, ii, 212. See Easson, 'Nunneries', 23.
[1184] Charters to Melrose, no 2 ;, to Kelso, no 2.
[1185] Charters to Durham, no 5 (Gilbert of Whittingehame); to Coldstream, no 4; to Melrose, no 10
[1186] Charters to Coldstream, nos 13-15; of the Heirs, no 16; to Coldingham, no 2; to Durham, no 8; to Laymen, no 5
[1187] Charters to Coldstream, nos 13, 15; to Durham, nos 8- 9
[1188] Patrick III's charter of 1261 to Durham (no 9) was given at Chirnside and witnessed by the rector of Oldhamstocks. Coldstream charters of the earls were witnessed by parsons or rectors of Whittingehame, Chirnside, Oldhamstocks, Duns and Dunbar (Charters to Coldstream, nos 4, 13, 15; of the Heirs, no 16).
[1189] Charters to Coldstream, nos 13, 15; of the Heirs, no 16. The Church would be an obvious channel of talent from the earls' lands in Northumberland – thus the Northumbrian chaplains witnessing Charters to Coldstream, no 10.

(through his father and grandmother) of Hirsel.[1190] In Eccles, as in Hirsel, the connection with the Dunbar family continued, with Alexander, parson of Leitholm, a church usually designated as a chapel of Eccles, witnessing charters of the earl's cousin William.[1191]

The most striking evidence of the ecclesiastical patronage of the Dunbar earls comes from evidence of a later date, the arrangements for the creation in 1342 of a collegiate church at Dunbar, incorporating the parishes of Dunbar, Chirnside, Linton and Duns, all formerly served by parsons and all in the patronage of the earls.[1192] According to the foundation charter, Dunbar parish was dedicated to St Bega, suggesting an ecclesiastical site of great antiquity connected with early settlements at Dunbar. It had several chapels – Whittingehame, Spott, Stenton,and Hedderwick – within a ten mile radius, and Penshiel, on the Lammermuir Hills near the Whiteadder.[1193] All of these were in the patronage of the Dunbar earls and were served by a chaplain, with the exception of Whittingehame which had an ambiguous status, described as a chapel but with teinds and lands of its own.[1194] In the late twelfth and early thirteenth centuries Whittingehame had a parson, Gilbert, but by 1342 it may already have had a vicar. [1195] The parish church of Dunbar was well-endowed, drawing teinds from its extensive parish and holding also considerable lands within the parish[1196] and income from the touns of Pinkerton, Spott, Belton and Pitcox.[1197] The earl's hereditary right of patronage of the parish church of Dunbar and its five chapels was recognised and endorsed by the Church, as was his right to dispose of the income of Dunbar and its four inland touns to support the new foundation. He was confirmed too in his power to appoint the dean, the arch-priest and all of the canons. Three of the canons were to be

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[1190] Charters to Coldstream, no 4; *Cold.Cart.,* 5, 10, 15, 24, 43, 45, Appendix no II. Hirsel church was not fully appropriated in this period but was so by the time of the Reformation (Cowan, *Parishes,* 82).

[1191] *Cold. Cart.,* nos 5 , 15. Eccles church with its chapels of Birgham, Leitholm and Mersington, was confirmed to Eccles priory by Bishop David in 1250 (*St Andrews Liber*, 59, xxix).

[1192] The foundation charter of the collegiate church does not survive in the original, but is incorporated in the confirmation charter of Henry, bishop of St Andrews of 1429 (NLS, Adv. 22.1.14; Easson, 'Foundation Charter').

[1193] See Appendix 4, Map 2.

[1194] 'Foundation Charter', 92

[1195] Charters to Coldstream, no 4

[1196] 'Foundation Charter', 90

[1197] Ibid., 93

prebendaries of the churches of Linton, Duns and Chirnside, these churches also to be served in future by vicars paid ten merks sterling annually – a cogent reminder that individual proprietors, albeit with the consent of the Church, might allocate ecclesiastical revenues as capriciously as the religious houses who are so often castigated for the ills of the pre-Reformation period.[1198]

The earls as founders of religious houses

The eleventh and twelfth centuries witnessed a remarkable upswing in monasticism in western Europe, accompanied by an outburst of religious benefaction. The enthusiasm of the laity to give to the saints, and to persuade holy men and women 'to live (and die) on their doorsteps' is well-documented in Scotland, certainly from the time of David as earl and as king.[1199]

Even the most detailed analysis of benefaction can fail to capture the esssence of decision-making or motivation or explore or evaluate fully the layers of conscious and subconscious factors at work.[1200] Benefactors might have many motives. They were clearly prompted by genuine piety and reverence for God and the saints. They were anxious to secure salvation for themselves and for their families, and to this end, to obtain tangible benefits such as burial rights in the religious house, naming in the liturgy of the masses said for the dead, and in some cases confraternity. They wanted also the economic status of being the founders and supporters of religious houses, much as modern companies seek the *kudo*s of sponsorship of the arts or of sport and of being participants in the gift economy with its alliances and networks and commitments. They were motivated too by social considerations – the value of being identified with a locality, the rehearsal of their right to grant and to re-grant, the gratitude and dependence engendered by their generosity, the opportunity to participate in the public ceremonies underscoring social bonds.[1201] Perhaps, most powerfully of all, they were

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[1198] Ibid., 93. On the effects of appropriation, see below, p 267.
[1199] Memorably described as 'a passion for collecting holiness'. Both references are from R. H. C. Davies, *A History of Medieval Europe* (London, 1976), 263.
[1200] As, for instance, by White, *Custom, Kindship, Gifts*, 162-3
[1201] On these and many other related points see Rosenwein, *op. cit.*, 36-48.

emulating others. The Dunbars would be under all these influences. Then there were particular motives, special considerations such as the wish to use a religious house as a safe repository for land and particularly for disputed land and the need to provide a retirement home for a widow or a sheltered and pleasant position for a daughter. These last considerations may explain the favouring of nunneries by the Dunbars and others.[1202] Perhaps in the last analysis it was cheaper to found a nunnery, and perhaps easier to keep some control of it through the appointment of a master.

Coldstream priory is the religious house most powerfully associated with the Dunbar earls. Nothing of it remains visible today. From various benefactors, such as the Huttons, the Gordons, and the de Mailles, the nuns of Coldstream received extensive grants of land [1203] but the priory owed its existence and its core endowments to the Dunbar family.[1204] Just before his death Earl Gospatric gave to the sisters of 'Witehou' land in Lennel to the north-east of the house and in Birgham, to the west, and one half of the church of Lennel.[1205] Significantly, the name 'Coldstream' is not used. The church and priory had not, in all probability, been built and the description of the nuns in the charters as the sisters of White Hill may well corroborate the theory that this was a local place name, soon to be superseded by identification of the site with the priory. By the time of Bishop Richard's charter of confirmation of 1165 x 1166, which confirms the grants of land but names only the churches of Lennel and Hirsel, the community of nuns referred to in the earl's charters was established as the church of St Mary of Coldstream, with, presumably, a building erected and dedicated to the saint. There is no reason to conflate these events– the coming of the nuns, the endowment by the earl and his family, the building and dedication of the priory, and the episcopal charter of confirmation of 1165 x 1166. All the evidence cited points to a more prolonged process of which Bishop Richard's charter was the culmination and a dating of

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[1202] Charters to Coldstream, nos 1-2; *Cold. Cart.*, no 10
[1203] E.g. *Cold. Cart.*, nos 10, 35-42, 44-46, 58.
[1204] Charters to Coldstream, nos 1- 2. The cartulary heading of no 2 identifies it as the foundation-charter. See notes on these charters for a discussion of the origins of the nuns and the date of foundation.
[1205] See Appendix 4, Map 4.

the foundation of Coldstream to the approximate period 1160/1-1166, most probably 1165 x 1166.[1206]

We know little about the nature of the earls' links with Coldstream. In 1273 and 1296 there is reference to a Master of Coldstream who like Ralph at Eccles would be a parson or rector of a church in the earl's patronage and who would act as a kind of manager.[1207] Normally we could assume a close ongoing relationship formed through the rehearsals of gifts and countergifts, perhaps even with a writing office producing charters for the earls. Nevertheless there is evidence of friction over land in Lennel, occasioning an appeal to the Pope by the nuns, suggesting that the priory was not entirely or invariably in the pocket of the earl.[1208]

Why Coldstream? Strategically, it was an obvious place to found the priory. It was built at a main crossing of the Tweed in proximity to the Mount at Castlelaw which must have been a major military site of antiquity, and a seat of the earls, once Lennel had been secured. There may have been a further consideration. The dismemberment of Berwickshire led to ongoing disputes over Edrom and Nisbet and other estates, including probably Lennel, and so here Earl Gospatric built and endowed the priory of Coldstream, thereby affirming his right to the land, and legitimising his claim on it by giving it to God. These may have been the paramount considerations for the choice of site for the priory, the great matters which drove the earls, on which the charters are silent.[1209]

Birgham likewise may have been the subject of contention, so that, nearby, the earl founded or re-founded a religious community, the priory of Eccles. The Chronicle of Melrose dates the foundation or re-foundation of Eccles priory to

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[1206] For a similar process, see John of Hexham's account of the foundation of Newminster Abbey, with the eight monks from Fountains Abbey being housed by Ranulf de Merlay in his castle at Morpeth while the abbey was being built (*Priory of Hexham*, i, 123).
[1207] *Cold. Cart.*, no 12
[1208] Bull of Pope Gregory X, 27.07.1271, confirming to the prioress and nuns of Coldstream lands 'formerly belonging to Patrick, earl of Dunbar' (NAS, GD 212, Box 10, no 4)
[1209] See above, p 132.

1156.[1210] Almost certainly its founder was Earl Gospatric, founder of Coldstream.[1211] A 'Countess of March' has also been associated with the foundation, and if this is so the reference would be to Deirdre, Gospatric's wife, though not then styled 'of March'.[1212] Little documentation of Eccles survives and we have no charter of the earls linking them to the house, but the fact that Patrick I was buried there after his death in 1232 confirms a family connection.[1213]

The evidence for the convent at St Bothans being a Dunbar foundation is largely circumstancial.The date of its foundation is uncertain.[1214] It has been claimed as a cell of the Cistercian nunnery of Berwick, but there seems to be little evidence for this theory.[1215] But it clearly lay in Dunbar land. Spottiswoode claims that the founder was a Countess of March, in the reign of William the Lion, and if, as in the case of Eccles, we accept the anachronistic use of the title, the contenders would be Countess Deirdre, Aelina, Ada, illegitimate daughter of William the Lion, who married Patrick I in 1184 and died about 1200, or, less likely, the same earl's second wife Christina to whom he was married by 1214.[1216] What makes a connection between the nuns of St Bothans and the Dunbars the more credible is that in the sixteenth century the priory's possessions included many likely Dunbar lands such as Duns, Papple,

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[1210] 'In the year 1156 a convent of nuns came for the second time to Eccles' (*CM,* 35, s.a. 1156; *Chron. Howden,* i, 215). Professor Duncan has reservations about the interpretation of this passage (Personal comment, January 1999). Clearly Eccles was an ecclesiastical site from an earlier (British) period, whether or not it was a convent. For the alternative dates of 1154 and 1155 see J. Spotiswoode, *An Account of all the Religious Houses that were in Scotland at the time of the Reformation*, in R. Keith, *An Historical Catalogue of Scottish Bishops,* (Edinburgh, 1824), hereafter Spotiswoode, *Account*, 461. Recent analysis has opted for the 1140s-1150s (*HRHS,* 73).

[1211] There is a persistent tradition that its founder was David I, based perhaps on the assumption that Eccles as its name implies, was the major church of an old royal shire. The various theories about its founder are discussed in Easson, 'Nunneries', 35. See also McDonald, 'Nunneries', 6-7.

[1212] Easson, 'Nunneries', 35, *n* 5

[1213] *Chron. Melrose,* 82, s.a. 1232. McDonald suggests that Eccles was intended as a family mausoleum ('Nunneries', 7). But Patrick II who died in Marseilles was apparently buried at Tynemouth (Paris, *Chron. Maj.*, v, 41), his son Patrick III in the parish church of Dunbar (*Chron. Lanercost,* 127).

[1214] *HRHS*, 192. Easson opts for a date at the end of the twelfth century ('Nunneries', 36). There is a tradition that the priory was founded on the site of a seventh-century church dedicated to St Baithen, the cousin of St Columba (*New Statistical Account,* ii, 106-7).

[1215] Spotiswoode, *Account*, 460; J. Ferguson , 'Notes of remains of Pre-Reformation churches in Berwickshire', *History of the Berwickshire Naturalists Club* (1890-1), 86 ff.

[1216] Euphemia is named in Dempster, *Apparatus* and in the Appendix to *Scottichronicon;* Ada is suggested in John Ferguson, *op. cit.*

Billie, Biel, Waughton and possibly Cockburnspath.[1217] Without the corroboration of a single charter concerning these lands we can speculate only on that connection. Nevertheless it seems highly probable that the earls of Dunbar founded and endowed St Bothans and in particular gave the church of St Bothans to the nuns.

One mile from St Bothans was Strafontaine (also known as Trefontaines) which appears among the lands of the Dunbar earldom in the fifteenth century. There was said to be another nunnery at Strafontaine which also had a connection with the Cistercian nunnery at Berwick but the evidence for this is very inconclusive.[1218] Spottiswoode names David I as its founder but other sources again attribute its foundation to a Countess of March.[1219]

Conflict with the Church over teinds

In the detail and principles of its constitution the Collegiate Church gives a picture of the effects of Dunbar patronage in at least several of the key churches of the earldom in the preceding centuries. It is one of entire subservience to the will of the earl and his virtually unfettered powers of lordship. Almost certainly the same was true of other churches of the earldom, though the evidence is more elusive. The holding of teinds by lay patrons, for instance, was clearly a contentious issue in the Western Church in the twelfth century and was regularly condemned by successive popes, but naturally was rarely referred to in the charters of the laity who held the teinds. Nevertheless, there are indications that the Dunbars held teinds in Earlston and Swinton. About 1189-98, for instance, Patrick I confirmed Edrom church, its chapel of Earlston and its other chapels, to Durham, in a charter which bears all the hallmarks of a top-level dispute resolution. It has a weighty witness list, headed by Hugh the Chancellor, two future Chancellors, William Malvoisin, Archdeacon of Lothian and William de Bosco, Richard clerk of the Provend (*de prebenda*), Hugh *de Sigillo* and Robert de Burnaville, sheriff of Berwick. There are witnesses both from the earl's side and on behalf of Durham, including

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[1217] Kirk, *Assumptions,* 192
[1218] Easson, 'Nunneries', 38
[1219] Spotiswoode, *Account*, 460

Master Richard, nephew of prior Simon.[1220] Certain features of the charter are unusual.[1221] It was the fifth of the surviving charters of the earls granting Edrom church, but the first to name a chapel. Earlston chapel was over twenty miles from Edrom.[1222] It had formerly been granted to Kelso Abbey by Walter de Lindsay, probably in the 1150s.[1223] Durham's hold on Edrom church itself seems to have been still tenuous, despite confirmations of the earls' grants by Robert I bishop of St Andrews in 1150 and in 1157 by Pope Adrian IV, for a dispute between the priory and Crowland abbey over Edrom church was not settled until 1167.[1224] At the same time Durham and Kelso were in dispute over Earlston church which Durham now claimed was one of the chapels of Edrom church. Richard, bishop of St Andrews, heard the case at Berwick between 1165 and 1170 and awarded Earlston church to Durham.[1225] Almost certainly at this point in time both Richard and Walter de Lindsay's son William gave charters confirming Earlston to Durham, William's including the ploughgate gifted by his father.[1226] A chirograph dated 1171 was drawn up and in this Durham acquired Earlston chapel while the chapel of Gordon which had been given to Durham during the reign of David I was given with its teinds to Kelso.[1227] Between 1199 and 1202, with Edrom and six others, Earlston was listed as a church of Coldingham/Durham by Bishop Roger, confirmed then or at a future date, to the priory *in usus proprios.*[1228]

Patrick I's confirmation of Edrom, its chapel of Earlston, and its other chapels to Durham (1189 x 1199) is almost certainly linked to the circumstances behind Bishop Roger's charter. There may have been an amicable exchange

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[1220] Charters to Durham, no 5

[1221] Professor Watt, who dates it 1189 x 1193, thinks it suspect (*Grads.*, 105) but gives no explanation of his position.

[1222] Chapels were usually about two or three miles distant from the mother church, as in the case of Greenlaw's chapels of Lambden and Halliburton, Ednam's three chapels and Edrom's other chapels of Kimmerghame and Blackadder.

[1223] Lindsay's grant is DCM, MC.726 (*ND* no 164); it is not in the Kelso cartulary, nor does Earlston church figure in the charters to Kelso of Malcolm IV (1159) or William I (1165-6).

[1224] *ND,* no 642; *RRS,* ii, no 105. It was settled in Durham's favour, in the *curia regis* at Stirling, the royal charter announcing the settlement being witnessed by Earl Waldeve. Professor Barrow suggests that Waldeve, abbot of Crowland, was the brother of Gospatric and that he had been granted Edrom by his father and brother. But there is no proof that Waldeve the abbot was the earl's brother (see above, p 140).

[1225] *ND*, no 460

[1226] DCM, MC. 1319, 713, 616 (*ND*, nos 165, 461)

[1227] *ND*, no 643; *Kelso Liber*, no 420, where Hume is described as the mother church of Gordon.

of churches by Kelso and Durham, but the evidence suggests that on the contrary Kelso pursued its claim to Earlston doggedly.[1229] Whatever the explanation, Earl Patrick's charter, in naming Earlston as a chapel of Edrom, was almost certainly occasioned by Durham's move to full appropriation of its churches including Earlston. Bishop Roger's charter of 1199 gave the general go-ahead; his subsequent undated charter specified the churches appropriated or to be appropriated.[1230] It was important to Durham that their spiritual estate was publicly and formally acknowledged. Swinton alone remained unsecured.[1231] So the bishop recited the names of the churches, including Edrom and Earlston – and in due course, certainly by 1213, Earlston was appropriated. In a charter approximately of the period (c.1198 x 1209 or 1213), Bertram prior of Durham granted altarage to William, nephew of Arnald, prior of Coldingham, as vicar of Earlston.[1232] This appears to be the point at which Earlston became fully appropriated to Durham and possibly also when it was made into a parish church. It is also possible that this was the occasion of the division of the parish of Edrom, with the more distant church given parochial status.[1233] There is therefore a persuasive case for putting Earl Patrick's charter in the context of Durham's policy of appropriation and its wish to secure its title to Earlston. The teinds must be safeguarded, particularly if division was envisaged.[1234] Why Earl Patrick's confirmation was obtained in such a high-profile setting remains less clear, but we may deduce that he had

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[1228] DCM, MC. 958 (*ND*, no 469)

[1229] Bishop Richard's charter announcing the settlement of the dispute at Berwick indicates that Pope Alexander III had intervened. The bishop and the abbots of Rievaulx and Melrose, doubtless as Judges-Delegate, made the joint announcement and sealed the charter. The witness list includes Nicholas the king's Chancellor, suggesting that the settlement may have been reached eventually in the *curia regis* (*ND,* no 459).

[1230] Dr Donnelly notes that Bishop Roger's charter (*ND,* no 467) was dated, unusually, by the coronation of King John of England which Roger, the son of an English earl, had attended. The presence of witnesses such as Master John of Leicester and of Alan of Richmond suggests that the charter was issued on that occasion. The second charter (*ND,* no 469) was witnessed by 11 of the 24 witnesses to the first and may have been given at that point, by way of amplification, or on the bishop's return to Scotland (Donnelly, 'Spiritual estates', 53-4).

[1231] The endorsement of the charter naming the churches reads . *C[arta]. R[icardi] .Episcopi . S . Andree de ecclesiis de Coldinghamschire preter Swintune* (DCM, MC. 958; *ND,* no 469).

[1232] *ND,* no 533

[1233] On the subdivision of parishes and the erection of chapels into parish churches, see Donnelly, *op. cit.*, 63-4.

[1234] Earlston appears in Bagimond's Roll, 1274-5, as a church with a vicar. Gordon, which was allotted a full parish by Bishop Richard (*Kelso Liber,* no 420, c.1166 x 1175) does not appear. In 1270 Gamelin bishop of St Andrews confirmed Gordon with Hume to Kelso Abbey *in proprios usus* allowing the monks to appoint a chaplain in place of a vicar (*Kelso Liber,* no 429).

resisted Durham's move to annex all the revenues of the church, almost certainly because these had been in his hands.

Swinton church provides further insights into the control of teinds and the type of conflict which might arise between a powerful lay magnate and a religious corporation intent on garnering and exploiting its resources. Where income whether in cash or in kind was involved, the conflict could be both prolonged and intense, involving seizure of property and litigation and, increasingly, resolution in the royal court. The dispute which arose between Patrick I and the monks of Durham had all of these ingredients. The details have already been rehearsed.[1235] The causes of the conflict which led to the earl's quitclaim are, as we have seen, highly conjectural, but seem to centre on the corn teinds of Lesser Swinton and Threeplands. This is a rare indication that the garbal or parsonage teinds of a particular church were in the hands of a powerful individual and it touches on several issues. It is a reminder that the acquisition of ecclesiastical revenues by religious houses and the subsequent conversion of the so-called independent parsonages to vicarages was not necessarily a development for the worse, for the teinds had not always been applied previously to ecclesiastical or spiritual purposes. Appropriation did not wreck a perfectly functioning system.[1236] Secondly, it raises the question of the nature and origin of the earl's claim to the garbal teinds of Lesser Swinton which must have rested on a previous proprietorial interest in the church, and thus in the toun and land of Swinton. That is a question addressed elsewhere in this study.[1237] Thirdly, it throws some further light on the nature of the Dunbar lordship in conflict with the Church, and the tactics used in pursuit of its claims. Earl Patrick's charter of quitclaim does not record whether any concessions were made by Durham but it does indicate that the earl's power to claim or retain eccelesiastical revenues had to yield in the face of the determination of Prior Bertram and his monks. When the tide of Church reform was flowing so strongly, secular lordship had its limits.

[1235] See above, p 141.
[1236] I. Cowan, *The Medieval Church in Scotland* (1995), 15.
[1237] See above, p 143

Conflict over the jurisdiction of the Church

The case of Sorrowlessfield in the opening decade of the thirteenth century tested in dramatic fashion what these limits were. The substance of the conflict, the competing claims of Melrose Abbey and the earl of Dunbar on the arable and pastureland to the north of Melrose and the west of Earlston, is discussed elsewhere.[1238] The form it took, however, was a tug-of-war between the earl and the abbey in which the earl and his agents skilfully exploited an underlying and unresolved clash of jurisdictions.The Church of Innocent III, armed with its reformed and active judicial organisation, attempted to assert its authority over the earl and sought to bring him to heel. The fact that it failed to do so and that the case came eventually to the royal court where the settlement was confirmed was of greater significance than the details agreed and minuted in the chirograph.[1239]

The seizure of Sorrowlessfield by the earl appears to have been a deliberate move in a wider dispute. It was arable land once granted in all probability to Melrose Abbey by the earl or his predecessors or by the Lindsays, of whom William Sorrowless once held and who may have held in turn of the earl.[1240] Hill pasture above Sorrowlessfield would be allotted on a proportionate basis, as elsewhere. Conflict over its use, which was the subject of the settlement eventually reached, caused the earl to occupy Sorrowlessfield.This was the trigger for the appeal by the monks to Rome which set in motion the long judicial process.

The events which followed have been well documented.[1241] The Pope nominated the bishop and archdeacon of St Andrews and the archdeacon of Lothian as judges-delegate. The earl was cited to appear before the tribunal but ignored the citation and was declared to be contumacious. Fearing

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[1238] See above, p 234.
[1239] Charters to Melrose, no 11
[1240] The Lindsays may have had Earlston before the Dunbar earls, or they may have held the lands of the earls. William Sorrowless witnessed a charter of William Lindsay to Melrose (*Melrose Liber,* no 12; Barrow, *Era,* 41).
[1241] *Melrose Liber,* no 101, gives Bishop Brice's detailed and vivid account of events, but omits explanation of how the settlement was eventually achieved (See MacQueen, *Common Law,* 100).

physical resistance, the judges did not order restitution of the land, but rather put the lands of the Dunbar earldom under ecclesiastical interdict. The earl then found caution but reserved his defences, the interdict was lifted and a new diet arranged. The earl was proving himself to be a master of delaying tactics. His legal representatives argued that as Sorrowlessfield was a lay holding, the earl was a layman, and any legal action must be heard in the court appropriate to it, the tribunal had no jurisdiction in the matter and could not try the case. It was a clever line to take, for the court could assert its competency only by pre-judging the issue. When it was rejected by the court, the earl changed tack and objected to the bishop of St Andrews hearing the case; when that was rejected he appealed to Rome. As a diversionary tactic this worked well, and eventually when the earl's procurator did appear at a diet, a new papal mandate was issued appointing a second trio of judges-delegate, the abbot of Holyrood, the prior of Inchcolm and a rector of Dunkeld. Evidence was heard and the case transmitted to Rome but though the monks sent representatives the earl did not. Eventually, doubtless in the interests of damage-limitation, Pope Innocent appointed a third delegation; this time he nominated only Brice, bishop of Moray who was to invite the monks and the earl each to nominate a judge within fifteen days. Both sides seem to have dragged their feet at this stage. We cannot be sure what happened next, but the outcome was that a settlement was reached, not in the ecclesiastical court, but in the *curia regis*, and was confirmed by the king.[1242]

The case is one incident only in the ongoing struggle for supremacy between ecclesiastical and royal justice. It belongs therefore to a wider canvas than the Dunbar lordship or the rights of the Melrose monks. Nevertheless it reveals some interesting features about both, not least the confident and sophisticated opposition mounted by the earl's side. Their arguments were skilled – significantly perhaps they did not allude to the absence of a brieve – and their tactics effective.[1243] There is a sense of rising exasperation and frustration on the part of the papal see, forced to compromise over the composition of the delegation and the settlement of the case. It was in one sense a victory primarily for the king, but it was achieved by the determination

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[1242] Charters to Melrose, nos 11-12; *Melrose Liber,* nos 101, 103, 105

and the near-effrontery of the earl. His lack of deference to the ecclesiastical courts and to the power of pope, bishop and abbot conveys much not only about his self-perception but about the mentality of secular lordship itself.

Benefaction or surrender?- the giving of churches

Not every area of conflict or potential conflict suggests that secular lords could resist the claims and demands of a reforming Church. The giving of churches in their patronage by the earls to religious houses, for instance, may signal that where the Church could make a strong case on matters clearly within the spiritual domain, opposition was more difficult to sustain.

The motives behind benefaction of any kind were of course always complex; undoubtedly piety played a part, but so also did pragmatism. The earls and those who held of them surely recognised, however grudgingly, that the revenues and advowsons of at least some churches might more properly belong to the religious orders, and that these assets in lay hands were becoming increasingly devalued through the denunciations of the church reformers.[1244] So the process of giving churches to religious houses like Kelso gained momentum, though what was given was unclear, and memorable tugs-of-war could develop over teinds, involving kings and their representatives, bishops, and popes. Then there were the particular circumstances in which grants were made, circumstances which are rarely spelled out in the charters. In the case of Kelso, an abbey enjoying royal patronage but deriving its wealth from the grants of the magnates, for instance, there is the possible link between the spate of grants of churches by the Dunbars and others and the burial of Earl Henry at Kelso in 1152 or a link with the great gathering at the abbey recorded in Malcolm IV's charter of 1159.[1245] And benefaction involved other things of great importance – the affirmation of local relationships, the re-

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[1243] MacQueen, *Common Law,* 108

[1244] A similar trend can be found in Galloway where eleven churches were given to Holyrood between 1160 and 1174 (K.J. Stringer, 'The Records of the Lords of Galloway to 1234,' *Freedom and Authority, Scotland c.1050- c.1650* (East Linton, 2000), 206).

[1245] Any link may be artificially created by the dating of the charters giving the churches to c.1159, because the grants are confirmed in Malcolm's charter of that year.

statement of family solidarity and continuity, the rehearsal of tradition and links with past, present and future.

One aspect of the issue may be too easily overlooked – the fact that, as lords of the lands on which the churches were built, the earls and the members of their family had churches and church revenues to give away at will. The grants of Lennel and Hirsel churches to the Cistercian nuns of Coldstream, for instance, formed an integral part of the basket of endowments made to the new priory, and as such seem little more than the concomitants of grants of land. Lennel was given in two stages, Hirsel with the whole glebe, and also apparently with its teinds.[1246] A somewhat different scenario is suggested by the charters to the Tironensians of Kelso Abbey to whom the earls gave the churches of Hume, Fogo and Greenlaw. [1247] Hume church was founded and endowed in the period 1127 x 1138.[1248] Whether at this stage the earl intended to gift the church to Kelso must remain a matter of conjecture; certainly before 1159 his son Gospatric gave both it and Fogo church to Kelso.Both were confirmed to the abbey by Malcolm IV in his great charter of that year.[1249]

Greenlaw church was in the possession of Kelso by 1162 at the latest, possibly before 1152, though it is not included in Malcolm's confirmation of 1159.[1250] With Hume and Fogo, Greenlaw was confirmed to Kelso with its chapel of Lambden by Earl Gospatric and by Bishop Arnald during the period 1160-1162.[1251] In the case of Greenlaw, as when Lennel was gifted to

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[1246] Charters to Coldstream, nos 1-4, 7, 10; *Cold. Cart.,* no 15. The granting of 'half' of Lennel meant that the parson continued to have a share in the income of the church, the arrangement continuing until his death. See also M. Morgan, 'The Organisation of the Scottish Church', *TRHS*, 4th series, xxix, 142.

[1247] *Kelso Liber,* no 77. Confirmation of these churches to Kelso by Patrick IV, perhaps just after death of his father in 1289 in which he cites and summarises the grant of the three churches by his predecessors Earls Gospatric, Waldeve, Patrick I and Patrick II, his grandfather.

[1248] Charters to Kelso, no 1

[1249] Charters to Kelso, no 2. Note that Thor is styled archdeacon, suggesting indeed this is later than no 1 or *Kelso Liber,* no 426 above. Fogo seems to have been of some significance in the diocese (Watt, *Fasti*, 416; *Cold. Cart.*,App. II; *Kelso Liber*, no 303).

[1250] *Kelso Liber,* no 439 (confirmation of Bishop Arnald 1160 x 1162); Charters to Kelso, no 3 (Gospatric's grant of Greenlaw possibly before the death of Earl Henry in 1152, but dated here 1159 x 1162.)

[1251] *Kelso Liber,* no 439, Charters to Kelso nos 3-4. The earl's grant of Greenlaw (Charters to Kelso, no 3) made no mention of Lambden, which suggests that Bishop Robert's charter

Coldstream, the life tenure of the incumbent was guaranteed, and it may be that complications over the terms of this particular grant explains its omission from the royal charter of 1159.[1252]

With the churches went grants of land, a generous two ploughgates and a meadow in the territory in the toun of Hume, land adjacent to Greenlaw and Lambden, later specified as a half-ploughgate, and a ploughgate and shielings in the Lammermuirs apparently connected with Fogo. The allusion to the terms on which these Bothwell shielings were to be held – 'as fully as deaf Hugh held' suggests that this was a new grant to Kelso.[1253] The initial benefactions to the abbey were augmented also by Waldeve in whose charter the land given with Greenlaw church was doubled to one ploughgate.[1254] Waldeve's brother Patrick who inherited Greenlaw and who was later styled, as was his son William, Lord of Greenlaw, also gave a charter confirming Greenlaw church and the two chapels. In this charter he supplies fuller details, making the distinction between the half ploughgate of land originally given with the church and the further half ploughgate given by Adam to the church of Greenlaw and perambulated by him.[1255] With this went a toft and croft and the right to pasture livestock – a hundred sheep, eight oxen, four cows and one draught animal. Again, as in the case of Hirsel church, we find allusion to the exact nature of the pertinents, for his charter for the first time defined these as tofts, crofts, lands and, most significantly, teinds. William confirmed his father's grants and added two oxgangs of his demesne land and a further toft and croft held by Liulf, the head groom, below the church. [1256] A later charter of Patrick's

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(*Kelso Liber,* no 426) allowing Walter of Stirling to build the church may be of a later date than the Hume charter (Charters to Kelso, no 1) and that the church had not been completed in 1159. Alternatively, the earl's charter may simply have omitted the chapel of Lambden in error. His later confirmation of all three churches (to Kelso, no 4, x 1166) does include Lambden chapel with Greenlaw church.

[1252] Charters to Kelso, no 3. The clause reads *salua tenura Nigelli clerici . qui de predictis monachis prenomiatam ecclesiam libere teneat omnibus diebus vite sue.*These reservations were not uncommon, as has been seen in the case of Lennel (to Coldstream, no 3), and would usually be the means of easing the transition from lay to monastic possession.

[1253] It is not clear whether the Bothwell shielings were attached to Fogo church or whether the grant of the shielings was a separate act, now lost. William I confirmed Bothwell shielings separately in one of his two charters to Kelso (*Kelso Liber,* no 13; *RRS,* ii, no 367).

[1254] Perhaps again because part of the glebe had been retained temporarily until the death of the parson.

[1255] *Kelso Liber,* no 74. Adam may be identified with Adam Cassin alluded to in the charter of his son William (*ibid.*, no 76).

[1256] I*bid.*, nos 76,78, 82

nephew, Patrick I, son of Waldeve, makes no mention of teinds but gave a detailed description of the boundaries of the shielings of Bothwell, connected with Fogo and its church.[1257]

Lesser figures like Walter of Stirling and David fitz Truite who held of the earls followed their lords' example by granting their chapels to religious houses. Lambden chapel was in Kelso's hands by 1162, Halliburton by 1182.[1258] Thereafter both were confirmed to Kelso by 1188 along with the church of Greenlaw, by Hugh, bishop of St Andrews, and were listed with Greenlaw as possessions of Kelso in Innocent IV's bull of c.1243 x 1254. David fitz Truite personally confirmed to Kelso, Halliburton church, as it is styled in his charter, and named Earl Gospatric, his lord, in the *pro anima.* So too did his son Walter and his great-grandson Philip.[1259] Walter's charter given probably between about 1207 and 1214 was in turn witnessed by the cousins William Lord of Greenlaw and Patrick I and the earl's brother-in-law Eustace de Vesci, Lord of Alnwick.[1260] In a separate charter Earl Patrick confirmed Halliburton along with the other churches and chapels granted to Kelso –underlining the complex pattern of benefaction and confirmation here as in Hirsel where lands and churches passed to a junior branch of the family without apparently passing out of the family.[1261] In addition, the chapel of Wedderlie, a pendicle of Hume, was gifted to Kelso by Gilbert, son of Aldan of Hume, late in the twelfth century, and was included among the possessions of Kelso in the bull issued in the 1250's by Innocent IV.[1262]

The three churches of Hume, Fogo and Greenlaw with the chapels of Lambden and Halliburton, were confirmed to Kelso by Waldeve, Patrick I,

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[1257] Charters to Kelso, no 7
[1258] Bishop Arnald of St Andrews confirmed Greenlaw and Lambden to Kelso (*Kelso Liber,* no 439, 1160 x 1162). Halliburton is not included among Kelso's possessions there or in William I's confirmation of 1165 x 1166 (*RRS,* ii, no 63 ; *Kelso Liber,* no 12) and is first alluded to as a pendicle in Kelso's possession in Earl Waldeve's charter of 1166 x 1182 (Charters to Kelso, no 5); cf. Cowan, *Parishes,* 80.
[1259] *Kelso Liber,*nos 268 (c.1172 x 1194), 269 (1182 x 1216), 270 (1250s, prob. 1251), 271 (1261)
[1260] *Ibid.*, no 269
[1261] Charters to Kelso, no 7
[1262] *Kelso Liber,* no 299 (probably 1173 x 2.2.1194). Innocent's Bull is *ibid.*, no 460

Patrick II and, as we have seen, by Patrick IV (1289 x 1308).[1263] The churches and chapels and the lands attached to them were given in alms, free and quit; the counter gifts, where specified, were prayers for the salvation of the soul. As in the case of Lennel there are glimpses of the loss suffered by parish priests – Deldred or Aelred who witnessed the endowment of the church of St Nicholas of Hume, Nigel of Greenlaw who was given life tenure in a charter perhaps given to him and surrendered after his death to Kelso; Orm who had been priest of Hume, possibly Hugh, who was deaf and who held rights of pasture and cultivation in Bothwell shielings and who may have been priest of Fogo.[1264]

The private chapels built exclusively for the personal use of the lord and his household might also be given to religious houses by members of the Dunbar family. The wariness of the Church authorities towards them meant that they could function only with the consent of the bishop and under certain conditions. Where the parish church was already granted to or appropriated by a religious house these conditions might be particularly stringent. Thus when William the earl's cousin built a chapel in his court at Greenlaw where divine service could be held he undertook that the parish church of Greenlaw, which had been given to the monks of Kelso by his grandfather Gospatric, should not suffer as a consequence but was to receive all the offerings fully and any extra income which it generated from William himself, his household or guests.[1265] There is no record of episcopal permission being granted for the chapel built in Fogo by William, son of Patrick I, from whom he inherited Fogo, nor of any restrictions imposed to safeguard the revenues which the monks of Kelso drew from the parish church of Fogo, but we know from other examples that these conditions could be very precise.[1266] No remains survive of this chapel

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[1263] Charters to Kelso, nos 5, 7, 11 (charters of Waldeve, Patrick I and Patrick II). Patrick IV's charter is *Kelso Liber*, no 77. Waldeve also gave a charter to Kelso, possibly soon after his accession in 1166, confirming all the lands and churches which his father Gospatric had given to the abbey (Charters of the Heirs, no 1). William I's confirmation charter of 1165-6 does not include Halliburton (*RRS,* ii, no 63).

[1264] Charters to Kelso, nos 1-4

[1265] *Kelso Liber,* no 75 (1180's x 1220's)

[1266] Thus the prior of Durham in the early thirteenth century with the consent of the vicar of Edrom granted a chantry to Herbert de Camera in his chapel of Kimmerghame in the parish of Edrom in return for 4 bovates and 31 acres of land and half a merk in place of the teinds of Kimmerghame Mill. The vicar of Edrom was also to have a brewery in Kimmerghame.

called "the chapel of Sir William, son of the earl" nor of another chapel he had for his court at Makerstoun.[1267] The former was dedicated to St Nicholas by David de Bernham, on 2 April 1242, almost a year before his consecration of the parish church of Fogo.[1268] Pope Innocent III had responded fiercely in April 1201 to the complaint of the Benedictine priory of St Andrew, Northampton, that private individuals were founding chapels within the parishes of the town churches held by the priory.[1269] Bishop David's dedication of Fogo chapel may therefore signal a new friendliness towards private chapels, but also the strategy of the Church hierarchy to control the new foundations through a system of inspections alongside the parish structure. William's son Patrick, Patrick I's grandson, who was styled Lord of Fogo, gave the chapel to Kelso abbey between 1289 and 1297, with the mill and other pertinents given by his father and elder brother Nicholas, stipulating only that masses and prayers be said by three monks or three chaplains for the souls of his predecessors and successors.[1270] His gift was confirmed by William Fraser bishop of St Andrews (1279 x 1297)[1271] and by Patrick IV (1289 x 1308),[1272] again an interesting reminder that though the lands of Fogo had become the lordship of his father's uncle and cousin, they were nevertheless the subject of a charter of confirmation in his name.

Though no further charter evidence exists for the grant of churches by the earls to a religious house, we may infer that there were others, and we may link these to the foundation of nunneries by the Dunbar earls. If, as seems likely, Earl Gospatric did found Eccles priory and if, as its name implies, Eccles was the site of an earlier church or religious house, the strong likelihood is that

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Herbert and his household were to attend the mother church of Edrom on three named feasts. (DCM, MC.1187, 1218 x 1233).

[1267] *Hist. Mon. Comm.* (Berwickshire, 1980), 48. *Kelso Liber,* no 239 where he is granted the concession of a chapel, reserving the rights of Makerstoun church. Possibly this was connected to the death of his wife Christiana in 1241 (*Chron. Melrose,* 89, s.a. 1241).

[1268] Bernham, *Pontifical Offices*, xi

[1269] The pope instructed the Archbishop of Canterbury and the bishops of London and Ely to have these 'outrages' stopped. See Cheney, *Selected Letters*, 25, Letter 9 (6 April 1201).

[1270] *Kelso Liber,* no 305. Nicholas probably inherited Fogo along with Makerstoun and Lanton from his father William (d.1253) and his mother Christina (d. 1241). Patrick, his brother, styles himself Lord of Fogo which he presumably inherited from Nicholas who apparently died childless (*SP,* iii, 254). Patrick describes himself as brother and heir of Nicholas (Laing Charters, 2013, Box 52, EUL).

[1271] *Kelso Liber,* no 308 (1289 x 1297)

[1272] *Kelso Liber,* no 306 (1289 x 1308)

the nuns had the church and chapels from an early date. Certainly, as we have seen, the church had been given to the nuns by 1209. Then in 1250, two years after he had dedicated Eccles church, Bishop David de Bernham confirmed it to the nuns of Eccles priory with its chapels of Birgham, Leitholm and Mersington.[1273] Both Birgham and Leitholm were built on land which clearly belonged to the Dunbars, while Mersington is in the same area and likely to be Dunbar territory.[1274] The status of Leitholm, like that of Bassendean is something of a puzzle; though described as a chapel in 1250 it had a parson in the early thirteenth century, suggesting that it had parochial status.[1275]

The church of St Bothans lay within the convent and its revenues appear to have been given to the nuns from the beginning. It appears neither in the list of churches dedicated by Bishop David de Bernham nor in Bagimonds Roll. Ellem Church was dedicated by David de Bernham on 11 March 1244. It is recorded in Bagimonds Roll of 1274-5, assessed with the hospital of Duns, suggesting that it had been annexed to Duns hospital by that date.[1276] Cowan suggests that Duns church, which does not apppear in the dedication of churches by Bishop David de Bernham nor in Bagimonds Roll may also have been annexed to the hospital. This seems unlikely, since we have two of its parsons, Patrick and Henry of Lemmington, witnessing Dunbar charters in the thirteenth century, and since Duns church, in the patronage of the earl of Dunbar, was incorporated by Patrick V into the Collegiate church of Dunbar along with Linton and Chirnside in 1342.[1277] Since we know that the earls were lords of lands in Duns, and patrons of Duns church, and also probably lords of

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[1273] *St Andrews Liber,* 59, xxix, listed as a lost act. The dedication was on 4 October 1248 (Bernham, *Pontifical Offices*, xix). The church was apparently dedicated to St Cuthbert (*FES*, ii, 12) suggesting possible former links with Melrose and with Durham. The chapels were dedicated to various saints- Birgham to St Magdalene, and Mersington to St John. The chapel at Leitholm was called Chapel Knowe (Kirk, *Assumptions,* 183-4).

[1274] Land in Birgham was granted to Coldstream by Gospatric (Charters to Coldstream, nos 1-2). Leitholm was held of the earls (Charters to Coldstream, nos 2, 4-6, 10, 13, 15; of the Heirs, nos 2-3 ; to Coldingham, nos 1, 5-6; to Durham, no 4).

[1275] Alexander, parson of Leitholm, witnesses charters of Patrick I's cousin, William son of Patrick - *Cold Cart.,* nos 5 (1208 x 1211 or 1182 x 1200), 15 , App. No II (1203 x 1209). It is possible but unlikely that the bishop's record of dedication took no account of a subdivision of Eccles parish, with Leitholm attaining parochial status. Mersington was certainly Dunbar land in the late fourteenth century (Laing Charters, no 81).

[1276] Bernham, *Pontifical Offices*, xvii; Dunlop, Bagimonds Roll, 33. Apparently the hospital with the annexed church of Ellem still existed in 1394 (*Cal. Papal Petitions,* i, 617) though Duns parish church had by then been incorporated into Dunbar Collegiate church.

Ellem we may deduce that Ellem church was given to the hospital by one of the earls at some date prior to 1274-5.[1278]

The effects of the giving of churches : the issue of appropriation

Attention has tended to focus on the process of appropriation and on its long-term effects on the parish system, linking it to later abuses in the pre-Reformation church.[1279] But these are not the concerns of the charters to Coldstream and Kelso which simply record the grants of churches with their various endowments of land and revenues.[1280]

Were the teinds part of the gift? The earliest charters do not refer to them, but rather use the term 'pertinents' or 'what rightfully belongs to the church.[1281] We may only guess that teinds and altar dues and offerings (*obventiones*) were included. Even in the case of Greenlaw and Hirsel churches, it is difficult to know if teinds and other income had been understood but not specified in the original grant, or added as a further stage in the annexation to the religious house.[1282] In December 1204, in a letter to the bishop of Ely, Innocent III stated that a gift of a church to a religious house encompassed all the revenues of that church, barring any episcopal property or dues.[1283] But Cowan questions whether this definition was consistently or effectively applied, and cites examples of churches whose patronage alone was held for some time by St Andrews priory.[1284] If, as seems likely, the earls had been in the habit of diverting some or all of the teinds of Hume, Earlston and Little

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[1277] Cowan, *Parishes,* 55. Patrick, parson of Duns witnessed Charters to Coldingham, no 2; *Cold Cart.*, no 15; Henry, rector of Duns witnessed Charters of the Heirs, no 16.
[1278] *Exchequer Rolls,* v, 486-90
[1279] M. Lynch, *Scotland: A New History,* 98 ; I. Cowan, 'The appropriation of parish churches' in *The Medieval Church in Scotland (*1995), 12. James Kirk, puts the matter thus 'Parishes ... as a consequence, suffered financial starvation' (*Assumptions,* xxx). A more equivocal view is offered by A.A.M. Duncan (*Kingdom,* 300-301*).*
[1280] Charters to Kelso, no 4. Many though not all of the earliest charters do not even mention the church which went with the land, though we can be reasonably sure that churches did exist and were being granted (M. Morgan, *op. cit.*, 136-7). The early charters granting Edrom and Nisbet to Durham do specify the church of Edrom with its chapels, perhaps because Edrom and Nisbet had been the subject of a dispute (Charters to Durham, nos 1-4).
[1281] E.g. Charters to Kelso, nos 2-3
[1282] *Kelso Liber,* no 74; *Cold. Cart.*, no 15
[1283] *Omnes proventus preter cathedraticum in eorum usus credimus convertendos (*C.R. Cheney, *Selected Letters of Innocent III,* Letter 22, 75-6).
[1284] Cowan, *The Medieval Church in Scotland,* 16

Swinton to their own use, we should expect lay lords like William of Hume and Earl Patrick to relinquish these teinds with reluctance, and in piecemeal fashion. [1285]

Pope Innocent's view was prefaced by the statement that the right of patronage was of course always given because that was what the patron had to give.[1286] It was an entirely logical position, but we may doubt whether in practice the wishes of the earls were entirely sidelined where they were also the patrons and benefactors of the religious communities to whom the churches were given. We have already noted the parson of Hirsel witnessing Dunbar charters after the grant of Hirsel church to the nuns of Coldstream and the link between the parson of Dunbar in the earl's patronage and Eccles. A degree of control would surely be exercised by the earls over the houses of Coldstream and Eccles, control which was almost certain to extend to the appointment of clergymen to the churches on Dunbar lands. Cowan, too, notes – without giving evidence – the phenomenon of churches where the teinds were surrendered to a religious house but which nevertheless remained in lay patronage, not necessarily on a formal basis.[1287] It does not quite square with Innocent's ruling that the patronage always accompanied a grant of a church. To the great reforming pope, of course, the influence of the laity in the appointment of priests would be the central issue, but to the religious house the matter of revenues might be more pressing. As for the earls, their power to place their people might rank equally with the retention of income from the lands or teinds of the churches. We may not therefore assume that when the earls gave churches, patronage was always ceded, just as we may not assume that revenues including the teinds were invariably handed over.

[1285] Cowan states that in the era of the proprietary church, 'the authority of local lay lords over the churches on their lands was almost universal'. To what extent this control involved the holding of teinds is a matter of some doubt, but there is little dubiety that this was quite frequent, as papal condemnations of this practice bear witness' (*ibid.* 142). See also R.A.R. Hartridge, *A History of Vicarages in the Middle Ages* (Cambridge, 1930). Donnelly takes the point further and asserts that when churches were appropriated in England 'the parish clergy ...lost nothing for the complex of tithes and offerings had long been in lay or monastic hands' (Donnelly, 'Spiritual estates,' 44). There is not enough evidence, however, to apply this judgment generally.

[1286] Cheney, *Selected Letters,* Letter 22, 75-6

[1287] Cowan, *The Medieval Church in Scotland*, 15

How did the churches given by the earls to Coldstream and Kelso fare? What in other words did this seemingly arbitrary act mean for them? In some cases it is possible to track something of their subsequent history. By the late twelfth or early thirteenth-century Hirsel church apparently still had a parson, Adam, who witnessed Patrick I's charter confirming Lennel Church to the nuns.[1288] By then all or part of the lands of Hirsel had passed to Waldeve's brother Patrick, and both he and his son William also confirmed the church to Coldstream, with its lands, teinds, and other dues and offerings and everything else pertaining to it, to Coldstream.[1289] William's charter, given between 1203 and 1209, may indeed mark the full appropriation of Hirsel church by Coldstream; the witness list suggests considerable church involvement at a high level, for it included his cousin the earl and his son, and six or seven clergymen, among them Ralph, archdeacon of St Andrews. Subsequently it was confirmed to Coldstream by his cousin Patrick I in a charter which by contrast was witnessed only by members of the immediate family, the wider family, and the earl's clerk.[1290] Thereafter Hirsel Church was presumably included in the possessions of the priory confirmed by Patrick II between 1232 and 1248.[1291] Lennel Church like Hirsel was confirmed to Coldstream by Patrick I and Patrick II.[1292] It was one of the 140 churches dedicated by David de Bernham, as part of his visitation programme in the 1240s.[1293] Earl Waldeve's gift of the other half of Lennel church, marking a further stage in the process of appropriation, had guaranteed the life tenure of the parson in office; thereafter there is no evidence of a parson of Lennel as we find in Hirsel in the time of Patrick I.[1294] Patrick I's confirmation charter of c.1200 x 1207 may mark the

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[1288] Charters to Coldstream, no 4.

[1289] Patrick's charter is lost but William's confirms Hirsel church to the nuns and refers to the charters of the earls Gospatric and Waldeve and of his father Patrick granting and confirming the church (*Cold. Cart.*, no 15, and App II).

[1290] Charters to Coldstream, no 7; *Cold. Cart.*, no 15. Though episcopal consent for the grant of churches to religious houses was often sought in the earlier period, it was not compulsory (Cowan, *The Medieval Church in Scotland,* 16). The Third Lateran Council of 1179 made it so, and Innocent III reiterated that episcopal consent must be obtained (Cheney, *Selected Letters,* 75, Letter 22, 19 Dec 1204); but the grant of Lennel and Hirsel churches by the earl had been confirmed by Bishop Richard (*Cold. Cart.*, App. No 1) and so William's charter would not necessarily require the further consent or confirmation of the bishop of St Andrews.

[1291] Charters to Coldstream, no 10

[1292] Charters to Coldstream, nos 3, 4, 10

[1293] Duncan, *Kingdom*, 294-5. The dedication was on 31 March 1243 (Bernham, *Pontifical Offices*, xiv).

[1294] Lennel church does not appear in Bagimond's Roll. Nor does Coldstream priory with which it may have been assessed.

appropriation of Lennel church, though it purports merely to confirm the church and pertinents as granted by his father and grandfather.[1295] All we know with certainty is that at some stage over the next three centuries, as with Hirsel, its parsonage and vicarage teinds were annexed to the priory and the cure was eventually served by a mercenary chaplain.[1296] By the sixteenth century, also, the teinds of St Mary's, Bassendean, were in Coldstream's hands.[1297]

From the example of these three churches – Hirsel, Lennel and Bassendean – there are strong indications that in the early years of the thirteenth century a policy of appropriation was being actively pursued by the priory of Coldstream. A similar pattern can be traced with regard to the three churches given with land to Kelso Abbey by the earls.[1298] The churches were in Kelso's hands by 1182 at the latest. By 1188 all had been confirmed to the uses of the abbey by Bishop Hugh who was intermittently in office between 1178 and 1188 and again by Bishop Roger between 1198 and 1202.[1299] By about 1199 the monks of Kelso were permitted by Bishop Roger to appoint chaplains rather than vicars if they so wished to these and to all the churches in the abbey's hands.[1300] Nevertheless, both Greenlaw and Fogo churches whose buildings were consecrated by Bishop David de Bernham in 1242-3, appear in Bagimond in 1274-5 as vicarages .[1301] In 1316, a vicarage settlement by which the vicar of Greenlaw would receive £5 a year, lower than the minimum set for vicars by the church council of 1242, was confirmed to Kelso by Bishop

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[1295] Charters to Coldstream, no 4
[1296] Kirk, *Assumptions,* 186.
[1297] *Ibid.* The terms 'chaplain' and 'vicar' could be used interchangeably in the sixteenth century. It is therefore possible that these churches had vicars. The use of mercenary priests was frowned on by the Church and was condemned by the Council of Mainz of 1225 and the Council of Arles in 1260 (Hartridge, *op. cit.,* 75).
[1298] *Kelso Liber,* no 77
[1299] *Ibid.,* nos 83, 84
[1300] *Ibid.,* no 425
[1301] Bernham, *Pontifical Offices,* xi, xiv. Here again 'vicarage ' may be used merely to describe an arrangement where there was a substitue. Greenlaw was dedicated by Bishop David on 4 April 1242, two days after the dedication of the private chapel of William son of Patrick I at Fogo. Fogo church itself was not dedicated until 29 March 1243, which may indicate that the building, like that of Hirsel, was in some respects unsatisfactory or neglected. The Harcarse aisle in the present, mainly eighteenth century, church is thought to have been the chancel of the church dedicated by Bishop David (*Hist. Mon. Comm.* (Berwickshire), 1980, 48, no 418).

William Lamberton of St Andrews. Thereafter Greenlaw church would be served by a vicar-pensioner who was in effect a mercenary chaplain.[1302]

Hume church fared somewhat differently. In 1268 there was a dispute between Kelso and William, Lord of Hume, over the abbey's rights and possessions in Hume. The connection between William and Ada, Earl Patrick's daughter, who received Hume as a marriage portion and later granted part of it near the River Eden to Kelso, is not clear. Nor are the causes of the dispute. William's charters following a settlement refer to the original gifts by Earl Gospatric and to the further gift of land in Hume by Ada.[1303] He gave an immediate confirmation to the abbey of the lands and of the church of Hume with the lands and teinds and everything pertaining to it. Some months later, again at Kelso, he gave a letter under his seal confirming the land granted by Ada and the church of Hume with its lands, liberties and rights to Kelso.[1304] The solemn oath taken by William to respect in future the rights and liberties of the abbot and convent of Kelso, the reference to a judgment, and the presence in the witness list of William's confirmation of Hume church and land in Hume of the Dean of Merse and an official of the archdeacon of Lothian, suggests that the dispute had been referred to the higher echelons of the church, probably to an ecclesiatical court. Clearly William had made some move to reserve a right in Hume church as well as in the land. Then in 1270 Bishop Gamelin of St Andrews unequivocally awarded all Hume's parsonage and vicarage fruits to Kelso and stated that the church would thereafter be served not by a vicar but by an honest and capable chaplain.[1305] The abbey had sought and succeeded in obtaining complete control over the revenues of Hume church. The case is an illuminating one, not least because it hints again at the retention of teinds by the laity, almost certainly in the first instance by

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[1302] *Kelso Liber,* no 309. Neither Greenlaw nor Fogo church appears to have its vicarage teinds annexed in the rental of 1567 (Rentall of the Abbacie, *Kelso Liber*, 494).
[1303] *Kelso Liber,* nos 132 (1268), 291 (1268), 290 (1269). William describes himself as son of Sir William, knight, former Lord of the toun of Hume. His father has been identified, without foundation, as Patrick I's cousin William son of Patrick. He is said to have married Patrick I's daughter Ada, through whom he inherited Hume (*SP,* iii, 251). But the William Lord of Hume the father of the William of this charter has not been proven to be William son of Patrick. The *Scots Peerage* admits that the evidence of the connection is thin. In the 1270's Mariota, widow of Patrick Edgar, is also said to be Lady of Hume but not apparently through her husband (*Cold. Cart.,* no 13). Her relationship to the family of these charters to Kelso is so far unclear.
[1304] *Kelso Liber,* nos 290, 291
[1305] *Kelso Liber,* no 429.

the earls who gave Hume church first to Kelso and then by William himself. The process of full appropriation, permitted to Kelso in 1188, could now go ahead. We do not know whether the concessions given by Gamelin to Kelso were implemented and a cut-price chaplain installed. Hume church does not appear in Bagimond's Roll, perhaps because there was no permanent clergyman; and 300 years later, like Gordon, it was recorded as a vicarage annexed to Kelso.[1306]

What of the chapels? The acquisition of churches by religious houses, and the subsequent division of the teinds between appropriator and vicar might have encouraged subdivision and the development of chapels into parish churches.[1307] Certain chapels given to religious houses did become parish churches in their own right, as for instance in the case of Ednam church, gifted with its chapels of Newton, Nenthorn and Stichil to Durham about 1105.[1308] But this does not seem to have happened in the case of Halliburton or of Lambden. The requirement to pay clergymen serving churches a guaranteed stipend, fixed at 10 merks at the council of 1242, may have put a brake on subdivision. On the other hand, religious houses like Kelso were given permission by bishops such as Gamelin to install chaplains at a reduced level of salary so that economic considerations may not have been paramount. Subdivision is as likely to have occurred or not for demographic reasons, with thriving communities like Stichil and Nenthorn and Newton acquiring their own parish churches while others such as Halliburton and Lambden were dwindling.[1309]

Assessing the effects of the earls as patrons giving churches to religious houses is therefore a complex process. The very act of disposition was telling in itself, another reflection of the view that the churches were disposable property to be held or given at will. There were other aspects, for in endowing

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[1306] Rentall of the Abbacie, *Kelso Liber,* 494; Cowan, *Parishes,* 83

[1307] Duncan, *Kingdom,* 302, *cf* Donnelly who claims that monks preferred to retain private chapels because subdivision involved the danger of losing new parishes and the income from them (Donnelly, 'Spiritual Estates, 63-4).

[1308] Dunlop, ' Bagimond's Roll,' 33-4

[1309] There are now no remnants of the churches at Halliburton and Lambden though in the late nineteenth century "traces of ancient foundations and graves" were discovered in the garden of Halliburton farmhouse (RCAHMS (Berwickshire), March 1980, 48-49).

Coldstream and, possibly, Eccles with churches on once-disputed territory the Dunbars forged links and laid down firm titles and enriched holy men and women in the way least harmful to their interests, making a low-risk investment in earthly and heavenly goodwill. All their gifts of churches and lands involved the family, with intertwining confirmations and augmentations both expressing and reinforcing the patterns and the conventions of this particular kin-group. So also with their tenants and dependants – the de Mailles at Bassendean, the family of Haldane at Hume and Wedderlie – who gave to Kelso and Coldstream the churches they had built and endowed.That these churches did not always prosper under the control of the regular clergy serves as a reminder that, as with the exercise of lay patronage, the effects of any system depends ultimately on the goals of those work it, and the methods they use to achieve them. We have already seen the so-called independent parsonages drained of their resources at the will of the earl. But the churches given by the earls and the lesser men to Kelso and Coldstream passed from the whim of one master to the whim of another.There is no mistaking the fury of Innocent III empowering the bishop of St Andrews in 1207 to install clergymen in parishes wilfully kept vacant by the religious, nor the uneasiness of the bishop over his rights and jurisdiction in these parish churches.[1310] In the last analysis, churches and chapels and their lands and pertinents, and the teinds and dues they drew from their parishes were rich pickings, much-coveted sources of wealth and influence, and, as such, vulnerable always to plunder.

At the beginning of the period covered by the charters, ecclesiastical patronage provided a kind of 'parallel lordship' in which lay lords exercised rights and draw benefits in return for spiritual responsibilities to their people.This quasi-sacral function, though often mis-used, may have been honoured by at least some lords, but it was to come under attack from a reforming Church bent on driving a wedge between the sacred and the secular. It was an era of considerable change, and in the charters of the earls we see movement, sometimes retreat, in face of a Church determined to free itself of lay control. So churches once founded and endowed by secular lords were handed over to religious houses who were the new patrons and whose

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[1310] *Cal. Papal Letters,* i, 29

increasing control of the church revenues did little to improve standards among the clergy, another plank of the reform movement in the Church.

In this context there was cooperation and acceptance by the earls of the acquisition of at least some churches. But there was also friction. In other areas the earl resisted any attempt by the Church to exercise jurisdiction over him. The thirteenth-century reduction in their benefactions to religious houses, so much a feature of the Dunbar lordship in the twelfth century, was not particular or unusual. Here as elsewhere it had many social, philosophical, and practical causes, and here as elsewhere it was encouraged by new claims and perceptions. The building of chapels by lesser lords likewise may signify changing attitudes, and a kind of retreat from a Church which no longer accepted their lordship. Conversely, nothing was to underscore the limits of the Church's success more than the foundation of the fourteenth-century Collegiate Church, a private chapel writ large. In other ways, too, the earls conserved their position with some success, retaining their right of patronage in many parishes, and continuing to buttress their secular lordship with the support and skills of the clergy who served them. There was a drawing apart of sacred and secular at the heart of all this– which was, after all, what the reforming Church was trying to achieve.

Conclusion

The aim of this study is to observe and to analyse one lordship of twelfth and thirteenth-century Scotland, that of the earls of Dunbar, through the collection of seventy five of their surviving charters and seventeen lost acts. The House of Gospatric was established in Scotland through the gift of land in Lothian by the Scottish king in the eleventh century; and for four centuries it flourished until, in the fifteenth century, its lands were forfeited to the Scottish Crown. The charters collected and calendared here refer to a time which begins some fifty years after the installation at Dunbar of an exiled Northumbrian warrior earl and which ends a century and a half later, on the eve of the Wars of Independence, with his descendants established as one of the foremost magnate families in the land, fully integrated through marriage and public life into the amalgam of Anglo-French and Scottish traditions which characterised late thirteenth-century Scottish society.

No study based on a particular *corpus* of evidence is finite, for it works outwards from that evidence and is unlikely to exhaust the enquiries which emanate from it. Thus any conclusion offered in this section has to be more of a staging-post than a finishing-line; for from the Dunbar charters major themes have emerged which merit further research and reflection in wider contexts than this. The structures and norms of land tenure, the dynamics of family and dependants, economic strategies, and relationships with the Church have all been identified here, but might profitably be used with other similar studies in analyses of the economic, social and ecclesiastical changes in the twelfth and thirteenth centuries.

Even in this particular context only so much can be achieved, for the charters cannot give a fully-rounded picture of the Dunbar lordship in this period. For one thing, it is not their business; for another, charters can sometimes be, to borrow Dr Donnelly's phrase, 'laconic productions', increasingly repetitious and formulaic, masking rather than revealing the reality behind them.[1311] There are gaps, too, in what they cover; only two, for instance, relate to the

period before 1138 and only three concern grants to lay people. This obvious lack of balance in the evidence, particularly with regard to the overwhelming majority of the charters to religious houses, may not be quite as misleading as was once thought, but it is problematic.[1312]Yet there is no point in berating the charters for their shortcomings. They are what we have, and they are rich in information, both implicit and explicit. Their very repetitiousness testifies to a growing ease with the written record and to a shared charter culture of which the earldom was a part. The developments in the diplomatic of the charters can be linked to social and political trends in society, signalling changes in the status of the earl, new patterns of benefaction, improved mechanisms of guarantee and reliability. Moreover, since those who drafted and wrote the charters did not envisage them as resources for future historians, the incidental detail of the texts and witness lists are all the more valuable. Information on the topography of the earldom, on lay tenure, and on women, for instance, is less deliberate, less doctored, less tendentious because it is rarely the main concern of the charter. We might therefore learn less from a carefully-prepared treatise of the time on any of these subjects than we do from the haphazard references and the unconscious assumptions which have to be extrapolated from the charter collection.

There is a wide variety of purpose and intention behind the charters. Benefaction was all the rage in western Europe in the twelfth century, with the reformed orders enjoying an unprecedented outpouring of gifts of land and property from kings and nobles. The Dunbar charters to Coldstream, their own foundation, and also to Dryburgh, May, Melrose and Newbattle record the endowment of these houses by the earls, their family and dependants; the charters to Kelso deal mainly with gifts of churches. On the other hand, disputation and litigation were also in the air, over lands and boundaries and grazing rights; and clashes with a Church determined utterly to expunge lay influence. These are documented in the charters of the earls to Coldingham, Durham, and Melrose. Both benefaction and disputation are the life-blood of

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[1311] Donnelly, 'Lands', 222
[1312] Broun, '*Gaelic Charters*', 10

the charters, sometimes recorded in detail, as in the great chirograph drawn up at Selkirk in 1208, but often only in part, or retrospectively.

Since they are in the main records of property transactions, the charters enable us to assemble some kind of picture, however partial and incomplete, of the earls' lands in Scotland. Other evidence from later public records can be marshalled in support, with the reservation that lands often changed hands and cannot be assumed to have been in the possession of the earls throughout the entire period. The estate, as we can best reconstruct it, was vast, but remarkably consolidated. The earls had other lands further afield in Stirlingshire and Moffat, and lands in England, but the kernel of their estate, the basis of their wealth and power, lay in Lothian and the Merse. We cannot tell if a man could have walked from Dunbar castle to the Tweed without leaving the earldom, but the charters and maps suggest that he could. There was a cohesiveness about the earldom which gave it a particular strength; by the early thirteenth century Patrick I was being styled 'earl of Dunbar', while by the mid-thirteenth century his son could refer to norms and customs within the earldom of Dunbar. Yet there is no surviving record of how and when many of the lands, particularly those in the west of the Merse and in the Earlston area, were acquired. The dismemberment of Berwickshire clearly resulted in estates like Lennel passing to the Dunbars and others, like Edrom and Nisbet, becoming subjects of prolonged dispute. Conflict and the resolution of conflict of this sort was by no means uncommon; but the earls' disputes with the monks of Durham and Coldingham over lands and boundaries were complex and protracted, and it is not always clear who were winners and who losers. Then there were newer quarrels – at Billie, for example, over boundaries. Most lands of course must have come to the earls in quieter ways, by royal grant or through marriage. The accumulation of so much territory in the south-east of the country, with its fine arable land, huge stretches of moor and pasture, and ready access to sea and land routes, gave the earls a visible power and a tangible pre-eminence in twelfth and thirteenth-century Scotland. We know very little, however, about their castles and seats of power. Dunbar was their stronghold, perhaps also Traprain, and

The Mount at Castlelaw, near Coldstream. Billie Castle has long been associated with the Dunbars, but archaeological and documentary evidence is lacking. Whittingehame was an inland seat. Charters were given at Chirnside and Duns, and reference made to Parick II's court at Edrom. In the last resort therefore we cannot readily envisage the earl's itinerary or assess the relative importance of different areas within the earldom.

From the charters we can deduce that tenurial structures in the Dunbar lands were clearly hierarchical; yet the earldom cannot be described with integrity as a 'feudal' lordship. The terms on which the earls held of the king are not known. Within the earldom, people held of the earl in various ways, variously described; and these do not seem to conform to a feudal pattern, let alone a system. Certainly in Scotland generally there was, over the period, a growth in the use of feudal language and terminology which may or may not represent substantial change, but even this is a rare occurrence in the Dunbar charters. Knight service, for instance, is mentioned only twice, and it is by no means certain that it meant anything other than a commuted money payment. Other features, on the other hand, do emerge strongly. The importance of the earl's family and of leading families like the Frasers, the overlapping of personal and tenurial bonds, the development of recognisable and recognised forms of tenure, the acceptance of heritability, the unmistakable move to a money economy and the many hints of a new hard-headed commercialisation: all these run like a thread through the records of the earldom. They combine to build a credible picture of how things were arranged, without forcing us to have recourse to models or templates. Lordship is expressed in a multiplicity of ways – through the earl's court where land is surrendered, through the mechanism of re-grant, through the apparently haphazard confirmation of grants by the earl as lord.

In all of the elements of lordship revealed in the charters, one of the most striking is the emphasis on family. The network of Dunbar family connections created in Lothian and the Merse buttressed the lordship of the earls and contrasts with, for example, the de Quincy family, where family witnessing is

confined to the earl's brother and a distant cousin.[1313] We may speculate on whether uprooting from the family base in Northumbria gave the first Gospatric and his family, for whom he was clearly expected to provide, a need for identity of place and a strong feeling of kinship which were both deep-rooted and long-lasting. Brothers and sisters, uncles and cousins participated in and augmented benefactions of the Dunbar earls, stood surety for agreements, witnessed charters recording gifts and chirographs documenting settlements. They held of the earl, often explicitly hereditarily, owed him service, and worked in his employ as stewards and clerks. They granted and endowed and had disputes with religious houses, much as he did. Over the period there were changes. As the hereditary principle came to be accepted and expressed, the earl's heir figured more, the wider family less. The wives of earls witnessed charters of their husbands in the twelfth century, albeit very occasionally; but not in the thirteenth century. Almost certainly this had more to do with the evolution of the charter and a charter culture, than with any fundamental change in the perception of the role of women, for women continue to feature in the charters, in other ways – in the *pro anima*, as grantors, as tenants.

There is a very strong sense too, in the charters, of the earl's people, the tenants and dependants to whom he was their lord, who in similar ways held of him, owed service to him, attended on him, worked for him, and witnessed his charters. The names of these individuals and their families occur frequently in these charters, and it is evident that their presence and support was the mainstay of his lordship. Some of them may have been descendants of those who accompanied the first Gospatric north, some indigenous to Lothian and the Merse. They in turn were lords of others, mirroring the lordship of the earls. Some like David Graham had other lords and other allegiances. A few make a one-off appearance as allies or supporters: people like the de Mowbrays and the Keiths who swore with Patrick II in 1244 but do not otherwise figure prominently on record as close associates or dependants. There are few surprises here. Lordship whether of the Dunbars, or of the de

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[1313] Simpson, 'Familia', 113

Quincy family, or of Earl David, has been described as 'that linch-pin of the entire social structure'; its pivotal importance lay in the fact there was something in it for both lord and dependant, a mutuality of interest which worked for both.[1314] The intensity of the exercise of lordship is portrayed in varying degrees within the collection. In the charters to Coldstream and to Newbattle, for instance, it appears powerfully; elsewhere, less so.

If there is one overriding theme of the collection, it is the theme of change. The charters speak of things which are not new – settlement patterns, ways of allocating pastureland, field and place-names, shire configurations. Lines of communication across the Forth by sea and over Lammermuir by river valleys and the old Roman roads, churches bearing the names of St Baithen, St Bega, St Ebba and St Cuthbert, the persistence of the services of common army and hospitality due from the land, stray references to thanes and drengs: all these came down from older times but were at least as much part of the lives of the people of Lothian and the Merse in the eleventh and twelfth centuries as the new-fangled monasteries and the new earl and his family at Dunbar. But the sense of change comes powerfully through. An expanding population which had to have food and the demands of a burgeoning wool trade were causing pressure on arable and pastureland, leading to the problems of overstocking and trespass, and competing claims on the land. There was the related question of the forest and the encroachment of pastureland. So conflict arose with the monks of St Cuthbert over Edrom and Nisbet, Swinton, and Swinewood, and with Melrose Abbey over the grazing of their huge flocks in the Gala-Leader area and on Lammermuir. The conservation of pasture, the regulation of access, the protection of the forest, the prevention of permanent settlement: all feature strongly in the charters of the earls to Melrose, to Dryburgh and to Coldingham. The strategies employed were to impose strict controls and conditions on grants of land and to walk and dig boundaries in the Gala-Leader lands and in the marshland of Billie, through benefaction, litigation and compromise. All was driven by the need to use the land profitably. How far this economic lordship was a policy

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[1314] *Ibid.*, 104

developed and executed by the earls is unfathomable; in a sense it does not matter, because the charters were written and sealed in their names, and what was done was done on their behalf. When we read of early benefactions to May and Melrose promoting trade at Biel and Dunbar, of the thirteenth-century earl's 'burgh' of Dunbar, of property in Tranent and Berwick, we are witnessing active, commercially-aware lordship. It links to other changes: the growth of a money economy, the re-possession of land, the sale of property. Ultimately in the earldom of Patrick III we sense a different kind of lordship, exploitative almost to the point of oppressiveness, the earl re-possessing land through his court and raising revenue by claiming feudal dues and incidents on the land.

Change came, too, in the apparatus of lordship. The language and style of the charters evolved and hardened into formula; writing in some cases became smaller and more hurried as business increased. By the mid-thirteenth century the earls had clerks and notaries and procurators and people who issued receipts. Whether they had a chancery of their own is a matter of conjecture: but signs of a house style and of countersealing procedures as early as the twelfth century suggest the development of some level of organisation. Meanwhile the old-fashioned *dapifer* yielded in the lifetime of the steward Haldane to the *seneschal* and the people with 'sonorous titles' like the butler or *pincerna*.

There was a new grandeur, too, about the thirteenth-century earls. The use of the first person plural, whether derived from royal or episcopal styles, and the recitation of lineage gave weight and *gravitas* to the language of their charters. The development of an outstandingly impressive seal with the early heraldic display of the lion rampant was surely a deliberate fostering of an image of power and energy. The promotion of the heir through the repetition of his title, and constant reference to his consent to the transactions contained in the charters, all reflect a new emphasis on dynastic importance. None of this was unique; but in the case of the Dunbars it was very pronounced. The earls were gaining in social and political importance. By the late twelfth century Patrick I had become the king's son-in-law; he became also *custos* or

keeper of Berwick and Justiciar. His son Patrick II was described at his death in 1248 as the most powerful magnate in Scotland. Patrick III was the *confidant* of both Henry III and Alexander III, a leading figure in national and international events in the years before the Scottish king's untimely death.

The charters remind us, however, that the earls' power was not unfettered, for they tell too of the growth of royal justice, and judicial processes by which the earls were called to account in the *curia regis* at Selkirk and Berwick, and before royal sheriffs and Justiciars. Nor was it plain sailing with the Church. The charters inform us about the earls' patronage of parish churches and hint at their control of the teinds. They provide evidence of the foundation of Coldstream, though not of other religious houses, and of the many gifts of land and revenues to the priory by the earl, his family and his dependants. They portray a parallel lordship which included ecclesiatical reponsibilities, with the earls as patrons at the apex of a power structure which mirrored their secular lordship. But when change and reform within the Church, its insistence on separateness and independence in all spiritual matters, brought inevitable conflict we learn how churches were surrendered to Kelso, Coldstream and Durham, often gradually and apparently ambiguously, teinds almost certainly unwillingly. There was confrontation, too, over the jurisdiction of the Church courts and a memorable stand-off over Sorrowlessfield. The earls charters show a variety of response to the demands of the Church militant – accommodation, partial surrender, and defiance. They retained much patronage of both secular and regular institutions, but they lost some in the face of the denunciations of the church reformers. Many parsons were ousted, or eased out, and the revenues of churches founded and endowed by the earls went to Kelso and did not prosper. In a sense this was lordship in some degree of retreat: but it was not a rout, for in the fourteenth century the Collegiate Church of Dunbar bore ostentatious testimony to the fact that patronage was alive and well in the earldom of Dunbar.

The earls were cross-border lords, holding land *in capite* of the English king, in Northumberland and perhaps in the Cheviot. Their English lands, however,

were subinfeudated or set at a money rent or given in alms, though they owed service to the king and were subject to him in law.The role taken by Patrick III in the minority of Alexander III is a powerful reminder that support for and loyalty to the English king came naturally to the Dunbar earls. In that sense they exemplify the intensely pragmatic nature of cross-border lordship, which looked to strong and effective government and backed it, out of a mixture of self-interest and the belief that strong authority and good order were also always in the best national interest. There is no contradiction on their part in the mid-thirteenth century between loyalty to the English Crown and loyalty to the Scottish Crown. That was to come later. Yet there was little ambiguity about their national identity. Cross-border lordship was always a variable, altering with circumstances even from generation to generation within the one family, and having very different weightings among magnate families. The Dunbar charters offer tangible evidence of their close involvement in their Scottish lands, their style as earls of Dunbar a clear indication of where their interests lay. As we have noted, they did not hold land in England as demesne, as far as can be judged, nor fulfil any public office in Northumberland other than the duties incumbent on the serjeanty. In the 1245 and 1248 meetings on the Border, however, Patrick II and his brother and his steward were unambiguously members of the Scottish delegation. There are few surviving records of any transactions involving the earls and the religious houses of the north of England and no record traced so far of any benefaction by them. The question of national identity is a complex one. In the thirteenth century it had to do with the place where a man lived, and the authority which he recognised. It is possibly true that Patrick I, like Roger de Quincy, if asked whether he was an Englishman or a Scotsman, would have found the question puzzling. Perhaps it is not the correct question, for he might have had no difficulty in identifying where his major interests lay, nor in following different patterns of landholding, and laws and financial structures with regard to his lands north and south of the Border.

Professor Barrow describes the Dunbar earls as 'unique'.[1315] What was the essence of their lordship which marks them out in some particular way? Their origins were unusual – native to Cumbria and Northumbria, but imported across the Tweed into a different national setting. As earls in Scotland south of the Forth they were unusual, too, not having a clear provincial responsibility like the mormaers, but adopting a title based on a fortress and fulfilling a military role like that of the pre-Conquest earls in England. Their rehabilitation by Henry I, which occurred surprisingly quickly, gave them the serjeanty of Beanley and other lands, and duties which were obviously of strategic importance but which remain somewhat obscure.They accumulated vast lands and a leading place among the Scottish nobility, yet their identification with the Scottish realm was unambiguous and their loyalty to the Scottish Crown unquestionable. Something of their personal qualities, unusually, can be gleaned from the chroniclers. Many of their charters and seals remain, with haunting images on the counterseals, but little else. Perhaps in the last analysis what intrigues most about them is the intrinsic interest of the rise and fall of a noble house, which gives an edge to the narrative of the accumulating power and wealth of the Dunbar earls in twelfth and thirteenth-century Scotland.

[1315] Comment, June 2003

Appendix 1

Calendar of the Charters of the Earls of Dunbar relating to Scotland c.1124- c.1289

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1. Charters to religious houses in Scotland

Charters to Coldstream Priory

The charters of successive earls of Dunbar and of their family and dependants to the nuns at Coldstream relate the foundation and endowment of the priory over one hundred and twenty years. The core of the endowment was land in Lennel, granted by Earl Gospatric and others in the 1160's (nos 1 and 2) and augmented by his great-grandson, the third Earl Patrick, in the 1270's and 1280's, the last two decades of his long earldom (nos 13-15). The church of Lennel was given in two stages (nos 2 and 3) by Gospatric and his son Waldeve and the toun added a century later (no 13, with *Cold. Cart.*, no 13). Gospatric's wife Deirdre apparently had Hirsel in her own right, though it may have been her dower. She gifted to the nuns Hirsel church with a ploughgate, doubtless for the glebe, signalling perhaps her intention to use the new foundation as a dower house (nos 1 and 2). From later earls and their people the priory received lands and confirmations of lands in Skaithmuir (nos 5 and 6), in Bassendean (nos 8 and 10) and Thornydykes (no 10) and property in Berwick, on Ramsden Street (no 12). Land in Birgham, part of the original endowment (nos 1 and 2) does not figure in later charters, though it continued in the possesssion of the priory (note to no 3).

The Coldstream charters of the family and dependants of the earls, many of which are recorded in the cartulary compiled by the priory in 1434, showed their continuing support through grants of land and churches of the religious house founded and endowed by their lords. Evidence of their conscious alignment with their lords in their giving comes from references to the earl and his family in the *pro anima* clauses of their charters, in the appearance of the name of the earl in witness lists, and in the confirmations of their charters given by the earls (nos 1-3, 6, 8, 10). The endowment of the priory is therefore in many senses an expression of lordship. Early grants by the earls in Skaithmuir (nos 5 and 6) and later examples in Hirsel (no 11), Lennel (nos 14 and 15) and Berwick (no 12) hint at a more arbitrary exercise of lordship when land is surrendered, willingly or not, and then regranted to the priory.

From the earls' charters and the other charters of the Coldstream collection, then, major themes emerge: lordship, its structures and its dynamic, patterns of family and kin-group relationships, the disposition of land and its infrastructure of touns and churches, and the process, use and significance of benefaction.

The charters

1. C[ospatric] the earl greets his trustworthy men, thanes and drengs, clerical and lay, present and to come. He has given to the sisters of 'Witehoh' one ploughgate, half from Lennel and the other half from Birgham. His wife Countess Deirdre has given them a ploughgate in Hirsel and the church of the toun of Hirsel with everything belonging to it. Norman has given them half a ploughgate in Lennel. This is in perpetual alms.The earl grants and confirms the gifts for the salvation of their souls, to be held free of all services for ever, and as freely as any religious best and most freely holds any gift in alms.

Testib*us* Derder comitissa . Waldef . filius com*itis* . Lambekin dapif' . Ern' de Suint' . Rob' le Norreis Ada fil*io* Meldredis . et aliis

[22.8.1138 x 1166, probably c.28.3.1165 x 1166 and before no 2]

Rubric Carta cuiusd*em* ter*re* de lay'. 7 Birgham 7 de ecc*les*ia de herishille

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 8r-8v

Printed *Coldstream Cartulary*, no 11

Notes Some names in the witness section are unextended, as it is a hybrid of nominative and ablative, due perhaps to the absent-mindedness of the cartulary scribe in copying *Test'* as *Testib'*.

Comment This charter contains most but not all of the family benefactions to the community of nuns which became the priory of Coldstream. There is no reference to the grant by a female

cousin, as seems to be the case in no 2, and the grant by Norman is smaller than in no 2. The identification of 'Witehoh' in this text, 'Witehou' in no 2, is problematic and may simply refer to the White Hill, the topographical name of the site chosen for the priory. In 1165 or 1166, Bishop Richard of St Andrews confirmed this or no 2, its fuller version (NAS, RH6/6; *Cold. Cart.*, Appendix no 1). Richard was elected early in 1163 and consecrated on 28 March 1165 and so his charter of confirmation is datable to the period from March 1165 to the death of Earl Gospatric in 1166. This charter of Earl Gospatric can probably be assigned to the period immediately prior to Bishop Richard's charter, though it is possible that it belongs to an earlier period, awaiting episcopal confirmation.

2. *Cospatric the earl greets his trustworthy men, thanes and drengs, clerical and lay, present or to come. He has given to the sisters of 'Witehou' in perpetual alms half of Lennel church, half a ploughgate in Lennel and a further ploughgate, half from Lennel and the other half from Birgham. This is in perpetual alms. His wife Deirdre has given them one ploughgate in Hirsel and Hirsel church, which he grants and confirms. With his cousin 'Addoc' he has given them a further half ploughgate in Lennel. Norman son of Edulf, with the consent of the earl and of Norman, his heir, has given them one and a half ploughgates in Lennel. The earl confirms these gifts in alms and orders that the nuns shall hold them freely and peacefully and honourably for ever as any alms is best and most freely held.*

Hiis testibus Walteuo filio meo . Chetel . de Letham . G. Fresell . Haldano . Dapif*e*ro R. Bloet R. filio H*e*mebaldi

[22. 8.1138 x 1166, probably c. 28.3.1165 x 1166 and after no 1]

Rubric Carta de fundAt*i*one dom*us* de Caldstre*m* p*er* Cospat*ri*cium comitem

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 6r-6v

Printed *Coldstream Cartulary*, no 8

Comment The charter is a fuller and later version of no 1. The rubric in the cartulary of 1434 suggests that it may be a summation of earlier grants of which no 1 is an example. Addoc the cousin is puzzling. The text refers to a joint grant – *cum Addoc cognata mea* – presumably a female relative; but the phrase may be mis-copied. An Addoch is recorded in the drengage of Eslington, Northumberland, in the period 1187-91 (Hedley, *Northumberland Families*, i, 262), said there to be otherwise unknown. Dating is as in no 1.

3. *Earl Waldeve greets all his friends and his trustworthy men and all beloved in Christ, both present and future. He has confirmed by this charter his father's gift of half of the church of Lennel to the nuns of Coldstream and has given them the other half of the church, after the death of the incumbent. He confirms to them Whitchester by its rightful boundaries and common land proportionate to their livestock in his surrounding pasturelands. For the love of God and the salvation of souls, he confirms the ploughgate in Hirsel and Hirsel church with all which belongs to it, as given to them by his mother Countess Deirdre and confirmed to them by his father in his charter, and all the land with its rightful boundaries given to them in Lennel by Norman son of Edulf, in free and perpetual alms; to be possessed as freely and peacefully as any alms held or possessed in the kingdom of Scotland.*

Comes Waldeuus omnib*us* probis hominib*us* suis 7 amicis . 7 omnib*us* in *Christ*o dilectis Sal*utem* . Notum sit omnib*us* presentib*us* pariter 7 futuris . post data*m* a p*at*re meo com*ite* . Cospatricio dimidiam partem eccl*es*ie de Leinhal' . s*anct*imonialib*us* de Kaldestr*em* . qua*m* ego concessi 7 hac mea carta presenti confirmaui . me integre dedisse . 7 hac mea carta presenti confirmasse aliam dimidietatem eccl*es*ie eiusdem de Leinhal'. eisdem s*anct*imonialib*us* de Kaldestr*em* post decessum institute p*er*sone. Preterea

eisdem monialib*us* concedo . 7 hac p*re*senti carta mea confirmo Witechestre p*er* rectas diuisas suas . 7 communa*m* in pasturis meis circu*m*iacentib*us* quantu*m* ad p*ro*pria aueria sua . 7 una*m* carucata*m* terre in territorio de Heresill' . 7 eccl*es*iam eiusdem uille cu*m* omnib*us* p*er*tinentiis suis . quas Derder comitissa mater mea eis dedit . 7 Cospat*ric*i*us* comes pater meus carta sua confirmauit . 7 tota*m* terra*m* qua*m* Normann*us* fil*ius* Edulfi dedit illis in Leinhalle p*er* rectas diuisas suas concedo 7 confirmo . p*ro* Dei amore 7 salute a*nim*e mee 7 o*mn*ium antecesso*rum* 7 successo*rum* meo*rum* in libera*m* 7 p*er*petua*m* elemosinam . ita lib*er*e 7 quiete in p*er*petuu*m* possidenda*m* . sicut aliqua elemosina in regno Scotie lib*erius* 7 quiec*ius* tenet*ur* 7 possidetur ; Hiis testib*us* . abb*a*te Nicholao de Str*i*uel'. 7 p*ri*ore Radulfo . Patricio fr*atr*e com*itis* . Ric*ardo* de Mer*l*ei . Patricio fil*io* Adgari . Ada' de Dedint*un* . Henr*ico* cl*er*ico nepote abb*at*is de Str*i*uel'. 7 Thoma nepote magistri Aelzi.

[1171 x 1182]

Endorsed con. Comit*is* Wald' sup*er* int*egra* d*onat*ione eccl*es*ie de leynale (s.xii)
7 de .....est*er* [in another hand, very faint and smudged]

Source NAS , GD 212/ Box 10/ 26 = *A*
BL , MS. Harley 6670 (Coldstream Priory cartulary), ff. 19v –20v = *B*. Printed here from *A*

Seal Detached and lost

Printed *Coldstream Cartulary,* no 26 (from *B*)

Notes Thomas, the last witness, is omitted from the cartulary copy. The witness in line 17 is probably Adam of Edington, a victim of what Professor Barrow has described as 'a scribal stammer', as below, in Charters to Kelso, no 1. Master Aelzi's name is probably the same as that of Elsi, son of Winter, sheriff of Lauderdale, occ. 1162 x 1177 (Reid and Barrow, *Sheriffs,* 30).

Comment Waldeve adds to his father's gift (no 2) of half of the church of Lennel, the other half, on the death of the incumbent. He does not confirm the land in Lennel and Birgham given by his father nor the land apparently gifted by Addoc but he adds Whitchester,

near Longformacus, with pasture. A charter of Margaret, prioress of Coldstream of 19 May 1460 (NAS, RH 6/ 359) shows the land in Birgham still in the possession of the nuns in the fifteenth century, suggesting that this charter was not the only confirmation given by Waldeve to the priory. Dating is by Nicholas, abbot of Cambuskenneth (occ. 1171 x 1182-1195, *HRHS*, 25) and Waldeve's death. The witness list suggests that the charter may have been written at Stirling when Waldeve was with the king, witnessing his charter of confirmation to Cambuskenneth (*RRS*, ii, no 60, 1166 x 1171) and the settlement of the dispute between Crowland and Durham over Edrom church (*RRS*, ii, no 105).

4. *Earl Patrick [I] of Dunbar greets all his men and his friends, clerical and lay. He has given and by this charter has confirmed to God and the nuns of Coldstream the church of Lennel in its entirety with everything belonging to it, for the salvation of souls; to be held in perpetual alms, as confirmed and set out in the charters of his predecessors Earl Gospatric and his father Earl Waldeve, and as freely as any alms is held in the kingdom of Scotland.*

Hiis testib*us* . Ada' filio Aldin . Pat*ri*cio filio eius . Bernardo Farser . Gilb*er*to filio Walteri . Gilberto . filio Aldin . Ketill de Letham Gilberto p*er*sona de Witingham Adam p*er*sona de Hirsill Adacc*us* de Home Roberto Bagge . Wille*lm*o filio Pat*ri*cii Ricardo de Fannesse 7 multis aliis .

[1182 x c.1211, probably x c.1200]

Rubric Carta sup*er* integra donAt*ione* ecc*le*sie de laynal

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), f. 5v

Printed *Coldstream Cartulary*, no 7

Notes Adaccus of Hume may be the mysterious cousin of no 2, but here the name is masculine, and in the nominative case.

Comment The brevity of the charter and the references to the earl's father in particular, together with the witness list, suggest an early date, perhaps immediately after Earl Patrick's accession. The *Syllabus* opts for an end-date based on the witnessing of Adam of Hirsel (W.W. Scott, *Syllabus of Scottish Cartularies*, *Coldstream Chartulary,* 2000). The use of 'dedisse' in the charter is interesting; nothing new was being given, but previous grants had referred to half of the church (nos 2 and 3) and now for the first time the church was being given in its entirety. In another charter (no 7) Earl Patrick confirmed Hirsel church to the nuns but no charter of confirmation of this earl survives for any of the lands of Lennel or Hirsel gifted by his grandparents.

5. *Earl Patrick [I] greets all the sons of Holy Mother Church. He has given and confirmed by this charter to God and St Mary and the nuns of Coldstream, Skaithmuir by its rightful boundaries as Adam, Osbert's son, held it; in perpetual alms, to be held freely and peacefully and honourably, as free and quit of all service, exaction or custom as any abbey possesses its land.*

Comes Patr*icius* . Vniu*ersis* s*ancte* mat*ris* eccl*esie* filiis . Sal*utem* . Sciant om*nes* p*resentes* 7 fut*uri* . me concessisse . dedisse . 7 hac mea carta co*n*firmasse Deo 7 S*ancte* Marie 7 s*anct*imonialib*us* de Caldestr*em* . te*rr*am de Schethemor p*er* suas rectas diuisas . sicut eam tenuit Adam fili*us* Osb*er*ti hanc au*tem* te*rr*am eis dedi i*n* p*er*petuam elemosinam . tenendam lib*er*e 7 q*uie*te 7 honorifice i*n* p*r*atis . i*n* pascuis . i*n* aq*uis* . 7 in o*mn*ib*us* ei*us* p*er*tinentiis . ab o*mn*i se*r*uicio . exact*i*one . *con*suetudine . sic*ut* aliq*ua* abbatia te*rr*am lib*erius* 7 q*uie*ti*us* possidet . His t*estibus* . Will*elm*o canon*ico* d*e* Str*i*uel' . Radulf*o* . capell*a*no . Joh*ann*e capell*ano* . Gilb*er*to Fraser . Step*han*o Pap' . dapifero . Gilb*er*to fil*io* Walte*ri* . Ketel d*e* Letham Walte*r*o fil*io* Aedgari . Rodlond. d*e* Ge*rr*il' . Ric' magistro com*itis* . Utredo filio Gamel' . Toma d*e* Leinhal' . Will*elm*o de Hoilond

[1182 x 31.12.1232, probably x c.1200]

Endorsed C*arta* com*itis* P. sup*er* q*uadam* carrucata t*erre* d*e* Sceithmor

(s.xii-xiii in)

?Lenal (s. xiv)

Source NAS, GD 212/ Box 10/ 4: with seal , no visible counterseal = *A*

BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 3v-4r = *B*

Printed here from *A*

Seal Very damaged; probably the second seal of the earl.

Varnished natural wax. Attached through double slit in footfold.

Printed *Coldstream Cartulary*, no 4 (from *B*)

Comment The witness list suggests a date early in the earldom of Patrick I, though the seal, which is very badly damaged, is claimed to be the second seal of this earl (Stevenson and Wood, *Seals*, 334). Adam may have surrendered the land or may have been forced to resign it. If the latter, this may be another early example (see no 6 below) of a move on the part of the earl to re-grant land surrendered to him, a trend which becomes more marked in the earldom of Patrick III (see nos 11, 14 and 15 below).

6. *Earl Patrick [I] greets all who see and hear these letters. He has confirmed in perpetual alms to the nuns of Coldstream that land of Skaithmuir by its rightful boundaries which Norman, Norman's son, gave as dower to his wife Amabel. The earl reserves the service due to him. The land – meadows, pastures, waterways and all its pertinents – is to be held by the nuns honourably and free and quit of all service, exaction and custom, as any abbey holds and possesses its land. The earl's grant, as evidenced in the charter of Richard, Norman's son, is prompted by charity and is made for the salvation of the souls of all his predecessors.*

Hiis testib*us* Pat*ricio* fil*io* Edger 7 Waltero fratre suo . Pat*ricio* fil*io* Adam . Bernardo Freser . Rolando Senechaldo . Rogero de Merl'. Roberto de Walli*bus* . Henrico de Forlincton . Ketel . de Letham . Waltero capell*an*o Thoma Freser. Magistro Adam Hastin p*re*posito . Roberto Morell . Adam p*er*sona de Kingor' 7 m*ul*tis aliis .

[1184 x 1200]

Rubric Confirmatio com's comitis Pat*ri*cii sup*er* terra de Scaithemor

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 2v-3v

Printed *Coldstream Cartulary*, no 3

Comment Richard's charter (*Cold. Cart.*, no 5) probably and rather puzzlingly pre-dates his mother's charter (*Cold. Cart.*, no 6). His charter suggests that Countess Ada is alive, thus dating the charter between the date of her marriage in 1184 and her death in 1200. Earl Patrick confirmed the grant to the nuns soon afterwards, Ketel of Leitholm and Robert Morel witnessing both charters. The earl made a further grant, or re-grant, to the nuns of land in Skaithmuir, which lies to the north of Lennel (no 5 above). Amabel's charter has been dated by the *Syllabus* to 1208 x 1218, based on the dates of Abbot Henry.

7. *P[atrick][l] earl of Dunbar greets all the sons and the faithful of Mother Church now and to come, who see or hear these letters. Prompted by charity, he has confirmed to God and the church of St Mary of Coldstream and the nuns there in free pure and perpetual alms, Hirsel church with the lands, teinds, yields and everything else rightfully belonging to that church, as freely and peacefully, as honourably and fully, as witnessed and confirmed by the charters of the earls Gospatric and Waldeve and of his uncle Patrick and his son William, and as any alms is thus held and possessed in the kingdom of Scotland.*

Hiis testib*us* . Pat*ricio* . fil*io* comitis . Will*elmo* fil*io* Pat*ricii* . Rogero de Merlei . Alano filio Edgari . Ferg*us* filio comitis . Tho*ma* . Ferser *tunc* cle*ri*co comit*is* 7 aliis

[21 5 .1203 x 1209]

Rubric Conf*i*mat*io* . com*itis* . pat*ri*cii s*uper* ecc*le*sia de Hersill

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 12v-13r

Printed *Coldstream Cartulary*, no 17

Comment The earls' charters referred to are nos 1-3 in this section. The charter of Patrick, younger brother of Earl Waldeve, who inherited Hirsel from his mother Deirdre, is referred to also in the charter of his son William (who witnesses here), printed in *Cold. Cart.*, no 15 and No II charter in Appendix (NAS, RH6/43, 21.5.1203 x 1209). The earl's charter confirming William's charter can thus be dated to 1203 at the earliest and probably to the same period as William's.

8. **Earl Patrick [I] confirmed to Coldstream the grant of Faw Law and an adjacent meadow in Bassendean by Robert de Maille.*

[29.03.1206 x c. 2.08.1221]

Source Reference in a charter of Robert de Maille, nephew of Warin or Gavin de/le Maille
(BL, MS. Harley 6670, ff. 43r-43v ; *Cold. Cart.*, no 46).

Comment The dating is problematic. One of the witnesses to Robert's charter is 'R. abbot of Kelso'. This could be Richard de Cane or Cave (29. 03. 1206 – c.17 June 1208) or Richard (19.10 1218 – 2.08. 1221), Robert de Smalhame (1248- Sept 1258) or Richard (occ.1285-1299) (*HRHS*, 22). Another witness, Robert de Muscamp, died in 1250, so that only the first three abbots would be possibilities. On the other hand the witnesses Patrick, William and Robert who figure in the cartulary copy as Muscamps may well be the sons of Patrick I, the copyist having omitted some words or a line. If so, the charter is datable to the earldom of Patrick I and therefore, *via* the dates of the sons of the earl and the abbots, to 1218 x 1221. Faw Law is within the territory of Bassendean, west of Coldstream. The de Maille family have been identified, without any evidence, with the Melvilles (Cowan,

Parishes, 15; cf Barrow, *Era*, 96-7 on the Melvilles and *RRS*, i, no 153, referring to William le Maille of Huntingdon).

9. *Patrick [I or II] earl of Dunbar gives eternal greeting in the Lord to all sons of Holy Mother Church who see or hear these letters. He has given land at Hirsel which is beside the Leet, south of the bridge, as he has perambulated it, to God and St Mary of Coldstream and the nuns there, to have and to hold of him and his heirs in pure and perpetual alms as freely and peacefully as any alms thus given in the kingdom of Scotland. The gift is prompted by charity and is for the salvation of the souls of the earl and those belonging to him. He gives warrandice on behalf of himself and his heirs and corroboration by his seal which he has had attached to the document.*

Hiis testib*us* Dompno abb*a*te de Melros . D*omi*no Papedy . tu*n*c temp*o*ris senecald*o* . D*omi*no Joh*ann*e filio . Symo*nis* . D*omi*no Joh*ann*e . fil*io* . Wald' . D*omi*no D*avi*d . de Burche . D*avi*d . de Grame . Petro . 7 Henrico capell*anis* . Pat*ri*cio . filio comitis . Pat*ri*cio filio comitis de Athol' . Walt*er*o . fil*io* Roger*i* . Pat*ri*cio Sautemareis 7 aliis multis

[c.1220 x 1237]

Rubric Carta donat*ion*is . cuiusd*em* t*er*re iace*n*te . iux*t*a Let in t*er*ritorio de Hersill

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 14r-14v

Printed *Coldstream Cartulary*, no 19

Comment The parents of Patrick, earl of Atholl, married in 1209 and so his birth is assumed to be c.1210 at the earliest. Thomas was earl of Atholl from 1210 until his death in 1231. It seems likely that Patrick was not of age to inherit the earldom but that he was earl by 25 September 1237. Alan Durward appears as earl in charters of December 1234 and February 1235 but Patrick may well have continued to be designated son of the earl after 1231. He died in 1242. This is a late example in the earl's charters of the earl

perambulating land he is granting. The charter may date to an earlier period, and to the earldom of Patrick I, though the witness list favours dating to Patrick II (cf alternative dating in the *Syllabus*, where it is placed in the period of Patrick I's earldom, 1182 x 1232 on the assumption that Papedy, the steward, is Stephen Papedy, steward to Patrick I).

10. *Patrick [II] earl of Dunbar gives eternal greeting in the Lord to all faithful people of Christ who see or hear this document. Prompted by godly piety, he has confirmed by this charter to God and the church of St Mary of Coldstream and the nuns there, all the lands, possessions and liberties given and granted or given in exchange by himself and his predecessors and others of Christ's faithful in the touns and territories of Hirsel and Lennel with everything belonging to them, in perpetual alms; and also Whitchester, with all the pertinents, the lands, possessions and liberties which they have in the touns and territories of Bassendean and Thornydykes, together with their pertinents and all other lands, possessions and liberties given to them by anyone within his earldom or demesne. All are to be had and held by them in perpetuity as freely and peacefully, as fully, and honourably as any alms in the kingdom of Scotland is most fully and honourably held, as is most fully evidenced in his charter and the charters of his predecessors and all others dealing with these gifts, possessions and liberties. If anyone does an injustice or wrong to the nuns regarding these possessions, lands and liberties, he and his heirs will make full reparation to them without delay, in accordance with the assize of the kingdom. He forbids everyone subject to the lordship of himself or his heirs under pain of full forfeiture to dare to bring trouble or injury to either the nuns or those of their men living in these lands. He gives the nuns warrandice on behalf of himself and his heirs, and corroboration to the document by his seal.*

Omnib*us* . *Christ*i . fidelib*us* p*r*esens sc*ri*ptu*m* visuris uel auditu*r*is Patr*ici*u*s* comes de Du*n*bar ete*m*a*m* in D*omi*no salute*m* . Nou*er*itis nos p*ro* nobis 7 he*r*edib*us* no*st*ris diuine pietatis intuitu *con*cessisse 7 hac p*r*esenti carta no*st*ra *con*firmasse Deo 7 ecc*les*ie S*ancte* Marie de Kaldest*r*em 7 s*anct*imonialib*us*

ibidem Deo seruientibus 7 inperpetuum seruituris omnes terras . possessiones 7 libertates . a predecessoribus nostris 7 nobis 7 aliis . Christi . fidelibus sibi datas 7 concessas . seu escambiatas . in Villis de Hersil 7 de Laynal 7 in territoriis earumdem uillarum cum omnibus pertinentiis suis . 7 etiam Witcest' cum omnibus suis pertinentiis . terras etiam possessiones 7 libertates quas habent in Villis de Backestenden' 7 de Thornidike 7 in territoriis earumdem cum suis pertinentiis . Necnon 7 omnes alias terras possessiones 7 libertates quas habent ex donatione cuiuscunque uel quorumcunque qui in comitatu nostro seu in dominio nostro consistant. Tenendas sibi 7 habendas inperpetuum adeo libere 7 quiete . plenarie . pacifice . 7 honorifice . sicut aliqua elemosina in regno Scocie liberius . quietius . plenius . 7 honorificentius tenetur uel possidetur . 7 sicut carte nostre 7 predecessorum nostrorum 7 omnium aliorum super predictis donationibus possessionibus 7 libertatibus confecte plenius testantur . Et si contingat quod absit quod aliquis super predictis terris possessionibus 7 libertatibus dictis monialibus iniuste iniurietur ; nos 7 heredes nostri iniuriam sibi illatam plenarie sine dilatione secundum assisam regni emendare faciemus . Prohibemus etiam omnibus hominibus qui sub dominio nostro 7 heredum nostrorum reguntur super plenaria forisfactura nostra 7 heredum nostrorum ne dictis monialibus uel hominibus suis in dictis terris nomine earumdem commorantibus ; molestiam uel grauamen inferre presumant . Nos autem 7 heredes nostri dictas terras possessiones 7 libertates cum omnimodis aisiamentis suis 7 iustis pertinenciis eisdem monialibus Warandizabimus 7 contra omnes inperpetuum defendemus . Vt autem hec nostra concessio 7 confirmatio rata 7 inconcusse inperpetuum perseuerent . presens scriptum sigilli nostri inpressione corroborauimus Hiis testibus . domino . P. filio nostro . domino Willelmo fratre nostro . domino Roberto fratre nostro . dominis Alano de Harkarris Patricio filio Walteri . Waltero. fratre eius militibus . dominis Allexandro de Hersil Galfrido de Werke Ada de Branckest' capellanis . Johanne de Letam . Willelmo filio Alani de Greyl' . Waltero de Dercester. 7 multis aliis .

[31.12.1232 x 13.12.1248]

Endorsed Conf'/Comf' om*nium* te*rr*a*rum* p*er* comite*m* (s. xiii-xiv)

Con*firm*atio Co*n*fromatio Priori In .....Comi...u (s. xiv-xv)

Source NAS, GD 212/ Box 10/ 57 = *A*

BL, MS. Harley 6670 (Coldstream priory cartulary), ff. 52v-54r = *B*

Printed here from *A*

Seal Detached and lost. Mottled green attachment cords remain, attached through two holes in the footfold and then crossed and tied.

Printed *Coldstream Cartulary*, no 57 (from *B*)

Comment Dating is by the witnessing of William and Robert, Earl Patrick's brothers, which identifies the earl as Patrick II (1232-48). The comprehensive nature of this charter and its commitment of the earl's heirs to uphold all of its elements suggest that it may have been given by the earl on his accession in December 1232. His undertaking to make amends for any wrong done to the nuns over the possessions *secundum assisam regni* strongly suggests a link to the statute made at Stirling in 1230 providing a remedy for dissasine in the Scottish royal courts through the royal writ later termed *novel dissasine* (MacQueen, *Common Law*, 249) which had already brought Patrick to heel over Swinewood. Or it may be connected with his departure on crusade in the summer of 1248. In 1253 Pope Innocent IV granted to Coldstream the privileges and indulgences they had desired and extended his special protection to the nuns, perhaps in response to their unease over the security of their title to their lands and possessions (NAS, GD 212, Box 10, no12).

11. *Patrick [III] earl of Dunbar gives everlasting greeting in the Lord to all the faithful of Christ who see or hear this document. Prompted by godly piety, he has given to God and the church of St Mary of Coldstream and the nuns there a ploughgate in Old Hirsel in full and with all its pertinents held hereditarily of the earl by Walter the chaplain son of Walter son of Sir Thomas of*

Darnchester, and resigned and quitclaimed by him by staff and baton in the full court of the earl for default of the service owed him from the land. The land – its moors, marshes, meadows, pastures and mills – is to be held by the nuns and their successors of the earls and his heirs with all pertinents and easements, in pure and perpetual alms, as any alms in the whole kingdom of Scotland . The earl gives warrandice to the nuns on behalf of himself and his heirs and appends his seal to the document as corroboration.

Hiis testib*us* D*omi*no Pat*ri*cio fil*io* no*stro* . D*omi*nis Joh*anne* 7 Alex*andro* fili*is*. no*stris* . D*omi*no Alano de Hormist*un* . D*omi*no Gilb*er*to de Rowle Tho*ma*. Papedy . Pet*ro* de Gra*d*en 7 aliis .

[1248 (x13.12) x 24.8.1289]

Rubric Carta de vna carucata t*erre* in Haldhersill

Source BL, MS. Harley 6670 (Coldstream priory cartulary), ff. 11v-12v

Printed *Coldstream Cartulary*, no 16

Comment There is a strong similarity between the background to this charter and to that of no 15 below. Both involve resignation by staff and baton in the earl's court for default of service and subsequent re-granting of the land to Coldstream priory. Walter may well be the same man who as chaplain of Coldstream witnessed two charters of Thomas of Gordon in the mid-thirteenth century (*Cold Cart.*, nos 37 and 38) and the beneficiary of a charter of Alan son of Thomas who granted him land in Darnchester about the same period (*Cold. Cart.*, no 33). Almost certainly he was a witness to his father's charter to Coldstream where he is styled 'chaplain of Lennel' (*Cold. Cart.*, no 21).

12. * *Earl Patrick [III] gave to the nuns of Coldstream houses in Ramsden on the Ness Street in Berwick which had formerly belonged to David the tailor.*

[1248 (x 13.12) x 24.8.1289]

Comment Reference in a charter of Sir Patrick, son of the earl (Charters of the Heirs, no 16). This charter is datable to the earldom of Patrick III or to the period immediately after his death by the witnessing of Sir Patrick's brothers, John and Alexander, sons of Patrick III. It is interesting to have evidence that the earl had property in Berwick. We know already of property held in Biel and in Dunbar and can speculate that use of houses and other buildings in Berwick would be an integral part of the commercial activities including wool production within the earldom. It is possible that David who had owned the house was a shearer, or a butcher.

13. *Patrick [III] earl of Dunbar gives eternal greeting in the Lord to all the faithful people of Christ who see or hear these letters. He has given and confirmed by this charter to God and the church of St Mary of Coldstream, and the nuns there, all his land in the toun of Lennel, namely the south toun of Lennel with all its pertinents, liberties and easements and everything else within or outwith the land which belongs to it — moors, marshes, meadows, pastures, waterways, ponds, roads, paths, fisheries and mills, with nothing withheld or removed or reduced. The gift, which is prompted by godly piety and is for the salvation of the souls of the earl, his wife Cecilia, his predecessors and successors, is in free, pure and perpetual alms, to be had by the nuns and held of the earl and his heirs for ever, as freely and peacefully, fully and honourably as any alms is held and possessed by anyone anywhere in the kingdom of Scotland. He gives warrandice on behalf of himself and his heirs for the south toun, guaranteeing it to the nuns against all men and women, and he has attached his seal to the document as corroboration.*

Hiis testib*us* D*omi*no Rob*er*to de Kokeburn D*omi*no Rob*er*to de Hellum . D*omi*no Pat*ri*cio filio Walteri D*omi*no Joh*ann*e de Letham militib*us* D*omi*no Johanne p*er*sona de Haldehamstoc D*omi*no Pat*ri*cio p*er*sona de Chirnsyd Philippo de Haliburtun Toma Papedy Walt*er*o de Derchestyr 7 aliis

[1248 (x13.12.) x 21.6.1270]

Rubric Carta donat*i*onis 7 *con*firmat*ion*is te*rr*e de laynal . p*er* comite*m* Pat*ri*cium

Source BL, MS. Harley 6670 (Coldstream priory cartulary), ff. 6v-7v

Printed *Coldstream Cartulary*, no 9

Comment Alexander III confirmed this charter in June 1270 (NAS, GD 212/56; Cold. Cart., no 56). Land in Lennel was the core endowment of Coldstream priory and Patrick III made several further grants of land there to the nuns, by regranting land surrendered to him as lord (nos 11 and 15). After 1273, Mariota, Lady of Hume, widow of Sir Patrick Edgar was forced for reasons of poverty to quitclaim her right to land in the north toun of Lennel in favour of the nuns (*Cold. Cart.*, no 13).

14. *Pat[rick][III] earl of Dunbar greets in the Lord all the faithful people of Christ who hear or see this document. He has given to God and the church of St Mary of Coldstream and the nuns there and confirmed to them by this charter all the land with a toft and a croft by its rightful boundaries which Alan the chaplain son of Gilbert of Hassington held in the toun and territory of Lennel with all its pertinents and with the liberties and common easements which belong to that toun. The gift is in free, pure and perpetual alms, for ever. The land is to be had by the nuns and held of the earl freely and peacefully, fully and honourably as any alms anywhere in the whole kingdom of Scotland. The earl gives warrandice on behalf of himself and his heirs, and corroboration.*

Omnib*us* *Christ*i fidelib*us* p*re*sens sc*ri*ptu*m* Visur*is* uel audit*ur*is Pat*ricius* comes de Du*n*bar salutem i*n* D*omi*no . Nouerit vniu*er*sitas v*est*ra me dedisse . *con*cessisse . 7 hac p*re*senti carta mea *con*firmasse . Deo 7 ecc*lesie* S*anc*te Marie de Kaldest*re*m 7 mo*n*ialib*us* ibide*m* Deo se*r*uientib*us* 7 inpe*r*petuu*m* se*r*uitu*r*is . totam illa*m* te*rr*am cum tofto 7 crofto p*er* suas rectas diuisas q*u*am te*rr*a*m* d*omin*us Alan*us* cappell*anus* fili*us* Gileb*er*t' de Halsi*n*gto*n* tenuit i*n* Villa

de Laynal 7 in territorio eiusdem uille cum omnibus pertinenciis suis libertatibus . 7 communibus aisiamentis ad dictam villam pertinentibus in liberam . puram . 7 perpetuam elemosinam . inperpetuum . Tenend' 7 habend' de me 7 heredibus meis dictis monialibus libere . quiete . plenarie . 7 honorifice . sicut aliqua elemosina alicubi in toto regno Scotie liberius . quietius . plenius . 7 plenarius . ac honorificentius tenetur . uel possidetur . Ego uero. Patricius 7 heredes mei dictam terram cum omnibus supradictis predictis monialibus contra omnes homines Warantizabimus . 7 acquietabimus . ac defendemus . In cuius rei testimonium presenti scripto sigillum meum apposui . Hiis testibus. domino Patricio filio meo . domino Alano de Hormest' . domino Johanne de Leta' . domino Johanne Gray . domino Gamel'capellano . domino Patricio de Lemocustun' rectore ecclesie de Chirnissid' . Philipp' de Haliburtun' . Adam de Gordun' . Willelmo de Home . Roberto de Hellum . 7 aliis .

[1248 (x 13.12)x 24.8.1289, probably 1273]

Endorsed Carta donatione terre de Laynal' (last word in different hand) (s. xiii-xiv)
?et c.?
Modern numeral endorsement

Source NAS, GD 212/ Box 10/ 2 = *A*
BL, MS. Harley 6670 (Coldstream Priory cartulary), f. 2r-2v = *B*
Printed here from *A*

Seal Detached and lost. Tags remain, through double slit in footfold.

Printed *Coldstream Cartulary*, no 2 (from *B*)

Comment The witness list is nearly identical to that of no 15 below which almost certainly dates to 1273 (see charter of Patrick Edgar, *Cold. Cart.*, no 12, dated 1273). It seems that Patrick III's benefactions to Coldstream consisted mainly of land taken back and re-granted, and this may be another example. On the other hand, there is no mention of Alan having been deprived of the land, perhaps because, unlike the other chaplain Walter in Hirsel (no 11 above) he did not hold it hereditarily.

15. *Patrick [III] earl of Dunbar gives eternal greeting in the Lord to all faithful people of Christ who see or hear these letters. Prompted by godly piety, he has given to God and the church of St Mary of Coldstream for the salvation of his soul and that of his wife Cecilia, and for the souls of his predecessors and successors, all the land in the toun and territory of Lennel which was formerly Sir Patrick Edgar's, with nothing withheld and with its men, and their children and their goods and all pertinents. Sir Patrick Edgar surrendered and resigned the land by staff and baton in full court for default of the service owed to the earl from the land; and he quitclaimed to the earl for ever on behalf of himself and his heirs the full right he had or might have had in it and its pertinents. The land is to be had by the nuns and held of the earl and his heirs and their successors by its rightful boundaries both within and outwith the toun, with its men and their children and their goods and with all pertinents, liberties and easements: moors, marshes, meadows, pastures, waterways, ponds, fisheries and mills, without any addition or diminution, in free, pure and perpetual alms for ever, as any alms held and possessed anywhere by anyone in the whole kingdom of Scotland. The earl gives warrandice on behalf of himself and his heirs to the nuns and their successors against all men and women, and corroboration.*

Omnib*us Christ*i fidelib*us* p*r*esentes litteras visuris uel audituris . Patricius Comes de Dunbar et*e*mam i*n* D*omi*no salut*em* . Noue*r*it uniu*er*sitas ue*st*ra nos diuine pietatis intuitu 7 p*ro* salute a*nim*e no*st*re 7 Cecilie sponse no*st*re 7 pro a*nim*ab*us* antecesso*rum* 7 successo*rum* no*st*ro*rum* . dedisse . *con*cessisse 7 hac p*r*esenti carta no*st*ra *con*firmasse Deo 7 Ecc*lesi*e beate Marie de Caldestrem et monialib*us* ibid*em* Deo servientib*us* 7 i*n*p*er*petuu*m* se*r*uitu*r*is tota*m* te*rr*a*m* in villa 7 i*n* te*rr*itorio de Laynal iacente*m* sine aliq*uo* retenemento q*ue* fuit quondam d*omi*ni Patricii Edger militis cu*m* ho*min*ib*us* suis 7 seq*ue*lis 7 bonis eo*rum* 7 o*mn*ib*us* p*er*tinenciis suis q*ua*m quide*m* te*rr*a*m* d*ict*us Patrici*us* Edger miles nobis p*ro* defectu se*r*uicii de eade*m* te*rr*a nobis debiti p*er* fustum 7 baculu*m* in plena curia reddidit 7 resignauit 7 totu*m* ius suu*m* q*uo*d h*ab*uit uel h*ab*ere potuit i*n* eade*m* te*rr*a 7 p*er*tine*n*ciis suis p*ro* se 7 heredib*us* suis

nobis quietu*m*clamauit i*npe*rpetuu*m* .Tenend*am* 7 habend*am* eisde*m* monialib*us* 7 successoribus suis de nobis 7 heredibus no*st*ris tota*m* d*ict*am terra*m* sine aliquo retenemento p*er* suas rectas diuisas tam infra villam q*ua*m extra cu*m* ho*min*ib*us* suis 7 sequelis 7 bonis eo*rum* . 7 cu*m* o*mn*ib*us* p*er*tine*n*ciis suis libertatib*us* 7 aysiame*n*tis 7 o*mn*ib*us* aliis ad d*ict*am te*rr*am p*er*tinentib*us* seu p*er*tinere debentib*us* uel ualentib*us* tam infra villa*m* q*ua*m extra . scil*icet* i*n* moris 7 i*n* marisiis . in p*ra*tis 7 pascuis . in aquis . i*n* stagnis . i*n* piscariis 7 molendinis 7 o*mn*ib*us* aliis sine aliq*ua* subtract*i*one uel diminuc*i*one . in liberam . pura*m* . 7 p*er*petuam elemosina*m* inp*er*petuu*m* adeo libere . quiete . plenarie 7 honorifice . sicut aliq*ua* elemosina liberius . quiecius . pleni*us* 7 honorifice*n*cius alicubi i*n* toto regno Scocie ab aliquo tenet*ur* . 7 possidet*ur* . Nos u*ero* 7 heredes nostri totam d*ict*am terram de Laynal cu*m* o*mn*ib*us* sup*radict*is p*re*dictis monialib*us* 7 successorib*us* suis *con*tra om*n*es ho*min*es 7 feminas Warantizabim*us* aquietabim*us* 7 i*npe*rpetuu*m* defendem*us* . In cui*us* rei testimoniu*m* p*re*senti scripto sigillum no*st*ru*m* apposuim*us* . Hiis testib*us* . D*omi*nis . Patricio . Joh*ann*e . 7 Alexandro filiis no*st*ris . D*omi*nis Alano de Hormestun . Hugone de Gurlay . 7 Io*hann*e de Letha*m* . militib*us* . d*omi*no Patricio de Lemocstun rectore ecc*lesi*e de Scyrneside t*unc* te*mpo*ris senescallo no*st*ro . d*omi*no Ioh*ann*e rectore ecc*lesi*e de Haldehamstoc . 7 aliis.

[13.10.1273 x 24.8.1289, probably 1273]

Endorsed — Confirmatio …… ab Lainel D' (indecipherable) (s. xiii-xiv) Laynal (s.xiv)
Modern numeral endorsement

Source — NAS, GD 212 / Box 10/ 1: with seal , with counterseal = *A*
BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 1r-2r = *B*
Printed here from *A*

Seal — Second seal of Patrick III (DS 2809), brown wax or natural wax, chipped round the edges, with a lion rampant counterseal. Attached through a double slit in the footfold, with extra parchment attached to reverse at foot of document to reinforce.

Printed — *Coldstream Cartulary*, no 1 (from *B*)

Comment Sir Patrick Edgar had been Earl Patrick's steward and appears, sometimes as Patrick son of Walter, as a witness to charters of the earl and his dependants (Charters to Melrose, no 12 ; *Cold. Cart.*, nos 34 and 41, no 13 above as Patrick son of Walter). He was a distant cousin of the earl, descended from Edgar, younger brother of Earl Gospatric (1138 –1166). His widow Mariota styles herself Lady of Hume (*Cold. Cart.*, no 13). It is unclear whether Patrick Edgar's surrender of his land in Lennel for defaulting on service represents an individual misfortune or whether he was a victim of the earl's policy of endowing Coldstream from former lands of his dependants. Surrender by staff and baton in the earl's court was the usual ceremonial procedure, as when Walter the chaplain surrendered his lands in Hirsel (no 11 above). There is a hint that Patrick Edgar also held his lands hereditarily of the earl, and that the ceremonial resignation was linked to this. A bull of Pope Gregory X of 1272 suggests there had been friction between the nuns and the earl over these lands and that his confirmation in the bull was the result of an approach by petition from the priory (NAS Coldstream, GD 212, Box 10, no 4).

Charters to Dryburgh Abbey

Five charters of the Dunbar earls to the canons of Dryburgh survive in somewhat poor fifteenth-century cartulary copy. The absence of witness lists from the charter copies makes it difficult to date them accurately, but none predates the accession of Patrick I in 1182. Several (nos 2-4 in this section) may belong to the period following the death of William de Morville in 1196.

The proximity of Dryburgh Abbey to Kelso and particularly to Melrose, which was only three miles distant, meant that it was often in competition with its neighbours in building up its estate and securing pastureland for its flock, peat for fuel, arable land, and trading opportunities. It required also the means to finance its extensive building programme. The charters of the earls and their family address all these aspects of the economy of the house. The earls were benefactors of Dryburgh, but not on a lavish scale. They granted in free alms lands in Earlston (nos 2 and 5) and burghal property in Dunbar (nos 4 and 5) and they confirmed the grants of those who preceded them or held of them – the Lindsays' benefactions in 'Elwinsley'or Alwin's Land (nos 2 and 5), the peatery and meadowland granted in the area of Mellerstain by Richard of Fans (no 1).

To a degree the earls were also competitors with Dryburgh, in that much-disputed area of forest and pastureland and arable land between the Gala and the Leader. A dispute over the boundaries between the canons' grange of Kedslie and the earl's land at Earlston was settled, the bounds having been agreed and perambulated and confirmed in writing by the earl (no 3) and subsequently by his son as earl. The dispute has to be seen in the context of many similar cases in this area involving Dryburgh and Melrose abbeys, the de Morvilles, the Stewarts, the men of Wedale and the Dunbar earls.[1]

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[1] See *RRS*, ii, nos 236, 253, 364

Characteristically, the charters indirectly reveal much which is mundane – the topography of the districts to which they apply, the economic life of the different areas, the disposition and use of land. Together they portray something of the processes of dispute and resolution, of grant and re-grant and confirmation, of cautious benefaction, of continuity and change. They do not point to a particularly active involvement on the part of the earls nor consequently do they offer more than glimpses of the exercise of their lordship.

When the first Earl Patrick's son, Sir Patrick, later Patrick II, contributed a merk of silver annually from his wife's marriage-portion of Birkenside for the building and repair of the abbey church (Charters of the Heirs, nos 5-6) he forged a closer relationship between earl and abbey which lasted to the end of the century, until Birkenside passed first to a younger son, John, his son John, and then out of the Dunbar family. The charter of John the grandson (*Dryburgh Liber*, no 311) spells out the spiritual gifts he and his family expected to enjoy, gifts in which his predecessors may well have participated in return for their various benefactions, but on which the charters are silent.

The charters

1. *Patrick [I] earl of Dunbar gives eternal greeting in Christ to all the people of Holy Mother [Church]. By this charter he has confirmed to God and the church of St Mary at Dryburgh and the canons there, the peatery in Fans, west of 'King's Well' between the ditches, which is an acre and a half, and a half acre of peatery south of the ditches near the one and a half acres, in free, pure and perpetual alms, to be held completely freely and peacefully, fully and honourably as contained in the charter of Richard of Fans. He also confirms to the canons by his charter the whole meadow of Kingside by its full boundaries, to be held of Richard of Fans and his heirs for the length of time agreed between them as freely and peacefully, fully and honourably in every way and in all its liberties as is contained in the chirograph made between them and*

Richard of Fans. The earl confirms all of these to the canons as decided but reserves the service due to him.

[1182 x 31.12.1232, probably c.1200]

Heading Super turbaria In Fawnys et rectis diuisis eiusdem turbarie

Source NLS, MS. Adv. 34 . 4. 7 (Dryburgh Abbey cartulary), ff. 58v – 59r

Printed *Dryburgh Liber,* no 199

Comment Richard's charter, which this charter confirms, is *Dryburgh Liber*, no 198. Richard of Fans witnessed an early thirteenth-century charter of Earl Patrick I to Coldstream (Charters to Coldstream, no 4), and was the half-brother of David Graham who also held lands of him near Kingside which Earl Patrick as lord confirmed (Charters to Laymen, no 4). Fans lies to the east of Earlston and the peatery and the meadow were situated in this area.

2. *Earl Patrick [I] of Dunbar greets all the people of Holy M[other Church]. He has given to God and St Mary of Dryburgh and the canons there and confirmed by this charter the land called 'Elwinesley' up along the hedge as far as 'Duneden' and up as far as 'Risebridge' and from there by Malcolm's Road to 'Strikerden' and then as far as the Leader. He has given them also two bovates in Earlston with a toft and croft beside the road which goes up to the cross west of the toun, with common pasture for a hundred sheep and twelve oxen and twelve pigs and two horses and with all the other easements proportionate to that land. He has given all these for the salvation of his soul and the souls of his predecessors and successors, in perpetual alms as free and quit of all secular demand and custom as any alms is held and possessed.*

Testibus etc

[1182 x 31.12.1232, probably c.1205]

Heading Super terra que dicitur elwynesley et duabus bouatis terre in ersildon et tofto et crofto ac pastura ad centum oues et xii boues et xii porcos et duos equos

Source NLS, MS. Adv. 34 .4. 7 (Dryburgh Abbey cartulary), ff. 37v-38r

Printed *Dryburgh Liber*, no 116

Notes 'Strikerden' may be the Sturden Burn north of Kedslie

Comment 'Elwinesley' is Alwin's land, the area given to Dryburgh by Walter and William Lindsay (*Dryburgh Liber*, nos 110 and 111) near to the abbey's grange at Kedslie. It was described as a *sartum* or assart, land being newly brought under cultivation. The earl's confirmation may be as lord of the Lindsays and the land, or he may have succeeded the Lindsays in this area (Barrow, *Era*, 41). Earl Patrick's confirmation of the land in Earlston confirms a charter of William Lindsay who held Earlston, perhaps in his own right and perhaps of the earl, until his death c.1205 (*Dryburgh Liber*, no 117). Lindsay's charter which mentions the consent of his son Walter suggests that there was a known formula for allocating rights of common pasture, while the earl's charter spells out the exact entitlement, strengthening the probability that his charter may have been occasioned by the death of Lindsay and the need for clarification.

3. *Earl Patrick (I) greets all Christian people etc. In view of the conflict and dispute between himself and the canons of Dryburgh over the rightful boundaries between his land of Earlston and their grange of Kedslie, prompted by peace and charity and for the salvation of his soul and the souls of his predecessors and successors, he has given certification of the boundaries to the canons and in the presence of his trustworthy men has walked round the rightful boundaries, starting, that is, from the place from which the sike near 'Redheugh' flows into the Leader, going up west as far as the old ditch and across the flat ground to the stone caim called 'Harlaw' and down the 'Duneden' to 'Hunter's Ford'. He wills and grants that the canons hold and possess of himself or his heirs all the land within these boundaries towards*

their grange of Kedslie for ever, in wood and plain, without being hindered by him or his heirs, as freely and peacefully, fully and honourably, as any alms given or held in the kingdom of Scotland. The earl gives warrandice to the canons on behalf of himself and his heirs.

Testibus etc

[1182 x 31.12.1232, probably c.1200]

Heading Super rectis diuisis inter caddesley Et Ersildoun

Source NLS, MS. Adv. 34. 4. 7 (Dryburgh Abbey cartulary), ff. 37r-37v

Printed *Dryburgh Liber*, no 114

Comment The area between the Gala and Leader rivers was often the subject of competing claims by those who held land there. In the early years (c.1150 x 1164) Dryburgh and Melrose settled the boundaries between their granges at Kedslie and Colmslie respectively (*Dryburgh Liber*, no 113). Here, at least twenty years later, the boundaries between Kedslie and the earl's lands at Earlston are fixed. Again, the trigger may have been the death of Walter Lindsay. On the subject of certification, see M. Clanchy, *From Memory to Written Record*, 67-8. Sir Patrick, the earl's son, confirmed and guaranteed the boundaries and land in this settlement in *Dryburgh Liber*, no 115 (Charters of the Heirs, no 4).

4. *Patrick [I] earl of Dunbar greets all Christian people etc. Prompted by godly piety, he has given and by this charter confirmed to God and St Mary of Dryburgh and the abbey and convent there a toft in his burgh of Dunbar which belonged to Hugh, formerly his father's chaplain, with a house and two and a half acres of land which Hugh held in the toun and territory of Dunbar. It is to be held of the earl and his heirs in free, pure and perpetual alms for the souls of his mother and father and for the salvation of the souls of himself, his wife, his children and his successors. He wishes the abbot and convent to hold the*

alms for ever, freely and peacefully, fully and honourably, totally without any service, custom or secular demand, as any members of a religious order hold and possess alms in the earl's land or in the whole kingdom of Scotland. The earl gives corroboration.

Testi*bus* etc

[c.1186 x 31.12.1232]

Heading Super uno tofto in dumbar et duab*us* acris terre et dimidia in eadem Uilla

Source NLS, MS. Adv. 34. 4.7 (Dryburgh Abbey cartulary), f. 39r

Printed *Dryburgh Liber,* no 121

Comment If this is a charter of Patrick I (1182 x 1232) then Hugh must have been chaplain to his father Earl Waldeve, though he not recorded elsewhere as such. The reference to the burgh of Dunbar has not been repeated by the cartulary scribe in the title where Dunbar is "villa" or toun. The granting of property in Dunbar to Dryburgh can be compared with similar grants in Dunbar and Biel to the priory of May by Gospatric and Patrick I and in Berwick by Patrick III to the priory of Coldstream (Charters to May, nos 1 and 2; to Coldstream, no 12).

5. *Earl Patrick [I] of Dunbar gives greeting in the Lord to all the sons of Holy Mother Church. He has given to God and St Mary of Dryburgh and the canons there the land called 'Elwinesley' by stated boundaries (as in no 2 above), two bovates in Earlston with the toft and croft next to the road up to the cross on the west side of the toun, with common pasture for a hundred sheep, twelve oxen, twelve pigs and two horses, and with all easements pertaining to that quantity of land. He gives them also a toft in his burgh of Dunbar which belonged to Hugh formerly chaplain of Sir Patrick the earl's uncle, with a house and two and a half acres of land which he held in the toun and territory of Dunbar. The land is to be held of the earl and his heirs in free, pure and*

perpetual alms for the souls of his father and mother and for the salvation of his own soul and the souls of his wife, his children and his successors. He wishes the abbot and convent to have and hold the alms for ever as freely and peacefully, as fully and honourably, with no service, custom or secular demand, as any members of a religious order in his whole land or in the whole kingdom of Scotland hold and possess land in alms. He gives corroboration both by the document and by his seal attached to it.

Testibus etc

[c.1186 x 31.12.1232]

Heading Confirmatio comit*is* de dunbar super terra de ersildona

Source NLS, MS. Adv. 34. 4. 7 (Dryburgh Abbey cartulary), ff. 105v-106r

Printed *Dryburgh Liber,* no 300

Comment The dating of this charter and of no 4 hinges on whether the reference to the earl's uncle is a mis-reading of grandfather, the original copyist extending "avi" to "avunculi". If so this would be a charter of Patrick III; if not, of Patrick I in the middle years of his earldom. The style of the earl and the likelihood that the reference is to his uncle, Sir Patrick, strongly suggests, however, that he is Patrick I. The charter confirms previous grants recorded in nos 2 and 4 above, despite the use of 'dedisse' which has been copied from the earlier text.

Charters to Kelso Abbey

The dedication of the parish church of St Nicholas, Hume, by Earl Gospatric on the occasion of its foundation or re-foundation is the subject of no 1, a simply and beautifully worded charter which has a sense of the ecclesiastical occasion and of closeness to the ceremonial act. It is the only example of the involvement of the earls in the founding of proprietorial churches and it owes its survival to the fact that Hume church was subsequently given to Kelso (nos 2 and 4) by the earl's son, the future Earl Gospatric, who is associated here with his father's act.

A charter of Patrick IV issued perhaps soon after his accession to the earldom on the death of his father in 1289 lists the many grants of churches and lands by his predecessors and by other members of the Dunbar family to Kelso Abbey over a period of approximately 160 years.[2] A more piecemeal picture is provided by numerous Dunbar charters to the abbey, some of them difficult even to arrange chronologically, let alone to date. They provide, however, increasing definition and detail, revealing complexities of agreements and prompting a re-assessment of apparently simple processes of benefaction.

Here the chronology of the acts differs substantially from that suggested in the recently published *Syllabus of Scottish Cartularies: Kelso.* Nos 2, 3 and 4 in this section relate the giving of Hume, Fogo and Greenlaw churches to the monks of Kelso. It is arguable that the grant of Greenlaw church (no 3) is the earliest of the three, though Greenlaw church alone was not included in Malcolm IV's confirmation of 1159.[3] Its chapels of Lambden and Halliburton were also granted to the abbey, Lambden by 1166, Halliburton by Waldeve before 1182 (no 5). Both Hume and Fogo churches were clearly granted to Kelso before 1159, and perhaps before 1152, though the charter granting Hume and Fogo churches by Earl Gospatric (no 2) was certainly made after the death of King David. Land was granted with the churches and augmented

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[2] *Kelso Liber,* no 77

[3] *RRS,* i, no 131

(no 5). It is possible, though not certain, that an earlier separate grant of Bothwell shielings was made prior to no 4.

The granting of these churches inevitably led to dislocation, with the parish clergy in some cases given life tenure (no 3) and in other instances perhaps removed or simply not replaced (no 2). Ahead, but outwith the scope of the charters, was the further stage of appropriation. As chapels were built as pendicles of the parish churches they too were given to the monks (nos 4 and 5). Further upheaval is implied in no 4, as people who held land appear to have been displaced in favour of the monks.[4]

The charters give a strong sense of family relationships based on land and the transmission of land. Greenlaw was given to Earl Waldeve's younger brother Patrick and to his son William but the earl continued to confirm their grants to Kelso (no 8).[5] Ada, daughter of Earl Patrick I, gave part of her marriage portion in Hume to Kelso in her own right, but the grant was confirmed by her father the earl (no 10), while the financial arrangements entered into by Ada and her husband over the Hume lands were handled by the earl and his son Patrick, Ada's brother (no 9). In the endowment of the parish church the family including the earl's wife and three sons, participated both in the transmission of land and property and in the exercise and demonstration of lordship (no 1).

The charters tell of the use of land as arable, pastureland and meadow; of tofts and crofts and touns and common pasture; of people given with their children to the abbey (no 6). They relate some of the ways in which the reforms of the Church in western Europe were touching the lives of the proprietors of the churches and chapels, the priests, and local people including the clergy who lost land or status. They depict the powers of lordship within the church expressed through patronage and endowment, but increasingly limited and re-shaped by the pressure of the reform movement driven by an energetic papacy.

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[4] There were other examples in Dunbar family charters (see *Kelso Liber*, nos 76, 78).

[5] As later in *Kelso Liber*, no 77

The charters

1. *Earl Cospatric addresses all faithful people, clerical and lay. He has granted to the church of St Nicholas, Hume, in honour of Our Lord Jesus Christ and St Mary the Virgin and St Nicholas and all the saints in the day of its dedication one ploughgate, and a parish, namely the toun of Hume and half of Gordon, for the redemption of sins and the salvation of souls. Dated 24 March.*

Notu*m* sit et*iam* . Gospat*ri*ciu*m* . 7 Edwardu*m* . 7 Edgaru*m* filios comitis . 7 sponsa*m* illud ide*m* concessisse .

Test*ibus* . Rodb*er*to Ep*iscop*o . Thora decano . Deldredo p*res*bite*r*o . de Dalwenside . Hugone de Tingheha*m* . Vlkillo fil*io* Meldredi / 7 multis aliis

[24. 03.1128 x 22 .08 1138]

Rubric Carta s*uper* una*m* carucata*m* te*rr*e i*n* Houm . eand*em* uilla*m* . 7 dimid*iam* Gordune

Source NLS, MS. Adv. 34 .5.1 (Kelso Abbey cartulary), f. 112 r

Printed *Kelso Liber,* no 288

Comment Dating is by the sons of the earl who is thus identified as Gospatric brother of Dolfin, and by the first 24 March after the consecration of Bishop Robert on 17 July 1127 (Watt, *Fasti,* 290). The charter records the dedication of the parish church of Hume which is allocated an area as its parish and a ploughgate as glebe to support the priest. Almost certainly therefore it records also the foundation of the parish church. The church was subsequently given by Earl Gospatric's son and successor to Kelso Abbey (see nos 2 and 4 below). We can speculate that a witness here was another product of the 'scribal stammer' (see Charters to Coldstream, no 3), his name being Aelred, priest of Alwinside.

2. Earl Cospatric gives greeting in the Lord to bishops, archdeacons, abbots, earls, barons and all the faithful now and to come of Holy Mother Church. He has given and confirmed by this charter to the brothers of the church of St Mary the Virgin, Kelso, in perpetual alms,the church of Hume with all which rightfully belongs to it, to be held by the same tenure as the priest Orm held it, and the church of Fogo with all its pertinents, for the souls of David king of Scots of blessed memory and of Earl Henry his son, and the earl's father and mother and all his predecessors, and for his own soul. The pontifical right is reserved.

Hiis Test*ibus* . T . Archid*iacono* . W . Abb*ate* S*ancte* Crucis . Nigello sac*er*dote . Mag*ist*ro Andr' . 7 m*u*ltis aliis

[20/24.5.1153 x 1159]

Rubric Carta s*uper* Eccl*es*ias de Home . 7 de Foghoh' .

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 112r

Printed *Kelso Liber*, no 287

Comment The charter refers to King David and Earl Henry 'of blessed memory' and thus is datable to post May 1153. The- end date here is suggested by the confirmation of both Hume and Fogo churches to Kelso Abbey by Malcolm IV in 1159. Hume church came to the monks endowed with two ploughgates and a meadow in the territory of the toun, Fogo with one ploughgate (*RRS*, i, no 131). Both Hume and Fogo churches were confirmed again to Kelso by Earl Gospatric, along with Greenlaw church (no 4 below).

3. *Earl Cospatric greets all the sons and faithful of the Catholic Church. He has given and confirmed by this charter to the church of St Mary of Kelso and the monks there the church of Greenlaw with all its rightful pertinents for the soul of King David and his son Earl Henry in free and perpetual alms, for his*

own soul and the souls of his father and his mother and his predecessors and successors; reserving the tenure of Nigel the clerk who may hold the church freely of the monks for his lifetime.

Hiis Testib*us*.

[1159 x 1162]

Rubric Carta Cospatric' Comit*is* . sup*er* eccl*es*ia de Grenlaue cu*m* p*er*tinenciis

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), ff. 31r-31v

Printed *Kelso Liber*, no 79

Comment The dating is contentious. The dates 1138 x 12.06.1152 suggested in the *Syllabus* are based on the assumption that King David and Earl Henry were alive. But the reference to the souls of David and Henry is as likely to imply that the charter was issued after their deaths, connected with the gathering at Kelso. Both had of course been the earl's lords. The absence of Greenlaw church from Malcolm IV's confirmation of 1159, moreover, indicates that it may indeed have been granted separately after that date (*RRS*, i, no 131). Greenlaw was certainly in the possession of the abbey by 1160 x 1162 when bishop Arnald confirmed it to the monks (*Kelso Liber*, no 439) and so an alternative dating of 1159 x 1162 is possible. There is no mention in this charter of either of the chapels of Greenlaw, Lambden or Halliburton, although Bishop Robert had given permission to Walter of Stirling to build a chapel at Lambden, probably before 1144. It was, however, included in a charter of confirmation given by the earl which is fuller than this charter (no 4 below). A charter of Gospatric's younger son Patrick who inherited Greenlaw states that Greenlaw church was originally given with only a half ploughgate, often the means by which an incumbent priest was allowed to retain life tenure, as in the case of Nigel. Nigel's successor Adam surrendered a further half

ploughgate with pastureland to the monks, completing the endowment (*Kelso Liber,* no 74).

4. *Earl Cospatric greets all the sons and the faithful of Holy Mother Church. He has gifted and confirmed by this charter to the church of St Mary of Kelso and the monks there Hume Church with two ploughgates and 'Harastruther' meadow in the territory of the toun, the church of Greenlaw with the chapel of Lambden and adjacent territory, the church of Fogo with one ploughgate and the land known as Bothwell shielings, as deaf Hugh fully held it. The earl confirms the land to the church in free and perpetual alms, for the souls of his lords King David and his son Earl Henry, his father and mother, for his own soul and the souls of all his predecessors and successors, to be held of him and his heirs as freely and peacefully as it holds any other land in alms. None of his heirs shall presume to demand anything of the church except prayers for their souls.*

Hiis testib*us*

[1138 x 8.12.1166, probably 1159/1160 x 8.12.1166]

Rubric Carta Cospat*ric*'. comit*is* s*uper* eccl*e*sia de Home cu*m* duab*us* carucatis te*rr*e Grenlau . lambede'. *etc*

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 29r

Printed *Kelso Liber,* no 71

Comment This charter may have been given by the earl as a summation of his various gifts to Kelso. The *Syllabus* dates it to 1139 x 12.6.1152, assuming again that David and Henry were alive. As in no 3, the dating here is based on the grant of Greenlaw coming after the royal confirmation of Hume and Fogo but before bishop Arnald's confirmation. The gift of the shielings of Bothwell in the Lammermuir Hills may have been the subject of a separate act, now lost. Malcolm IV confirmed the shielings to Kelso between 1161 and 1164 (*RRS*, i, no 217). An alternative end-

date would be late 1166, the reference to heirs and prayers suggesting a period immediately prior to the earl's death. William I also confirmed the grant of the shielings separately in the fuller and later of his two charters to Kelso in 1189 x 1195 (*RRS,* ii, no 367).

5. *Earl Waldeve greets all the sons and the faithful of Holy Mother Church. He has confirmed by this charter to the church of St Mary of Kelso and the monks there in free and perpetual alms for the salvation of his soul and for the souls of his father and of all his predecessors and successors the church of Hume with two ploughgates and with 'Harastruther' meadow in the territory of that toun, the church of Greenlaw with one ploughgate [and with the chapels of Lambden and Halliburton and adjacent lands, the church of Fogo with one ploughgate and Bothwell shielings by their rightful boundaries].*[6] *The earl confirms all these to the church and to the monks to hold of him and his heirs as freely and peacefully as they hold any other alms they hold; and he gives warrandice.*

Hiis Testib*us*

[1166 (x 8.12) x 1182]

Rubric Walleuus comes sup*er* ecc*lesi*a de home duabus carucat*is* te*rre* et aliis .

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 29v

Printed *Kelso Liber*, no 73

Comment In this charter Waldeve as earl confirms all the benefactions of his father and adds to them. In an earlier charter his younger brother Patrick, Lord of Greenlaw, had added a half ploughgate to the grant originally made to Kelso (*Kelso Liber,* no 74), and here Waldeve confirms the church with the entire ploughgate. The chapel of Halliburton built at this time by David fitz Truite is

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[6] The words in brackets have been added to the foot of f.29v in a different hand

also included in the earl's confirmation, as in his brother's charter.

6. *Earl Waldeve greets all his trustworthy men and all the faithful. He has given and confirmed by his charter Haldane, his brother William and all their children and descendants to the abbot and monks of the church of St Mary of Kelso. The earl gives warrandice.*

Hiis testib*us* .

[1166 (x 8.12) x 1182]

Rubric Carta Walleui comit*is* sup*er* Halden' 7 Wille*lmu*m fr*atr*em ei*us* liberos eo*rum* 7 om*n*es sequaces eo*rum*.

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 49v

Printed *Kelso Liber*, no 128

Comment The gift to a religious house of unfree men and their families was not uncommon, part indeed of the process of benefaction. Between 1173 and 1177 for instance King William gave Gillanders MacSuthen and his offspring to Dunfermline Abbey (*RRS*, ii, no 164).

7. *Earl Patrick [I] son of Earl Waldeve greets all the sons and the faithful of Holy Mother Church. He has confirmed by this charter to the church of St Mary of Kelso and the monks there in free and perpetual alms for the salvation of his soul and for the souls of his father and all his predecessors and successors the church of Hume with two ploughgates and with the meadow called 'Harastruther' in the territory of the toun of Hume, the church of Greenlaw with one ploughgate and the chapels of Lambden and Halliburton and lands adjacent, and the church of Fogo with one ploughgate. Also Bothwell shielings by these boundaries: from the source of the spring of 'Kaldewelle' to the bed of the stream into which the spring flows and from there to where the river flows into Bothwell (Water) and from there to where*

Bothwell flows into the Whiteadder and by the Whiteadder to the highway which goes beyond Spartleton and along that road to the spring of 'Kaldewelle' and the common pasture between them and the shielings of the earl's men of Pinkerton. He confirms everything to the church and monks to be held of him and his heirs as freely and peacefully as they hold any other alms, and he gives warrandice.

Hiis test*ibus*

[1182 x 31.12.1232, probably c.1200]

Rubric Co*nfirmatio* . Pat*ric*' . comitis fil*ii* Walleui com*itis* . s*uper* ecc*les*iis de Home .Grenlau . La*m*bed' . Halib*urt*' . foggou . et c*etera*.

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), ff. 29r-29v

Printed *Kelso Liber*, no 72

Comment The benefaction of the three churches of Hume and Fogo and Greenlaw with its chapels of Lambden and Halliburton and of Bothwell shielings was settled by 1182, but here the earl confirms the entire benefaction and recites in detail the boundaries of the shielings of Bothwell, still readily identifiable on a modern map. A charter of Hugh bishop of St Andrews which was probably issued 1186 x 1187 confirms the churches to Kelso *propriis usibus et sustentacionibus monachorum*, apparently signalling a further development – the application of the ecclesiastical revenues primarily to the abbey (*Kelso Liber*, no 84).

8. *Patrick [I] earl of Dunbar gives greeting in the Lord to all Christ's faithful who see or hear these letters.He has confirmed by this charter to God and the church of St Mary of Kelso and the monks there the toft and croft and two bovates in the territory of the toun of Greenlaw which William son of Patrick gave them for the salvation of his soul and for the souls of his relatives; to be held of him for ever in pure and perpetual alms, as evidenced and confirmed in William's charter.*

Hiis Test*ibus*

[1182 x 31.12.1232, probably x 1200]

Rubric Carta Pat*ri*cii Comitis s*uper* tofto . 7 crofto . 7 ii . bouat*is* te*rre* in villa de Grenlau .

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 31v

Printed *Kelso Liber*, no 80

Comment William was a cousin of Patrick I, son of Earl Waldeve's younger brother Patrick who inherited lands in Hirsel and Greenlaw on the death of Gospatric, his father. William's charter is *Kelso Liber,* no 78, datable to the late twelfth or early thirteenth century. Though, like his father, he was styled Lord of Greenlaw (*Kelso Liber,* no 77), his grant is here confirmed by the earl.

9. *P[atrick][I] earl of Dunbar and P[atrick] his son greet all who see or hear these letters. They notify them that the abbot and convent, being accountable to William de Courtenay and his wife Ada at the end of the seventh year of the agreement made between them about the rent of their land in Hume, have at the request of the earl and of William paid twenty-five merks at the beginning of the sixth, delivered by Jordan son of Ursus. Thus at the end of the seventh year they will have to pay William twenty-five merks, so that thereby the total ferme of ten years shall be paid in full. The earl has promised that nothing further shall be demanded from them. He gives corroboration by appending his seal along with the seal of Jordan son of Ursus.*

Hiis test*ibus* de solut*ione* sexti anni f*acta* . Gaufr*ido* Burnald . Rob*erto* de Anescia . Rog*ero* de M*er*ley . 7 mult*is* aliis

[c.1206 x 5.10.1217]

Rubric L*itera* s*uper* q*ua*mda*m* firma*m* te*rre* de Home .

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 114 r

Printed *Kelso Liber*, no 294

Comment William de Courtenay was dead by 5 October 1217 when Ada was described as his widow (*Cal. Docs. Scot.*, i, no 677). This charter plainly dates to a period before 1217. It refers to an agreement made between William and Ada, whose marriage cannot have been earlier than c.1200 and the monks of Kelso some six years earlier, and so it is almost certainly datable to c.1206. Sir Patrick's involvement might suggest a later date. So also might the witrnessing of the payment by three of the earl's men, one of whom, Robert de Anesey, was used by Sir Patrick in 1231 as a debt-collector after the settlement of the dispute over Swinewood (Charters of the Heirs, no 7). This charter affords an interesting glimpse of land at ferme – a fixed money rent for ten years of fifty merks is paid in two instalments during the ten-year term to William and Ada, for Hume. The payment is delivered by a third party, Jordan, son of Ursus.

10. *Patrick [I] son of Waldeve earl of Dunbar gives eternal greeting in the Lord to all who see or hear these letters. At the prompting of God and for the salvation of his soul and the souls of all his predecessors and successors he has confirmed to God and the church of St Mary of Kelso and the monks there the gift which his daughter Ada de Courtenay made to them and confirmed by her charter; namely, the land above the bank of the River Eden by the boundaries contained in her charter. The earl wills that the monks hold and possess the land with its pertinents in perpetuity as freely and peacefully as any other alms they hold and possess in the kingdom of Scotland. He has given corroboration in the presence of a large number of people.*

Hiis Testib*us*

[c.1220 x 31.12.1232]

Rubric Confirm*acio* . Pat*ric*'. fil*ii* Waldeui Comit*is* de Dunbare s*uper* d*icta* te*rra* in te*rr*itorio de Home .

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 50r

Printed *Kelso Liber*, no 130

Comment Though Patrick I does not style himself earl, this charter confirming to Kelso Abbey the gift of land in Hume by his daughter Ada must date from the period after William de Courtenay's death by 1217. Ada, daughter of Earl Patrick and his first wife Ada, married at least twice. In her charter, which this charter confirms, she styles herself Ada de Courtenay but refers to her 'husbands' suggesting a date after her marriage to Theobald de Lascelles by 1219-20 (*Cal. Docs. Scot.*, i, no 753) and possibly after Theobald's death before 13 October 1225 (*ibid.*, i, no 919). All or part of Hume had been given to her by her father as a marriage portion and she granted an area of land to the west to Kelso Abbey (*ibid.*, no 129). It is not clear whether this is the same land set at ferme to Kelso which is the subject of no 9 above.

11. **Earl Patrick [II] confirmed the churches of Fogo, Hume,and Greenlaw to Kelso Abbey.*

[31.12.1232 x 13.12.1248]

Reference in *Kelso Liber* no 77, charter of Patrick IV possibly on his accession in 1289. The section in Patrick IV's charter dealing with the churches given to Kelso by the Dunbars refers also to charters of Earl Waldeve (no 5), Patrick I (no 7), and of Patrick brother of Earl Waldeve (*Kelso Liber,* no 74) and his son William (*ibid,* no 82), the last two relating to Greenlaw church and its chapels of Lambden and Halliburton .

Charters to May Priory

The Cluniac priory of May on the inhospitable Isle of May was from the first heavily dependent on endowments and privileges granted by the king and others. The monks required supplies, access to the mainland, safe berthing and the use of houses and storage facilities on the mainland. They supplemented their income from the tithes of fishing and through livestock farming and thus needed pastureland for their cattle and sheep. Other sources of income such as arable farming and brewing called for fertile land and spring water and a steady supply of grain.

Among those who made possible the survival of the community on May were successive earls of Dunbar who granted to the priory property in Biel (nos 1-2) and access to the harbour of Biel for a supply ship along with, possibly, further property in Dunbar.[7] They granted also pasture in Lammermuir area (nos 3-5) giving the monks use of common pastureland and the easements of the moor which enabled them to participate in the wool trade and for part of which they paid a nominal rent only to the earls (no 6).

The earls' benefactions to May were modest but well-attuned to the needs of the community there. They supplemented the generous endowments of David I and his grandsons; in this there was more to be gained than mere prestige, for the Dunbar charters and acts, some now lost, reveal something of the commercial network in which monks and magnates operated and hint at aspects of their dealings which show that profit sat comfortably with the spiritual concerns they expressed.

The priory was first established as a cell of Reading Abbey. By 1313, or at the latest 1318, it had been acquired by the priory of St Andrews and transferred to the Augustinian Order. The sources are therefore derived from the records of Reading and St Andrews. No charter of the earls to May survives in the

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[7] Acts for which no charter is recorded, no 1

original, and three of the six acts in this section are lost acts. Only the title-descriptions of nos 2-3 survive in 'Rotulus Cartarum et Munimentorum Scocie', a roll in thirteenth-century handwriting found in the papers of the Marquis of Exeter at Reading listing sixty-three charters regarding May and Rhynd. The list is printed in J. Stuart, *Records of the Priory of the Isle of May* (1868). Nos 5-6, which Stuart also prints, are from the St Andrews Priory Register (NAS, GD45/7/8), *St Andrews Liber*, 379-80.

No 1 is printed in A.A.M.Duncan, 'Documents Relating to the Priory of the Isle of May c.1140-1313', *PSAS*, xc (1956-7), 74, no 53 from the cartulary of Reading Abbey (BL, MS. Egerton 3031).

The charters

1. *Gospatric earl of Dunbar greets all trustworthy men of his whole land now or to come. He has given in perpetual alms to St Etheman of May and the brothers there a complete toft beside the earl's harbour of Biel as free and quit from all custom, as anyone holds in all his land, for the souls of his mother and father and all his predecessors and for the salvation of the souls of himself, his wife and his sons. At Dunbar.*

His . T*estibus* . filio Comitis Waldef . 7 Comitissa Derd' . 7 multis aliis

[1140 x 1153-9]

Rubric Carta Gospatricii comitis de Dunbar . de donatione unius tofte in bele.

Source BL, MS. Egerton 3031 (Reading Abbey cartulary), f. 62v

Printed A.A. M. Duncan, 'Documents relating to the priory of the Isle of May, c.1140 –1313. ' *PSAS*, xc, (1956-7) 74-5, no 53

Notes Initial letter 'G' in red. In margin 'Scoc'.

Comment Though there was a priory on May by 1153, there is reference here only to the brothers of May, suggesting a possible end-date

of 1153 for the charter. This is the earliest allusion to St Ethernan who has been identified as St Adrian or Odran who supposedly settled in the ninth century with fellow missionaries on the Isle of May, and may, Professor Barrow suggests, be commemorated in the place-name Kilrenny. He is named, along with St Mary, also in a charter of Alexander Comyn earl of Buchan of 1249 x 1290 to May, but not in any royal charter (*May Recs.*, no 27). This is also the first charter, by many years, in which an earl of Dunbar gives himself that style. Professor Duncan suggests that 'de Dunbar' may have been inserted by the cartulary scribe. King William's confirmation (*ibid.*, no 12) referring to Malcolm's confirmation alludes to *unam mansuram cum tofto in Dunbar et applicationem unius navius ad necessaria domus sue transportanda sicut Comes Gospatricius eis dedit....et rex Macolmus .....eis carta sua confirmavit* but not to the grant of the toft beside Biel. Pope Adrian IV confirmed the gift in this charter in a general charter of confirmation to Reading Abbey before 1159. *(Papsturkunden- Holtzmann,* PU England , iii, no 126). It is listed in the 'Rotulus Cartarum' as 'Carta Gospatricii Comitis de una tofta juxta portum de Bele' (Stuart, *May Recs.*, cxiii)

2. * *Earl Patrick [I] granted to the priory of May five acres near the harbour of Biel.*

[1182 x 1232]

Reference in Rotulus Cartarum (Stuart, *May Recs.*, cxiii). The entry reads ' Carta Patricii Comitis de V. acris terre juxta portum de Bele '. This may refer to a confirmation of no 1 by Gospatric's grandson, Patrick I.

3. * *Earl Patrick [I or II] confirmed land near the Kell Burn and pasture in Lammermuir to the priory of May.*

[1182 x 13.12.1248, probably x c.1226]

Reference in 'Rotulus Cartarum' (Stuart, *May* Recs., cxii). The entry reads *Confirmacio Comitis Patricii de terra juxta Kaluerburne et pastura*. Possibly the grant confirmed here is that of John son of Michael, before 1226 (Stuart, *May Recs.*,16, no 24).

4* *Earl Patrick [II] granted to the priory of May land in the 'Windidur' area by stated boundaries.*

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[31.12. 1232 x 13.12.1248]

Reference to Earl Patrick's grant and charter in Patrick III's confirmation of this act, 1273 x 1279, *St Andrews Liber,* 379 (Stuart, *May Recs.*,14, no 21), no 5 below. It seems to have been a new grant, but it may be the same grant as in no 3 above.

5. *Patrick [III] earl of Dunbar gives greeting in the Lord to all the sons of Holy Mother Church who see or hear this document. He has confirmed by this charter in free, pure and perpetual alms to God and the saints of May and the monks there for the salvation of his soul and the souls of all his predecessors and successors all the land contained within the following boundaries: from 'Windidur' to Kingside and by the path going down to King's Burn, then up by King's Burn as far as the old road which goes by the Red Stone and by that road to 'Windidur'; to be held by them for ever of the earl and his heirs with common pasture and with all the common easements belonging to it as freely and peacefully as any alms in the kingdom of Scotland may be given or granted, as is contained more completely in the charter of Patrick, the earl's predecessor, giving the land. The earl gives corroboration.*

Hiis testibus . d*omi*no Will*elmo* Wishard ep*iscopo* S*ancti* Andr*ee* . d*omi*no Da.....tun ....S*ancto* Andrea..... Lundoris. 7 multis aliis

[15.10.1273 x 1279, probably 1274 x 28. 05.1279]

Rubric Carta comitis pat*ricii* .

Source NAS, GD 45/27/8 (St Andrews Priory cartulary), f. 161r
Title entered in 'Rotulus Cartarum' (Stuart, *May Recs.*, cxiii).
NLS, MS. Adv. 9A. i. 3, ff. 331r- 331v

Printed *St Andrews Liber*, 379; Stuart, *May Recs.*,14, no 21

Notes In the cartulary a space has been left for the initial capital 'O' which was never completed. The entry in the tabula reads *Carta patricii comitis de donatione mascheil prioratui de maya . et omnia que secuntur . in f. clxi. quinque ?sequen' pertinent ad prioratum de maya.*

Comment The charter is dated by Bishop William Wishart (elected 1271 and consecrated 15 October, 1273, died 28 May 1279). It refers to the earl's predecessor Patrick, though not as his father. The charter has been extensively damaged but the witness list is almost certainly same as no 6 below, so that the charter can probably be dated to 1274 x 1279. The lands are in the Penshiel area of Lammermuir where John son of Michael also granted them land (Stuart, *May Recs.*, nos 23 and 24). Despite the obscurity of many of the place names of the boundaries, the land granted by Earl Patrick can be identified as a different, perhaps an adjoining, area of Lammermuir, though both this land and the land granted by John were described as Mayshiel (as designated in the Tabula of the cartulary). The name survives on modern maps.

6. *Patrick [III] earl of Dunbar gives everlasting greeting in the Lord to all who see or hear this document. For himself and all his ancestors and successors,*

he has given, granted and quitclaimed for ever to God and the saints of May and the monks there a cow which his predecessors received and which he himself was in the habit of receiving annually for the land they hold of him in Lammermuir. He gives corroboration.

Hiis testib*us* . D*omi*no Will*elmo* Wishard ep*iscopo* s*anc*ti Andree . d*omi*no Dauid de Louchor . d*omi*no Joh*anne* Wishard . d*omi*no Alano de Ormistun . d*omi*no Rad*ulpho* de Laceles . militib*us* . D*omi*no Joh*anne* p*rio*re s*anc*ti Andree . d*omi*no Nicholao abbate de Lundors . 7 multis aliis .

[1274 x 28.05.1279]

Rubric Carta comitis pat*ri*cij de [...] uacca

Source NAS, GD 45/ 27/ 8 (St Andrews Priory cartulary), f. 161r
NLS, MS. Adv. 9A.1.3, ff. 331v-332r

Printed *St Andrews Liber*, 380
Stuart, *May Recs.*,15, no 22

Notes As in no 5 above, the cartulary copy has no capital initial 'O' in the opening word.

Comment The charter which probably has a near-identical witness-list to that of no 5 above can likewise be dated by William Wishart's death on 28 May 1279 and more firmly to 1274, the year of Nicholas' succession as abbot of Lindores (*HRHS*, 137). The land in Lammermuir was granted by the earls and their relatives and tenants to the monks of May in return for a payment in cash or in kind and used for grazing cattle and also for sheep, as part of their involvement in the wool trade.

Charters to Melrose Abbey

The charters of the earls to Melrose show them to have been early benefactors of the abbey, granting them mixed arable and pastureland where the coastal plain meets the Lammermuir Hills, and common pasture and easements of the moor (no 2).[8] These early gifts were confirmed and augmented over the years by successive earls (nos 3, 4, and 8) and land in Berwickshire and Lothian added (nos 5 and 9).

The grants were accompanied by increasingly detailed conditions and stipulations with regard to the number of livestock permitted to graze, the exploitation of the land and the building of huts and folds on the pastureland. Maximum numbers were laid down for flocks, ploughing was forbidden, and any building had to be of a temporary nature (nos 3, 8-9). In effect, benefaction was used as a means of controlling the use of the moor.

As lord, Patrick I confirmed the grant to Melrose of land in Penshiel by John, son of Michael, who held of his relative there, and who was a major benefactor of May Priory (no 13). His son Patrick II confirmed to the monks Hassington in Berwickshire which had been granted to them by William of Greenlaw who held of the Muscamps, under the earl, after the settlement of a weighty dispute in the *curia regis* (nos 16-17). Other disputes involving the use of the main highway north, Malcolm's Road (nos 7 and 14), and, most celebrated of all, the seizure of Sorrowlessfield during another dispute over pastureland (nos 11-12), are indicative of an occasionally abrasive relationship between the thirteenth-century earls and the abbey. The abbey was litigious, as the clashes of the 1180's with the de Morvilles and others suggest, but the behaviour of Earl Patrick in the Sorrowlessfield case shows him to have been an energetic adversary.

There were, after all, strongly competing interests especially, in the Gala-Leader area where Sorrowlessfield lies and the road still runs. Where it suited

them, the earl and the monks were just as likely to cooperate, as when Patrick II sold his stud at Lauder, perhaps to fund his expedition on crusade (no 15). Both the earl's charter and the charter of confirmation four years later by his son (no 18) allude to arrangements for the grazing and feeding of the horses which were obviously amicably agreed. Patrick I and Abbot Adam of Melrose personally perambulated the land the earl was granting to the abbey in free alms (no 10) and another Adam, also abbot of Melrose, was a relative of the earl and administered the Sacrament rites to him in his final illness.

The charters are full of details of topography – and of the use of the land, the animals, the working arrangements, the deployment of the common. They tell also of the power struggles and the intimacy and variety of relationships, and perhaps most striking of all, the complex layers of lordship and of service.

The charters

1 * *Earl Gospatric gifted a saltpan to Melrose*

[22.8.1138 x 1159]

Reference to this gift in King Malcolm's confirmation to Melrose (1153 x 1159) of Hartside (*RRS*, i , no 132), with Spott (*RRS*, i , no 133) where he also confirms Earl Gospatric's gift of a saltpan, and in King William's confirmation of 1165 x 1168 (*RRS*, ii, no 83). The record of the grant of the saltpan is not included in the earl's charter (no 2 below), but a charter is known to have existed.

2. *Earl Cospatric greets all his men and all his friends, and all the sons of Holy Church. With the agreement and consent of his heir, he has given to God and the church of St Mary of Melrose and the monks there in perpetual alms, for*

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[8] See also Acts for which no charter is recorded, no 1.

the salvation of his soul and the souls of his lords King David and Earl Henry and of his predecessors and successors, Hartside and Spott by the rightful boundaries between themselves and Stenton, which they had in the time of King David and his father: namely between Pressmennan Burn and Brock and from Brock to 'Ellsdean', in wood and plain, and likewise common pasture of the moor and easements. He wills, orders and grants that the monks shall hold this alms of himself and his heirs for ever, as free and quit from all service and secular demand as they hold their other alms. The earl gives warrandice for the boundaries on behalf of himself and his heirs.

Teste . Waldeuo filio meo . Adam capellano de Roch'b' Nigello sacerdote . Nicholao clerico . Walt*er*o de Striuelin Rob*er*to filio Haraldi . Herueio Marascal . Haldano dapifero . Gamello dapifero .

[1153 x 1159]

Endorsed Carta cospat*ri*cii com de hertesheued (s. xii)
Sigill'
Single initial letter in red
Modern numeral endorsement

Source NAS, GD/ 55/ 6 = *A*
BL, MS. Harley 3960 (Melrose Abbey cartulary), ff. 82v –83r =*B*

Seal The seal is detached and lost. It was formerly attached through a single slit in foot of document. There is no footfold. The remains of the tag has been folded to the reverse of document.

Printed *Melrose Liber*, no 6 (from *A*)
Facsimile, *ibid.*, facing p 8

Comment The charter was confirmed by Malcolm IV at Roxburgh between 1153 and 1159, when the king stated that the monks had held the land of Gospatric's father (*RRS*, i , no 133). In a near-duplicate royal charter Spott however is not included (*RRS*, i, no 132). Lawrie suspected ('Transcripts and Notes', NLS, MS. Adv. 37.3.9, 19) that no 133 which is written in the clearly monastic

hand of the earl's charter was a forgery, written to substantiate the claim to Spott (see no 2 above). The grant of both Hartside and Spott was confirmed subsequently by Gospatric's son Earl Waldeve and his grandson Patrick (nos 4 and 8 below) and their charters confirmed by King William (*RRS,* ii, nos 83, 386). The question of boundaries was assuming significance; the Pressmennan Burn, here stated to be a boundary between Stenton and the monks' land, was agreed in subsequent confirmations and in a chirograph of the early thirteenth century to be the division between Stenton and the land held by the monks (*Melrose Liber*, no 54). Brock, Lawrie suggested, may be Brock Burn which flows into the sea at Broxmouth near to Dunbar (Lawrie, 'Transcripts and Notes', 17).

3. *Earl Waldeve greets all his friends and faithful men, both French and English. He has gifted* and *confirmed by this charter to God and St Mary of Melrose and the monks there use of common pasture on Lammermuir with himself and his men, by stated boundaries: from Baldred's Stone by the old road as far as 'Heslingcleugh' and from there down to where 'Heslingcleugh' flows into Bothwell and from there to the boundaries of Innerwick. The gift has been made with the agreement of his heir, for the salvation of his soul and the souls of his predecessors and successors, and is in perpetual alms, free and quit of all secular services and customs, as any alms given or held. If the monks leave the pasture of Innerwick their sheepfolds shall go with their flocks as will the lodgings belonging to the sheepfolds within these boundaries, without any building and excepting the earl's lodgings of Belton. The earl gives warrandice on behalf of himself and his heirs.*

His testib*us* . Aelina Com*itissa* . Radulfo capell*a*no . Joh*ann*e cap*ellano* Walt*er*o . cap*ellano* . Hugone de Duns . Pat*ri*cio fr*atr*e com*itis* . Edwardo auunc*u*lo com*itis* . Gilb*er*t (sic) FraseR . Ada' filio Alden . Alden senescaldo . Gamello de Pethcox . Ada' de Foghou . Gilberto filio Walt*er*i . Steph*a*no Papedi . Warino Lemalla . Ada' filio Eggari . Adam de Edintun .

[1166 x 20.8.1179]

Endorsed Carta Waldeui comitis . de pastura de lambe*m*oR (s.xii)
Initial letter 'V' in red
Modern numeral endorsement

Source NAS, GD/ 55/ 76 = *A*
BL, MS. Harley 3960 (Melrose Abbey cartulary), ff. 84v-85r = *B*

Seal Detached and lost. It was formerly attached through double slit in footfold.

Printed *Melrose Liber,* no 76 (from *A*); facs facing p 67
Nat. MSS. Scotland, no XLIV, facing p 23

Comment Dating is by the accession of Waldeve in 1166 and the death of Aelina on 20 August 1179 (*Chron. Melrose*, 42, s.a. 1179). This charter well illustrates the competing uses of land in the Lammermuir area. Pasture is shared within clearly defined boundaries and no permanent construction is allowed. Melrose had considerable flocks of sheep (no 8 below) and needed pasture. Here the earl gives access to an area of Lammermuir between Spartleton Edge and the Bothwell Water and Innerwick, with stringent conditions. His son Patrick endowed Melrose with generous areas of pastureland but also sought to control the monks' use of the moor (nos 8-9).

4. *Earl Waldeve greets all the sons of Holy Mother Church. With the agreement and consent of his heir, he has confirmed by this charter to God and the church of St Mary of Melrose and the monks there, in perpetual alms, the gift which his father made to them of Hartside and Spott by the rightful boundaries between themselves and Stenton which they had in the time of King David and his grandfather, namely between Pressmennan Burn and Brock and from Brock to 'Ells Dean': woodland, plain, meadows and pastures, and the common pasture and easements of the moor, as they held in the time of his father. The grant is in perpetual alms, for the salvation of the*

souls of his lords, King William and his brother David, of the earl and his wife and his father and all his predecessors and successors. He wills, orders and grants that the monks shall possess and hold the alms of him and his heirs for ever free and quit of all service and custom and secular exaction as they possess and hold their other alms and as evidenced and confirmed by his father's charter. He gives warrandice for the boundaries on behalf of himself and his heirs.

Test*ibus* .

[1166 x 1182]

Heading Confirma*tio* Walleui comitis de hertisheued

Source BL, MS. Harley 3960 (Melrose Abbey cartulary), f. 83r

Printed *Melrose Liber,* no 55

Comment The charter confirms Earl Waldeve's father's grant, probably originally his grandfather's grant of Hartside and Spott. It borrows heavily from the text of no 2 above but is not identical. William I confirmed the lands to the monks in his charter of 1165 x 1168 (*RRS*, ii, no 83). The importance of the stated boundaries is emphasised by the fact that the earl gives warrandice again specifically for them.

5* *Earl Waldeve gave Melrose Abbey a toft with a saltpan in the harbour of Biel.*

[1166 x 1182]

Reference in *Melrose Liber*, no 365, confirmation charter of Patrick IV and by Patrick V in 1342 (*ibid,* no 431). This may have been the same saltpan granted in no 1.

6. *Earl Patrick [I] greets all the sons of Holy Mother Church now and to come. He has given to God and the church of St Mary of Melrose and the monks there for the souls of all his predecessors and successors in free and pure and perpetual alms, two and a half acres at Harcarse, the land, that is, which is encircled by the ditch, to be held of him and his heirs free and quit of all service related to the land, and all custom and secular demand, freely, peacefully, fully and honourably as they hold and possess any alms in the king's land.*

His T*estibus* . Rollando . de Roll*ando*. Senesc*allo* Bernardo . Fresel . Gilleb*erto* . de Hom . Nez . de Walt' . Ketello . de Letha*m* . Oliuero . fil*io* Kylu*erti* . Patricio de Fachene*r* . Gilleb*erto* . cl*er*ico meo . Petr*o* . de Witingeh*ame* .

Test*ibus* .

[c.1182 x 1214]

Endorsed	Carta Comitis Patricii .. .h ... ar.. (s. xii ex)
	Harkars
	Red initial 'R'
	Sigill'
	Modern numeral endorsement
Source	NAS, GD 55/120: with seal = *A*
	BL, MS. Harley 3960 (Melrose Abbey cartulary), f. 80r = *B*
Seal	First seal of Patrick I in red wax, damaged on top and right rim. Attached through double slit in footfold.
Printed	*Melrose Liber*, no 120 (from *A*)
Comment	The witness list contains people who held lands of the earl in East Lothian and in the Merse. Oliver son of Kilvert, for instance, held land in Hailes and was a benefactor of Newbattle Abbey in the 1180's. Harcarse lies in Berwickshire, about six miles to the north of Coldstream. Adam of Harcarse, abbot of Newbattle,

became abbot of Melrose in 1219 and it is tempting to link this grant to that occasion; the charter however bears the first seal of the earl which, with the witness list, suggests an earlier date.

7. ** Earl Patrick [?I] made an agreement with the monks of Melrose over rights to the road which goes to Lauder by the causeway and Malcolm's Road.*

[1182 x 31.12.1232]

Reference in charter of Earl Patrick's son, probably Patrick II, no 13 below. 4/(5)

8. *Earl Patrick [I] greets all sons of Holy Mother Church now and to come.For the souls of his lords David and Malcolm kings of Scots and Earl Henry and for the salvation of the soul of his lord, William king of Scotland, and David his brother, and for the salvation of himself, his wife, and all his predecessors and successors, he has confirmed by this charter to God and the church of St Mary of Melrose and the monks there in free and perpetual alms the gift made to the church by his grandfather and confirmed by his father, of Hartside and Spott by the rightful boundaries between them and Stenton, which they had in the time of his father and grandfather, namely between Pressmennan Burn and Brock and from Brock to 'Ells Dean': in woodland and plain, in meadows and pastures and everything else, and common pasture of the moor for three flocks of sheep, and the easements of the moor. He adds his own gift, which he confirms by his charter, of exclusive use of an extra five acres on the moor south of Mossy Burn Rig so that they can enclose them to make a sheepfold for the three flocks. To avoid any future disagreement between the monks and his heirs, it should be known that each flock should not number more than five hundred wedders, so that there are fifteen hundred sheep. The five acres within the ditches are to be used in whatever ways seem to them best and most useful for the profit of the church without ploughing. The earl confirms also by this charter to the monks any right he or his men or his heirs have or might have with regard to the common which goes with the meadow which they hold of the knights of Alan fitz Walter, the king's Steward, in the feu of*

Innerwick below Brown Rig for which they have a charter from Alan. All these things he has given and confirmed to them by his charter so that they may have and possess them of himself and his heirs in free, pure and perpetual alms, free and quit of all service, custom and demand connected with the land, just as they hold any of their alms freely and peacefully, fully and honourably. He gives warrandice on behalf of himself and his heirs.

Test*ibus* .

[1184 x 1195 or 1196]

Heading Confirma*tio* comitis Pat*ri*cii . de hertesheued 7 de Spot .

Source BL, MS. Harley 3960 (Melrose Abbey cartulary), ff. 83r-v

Printed *Melrose Liber,* no 56

Comment In this charter the earl confirms the gift of Hartside and Spott to Melrose by his father, grandfather and possibly his great-grandfather (nos 1-2, 4 above, Acts for which no charter is recorded, no 1). The text is an adaptation of nos 2 and 4. Dating is by the confirmation by William I in 1195 x 1196 (*RRS,* ii, no 386). There is more definition and detail about what is being granted, with a maximum number of sheep stipulated. The earl adds five acres for a sheepfold and gives the monks his common grazing rights in Innerwick to be held of him and his heirs. This, like nos 3 and 8, is an example of the earl using his benefaction to impose his terms for the use of the moor on the Melrose monks.

9. *Earl Patrick [I] greets all the sons of Holy Mother Church now and to come. He has given to God and the church of St Mary of Melrose and the monks there in free and perpetual alms for the souls of his lords David and Malcolm kings of Scots and Earl Henry and for the salvation of his lord King William and Alexander his son, of himself, his wife and his children and for the souls of his father and mother and all his predecessors and successors, the exclusive use*

of an extra fifty one acres in Lammermuir south of Mossy Burn Rig, as measured out in ditches by his trustworthy men and situated in a holding near the five acres which was conveyed previously to the monks and and which the earl has confirmed by his charter; so that they may enclose them according to their wishes to make a meadow and a fold, to be used by them in all the best and most useful ways without ploughing. He has given all this land and whatever it contains to the monks to have and possess of him and his heirs free and quit of all service connected with the land and any custom and secular demand as freely and peacefully, fully and honourably as they hold and possess any alms. The earl gives warrandice on behalf of himself and his heirs, for ever.

His Testibus . Pat*ri*cio fil*io* meo 7 h*e*rede . Will*elm*o Pat*ric* . Nesio de Walctun . Pat*ri*cio filio Ade . Rog*er*o de M*er*lei tu*n*c senescaldo . Ada*m* de Paulewrhe . Walt*er*o fil*io* Edgari . 7 Alano fr*atr*e suo . Rad*ulpho* de Aplindene . Rob*erto* de Anishei . Thom' Freser . Thom' de Staflei . Henr*ico* de M*er*lei . Rog*ero* pinc*e*ma . Michaele de Malkarwest' . Macc*us* marschaldo . 7 multis aliis .

[1198 x c.1220]

Endorsed Carta comitis pat*ri*cii de lti . 7 una ...cr... t*erre* (s. xiii)
De Morschel (s. xiv)
Red initial 'R'
Sigill'
Modern numeral endorsement

Source NAS, GD 55/77: with seal = *A*
BL, MS. Harley 3960 (Melrose Abbey cartulary), f. 85r = *B*

Seal Second seal of Patrick I in red wax, well-preserved.
Attached to double slit in footfold.

Printed *Melrose Liber*, no 77 (from *A*)

Comment The earl augments his grant of land for sheepfolds (no 8 above) with a large tract of pastureland nearby. Again his generosity links to very specific controls and limitations on what the monks

can do with their land on the moor.Dating is by Alexander's birth in 1198, and by witnesses associated with the early years of Patrick I. Yet the designation of Patrick as his son and heir suggests a certain maturity; this, with the fact that the seal is the second seal of the earl, perhaps indicates a date towards the end of the period suggested. The grant was confirmed by the earls Patrick IV and V (*Melrose Liber*, nos 365, 431).

10. *Patrick [I] earl of Dunbar greets all the sons of Holy Mother Church now and to come. He has given to God and the church of St Mary of Melrose and the monks there a ploughgate which he himself perambulated with Adam, abbot of Melrose, and the earl's trustworthy men within the following boundaries: from the place called 'Munekedie' up by the Luggate Burn towards Greenlaw and from there north by the stones which were positioned by the earl as the boundaries he had made, to Greenlaw and from there northwards by the same boundaries as far as 'Crumbe Stane' which has been moved from where it was previously and placed at the boundaries. North then by the stones positioned as boundaries to 'Tympane Leche' and from there north by the same boundaries to 'Tackwith' and down by 'Tackwith' to east of the cross and from there north across 'Whiterig' by the stones positioned to mark boundaries to 'Cakkewelle Leche'; down then to St Cuthbert's Well and from there going down by the river which flows from the well to 'Nesflat'. The earl has given all this land and whatever is within these boundaries to the monks' grange at Edmonstone, for the souls of David and Malcolm, kings of Scotland, of Earl Henry, of his father and mother and his late wife Countess Ada, and for the salvation of King William, the queen, and Alexander their son, of himself, Countess Christina his wife, Patrick his son and all his sons and daughters; in free, pure and perpetual alms, that the monks may have, hold and possess it for ever, as freely and peacefully, as fully and honourably, free of all secular demand, custom and service connected with the land, as any alms may be held or possessed. The earl gives warrandice for himself and his heirs and acquits them of all forinsec service owed to the lord king.*

Testib*us* Do*mi*no Radulfo Dunensi ep*iscopo* . Pat*ri*cio fil*io* meo . Laurentio de Abe*r*nith'i . Wille*lm*o Pat*ric* . Pat*ri*cio fil*io* Ade . Neso fil*io* Nes . Roge*r*o de Me*r*lei . Ric*ardo* Nano . Rolando . Walte*r*o fil*io* Edgar 7 Alano fr*atr*e ei*us* . Waldeuo p*ersona* de Witigha*m* . Nigello fr*atr*e ei*us* . Thoma Fraser 7 multis aliis .

[1207 x 5.8.1213]

Endorsed Carta comitis Pat*ri*cii d*e* carrucata t*erre* . iuxta emu*n*destu*n* . (s. xiii)

Carta comitis [?marchie] t*erre* De nesflat iuxta emu*n*dston' grangia*m* ex p*ar*te occidentali (s.xiv)

Red initial 'T' or 'Y'

Sigill'

Modern numeral endorsement

Source NAS, GD 55/48: with seal = *A*

BL, MS. Harley 3960 (Melrose Abbey cartulary), ff. 81r-v = *B*

Seal Second seal of Patrick I. Red wax, beautifully preserved. Attached through double slit in footfold.

Printed *Melrose Liber,* no 48 (from *A*)

Comment The charter is full of interest. The allusion to the perambulation of the land by the earl and Abbot Adam is striking, and a vivid picture is given of the careful demarcation of territory. The land given to the monks was just to the west of their grange at Edmonstone, in east Lothian, near Stenton, which had been granted by Walter fitz Alan prior to 1165 (M*elrose Liber,* no 4) and by Robert de Quincy's widow, Eva (*ibid.*, no 49). Dating is by Adam who became abbot of Melrose in 1207 and was elected bishop of Caithness on 5 August 1213 (*HRHS*, 150). The reference to Ada and Christina and the fact that the earl personally perambulated the land accord with the dating; the benefaction indeed may be connected to the earl's re-marriage. The seal is the second seal of the earl and there is some overlap

with the witness list of no 12 below, suggesting that the date 1208 is probable.

11. *The dispute between Patrick [I] earl of Dunbar and the house of Melrose over the pasture to the west of the Leader has been settled amicably in this way. With the consent and compliance of his son and heir Patrick, and in the presence of King William, illustrious king of the Scots and of Earl David the king's brother and other trustworthy men, the earl has given and granted, and by his charter confirmed to God and the church of St Mary of Melrose and the monks there, in free, pure and perpetual alms, all the arable land called Sorrowlessfield, as held by William Sorrowless,to the west of the Leader towards the monks' grange. He has also granted them pasture to be possessed by them for ever within and outwith the woodland for five hundred sheep and seven score of animals – either oxen or cows, whichever they want – anywhere between the road to Lauder by the causeways which is called Malcolm's road and the Leader, and from the boundaries of Kedslie to Faw Hope Burn. The earl and his heirs reserve the the right to the trees in the wood. It is also agreed between them that neither the monks nor the earl or his heirs shall have houses or sheepfolds or fences or huts or enclosures or any lodgings within the pastureland. Nor shall it be cultivated by any of them, with the exception of the arable land called Sorrowlessfield which belongs to the monks by the gift of the earl. The earl's livestock shall not cross the road nor shall the earl or his heirs or their men claim for themselves any right further than the road. Each night the earl's livestock shall return to the the toun of Earlston unless prevented by storm or flood. And the monks' livestock entering and leaving the nearest sheepfold and cattle folds shall have free access to and from their pasture.The earl has also granted the monks one hundred and twenty cartloads of peats each year from the nearby peatery of 'Scabbedraburch'. The bishop of Moray who was the previous judge-delegate appointed by the pope and Henry abbot of Kelso have appended their seals to this chirograph as testimony of peace and harmony. Dated 6 July, 1208, at Selkirk*

His test*ibus* . D*omi*no n*ostr*o Will*elmo* ReGe . Alex*andro* fil*io* . Reg*is* . Rad*ulpho* Dunen*s*i ep*iscop*o . Bric' . ep*iscop*o . Morauie' . com*ite* D*avi*d . fr*atr*e ReG*is* . Eust' de Vesci . Will*elmo* 7 Oliu*er*o ; Capell*an*is ReG*is* . Rob*erto* de London' fil*io* ReG*is* . Will*elmo*. de Bosco . Hug*one* de p*r*ebenda . Ada*m* de KingoR'. Gileb' de Str*i*uel'; clericis d*omi*ni ReG*is* . Geruas' Auenel . D*avi*d de Lindes' . HuG*one* de Normanv' . Will*elmo* de Ualon*i*s . Phil*ippo* de Mubray . InG' de Ball' . D*avi*d . mar*s*callo . RoG*ero* de Mortuo mari . Pat*ricio* fil*io* com*itis* . Pat*ricio* de With'm . Nesio de Walcth' . Rol*ando* de Grenel'. RoG*ero* de Merl' . Phil*ippo* de Coleu' . Will*elmo* de Coleu' . Thoma Fraser . 7 multis aliis

[6.7.1208]

Endorsed Conu*en*tio .e. d . f.Ide (s. xiii)
Carta de sor...lessf... (s.xiii-xiv)
carta sourlessf
Conuencio de Soro*uu*feld et past*ur*a co*m*itatis ...(s.xiii-xiv)
Red initial letter 'R'
Sigill'

Source Original, NAS, GD 55/102 = *A*
BL, MS Harley 3960 (Melrose Abbey cartulary), ff. 38v-39r = *B*

Printed *Melrose Liber,* no 102 (from *A*)
APS, i, 390-1

Seal Three seals are attached, the middle one the second seal of Patrick I, between the seal of Brice, bishop of Moray and that of Henry, abbot of Kelso.

Comment This is one of five charters recording the high-profile dispute between Patrick I and Melrose Abbey over pastureland in the area between the Gala and Leader. The chirograph was confirmed by King William (*RRS,* ii, no 483, dated 6 November). The dispute, one of many in the Gala-Leader area, involved the seizure or retention of arable land once held by William Sorrowless, a tenant of the Lindsays, and may have been occasioned by William Lindsay's death in 1205. The settlement,

which included the grant or restoration of Sorrowlessfield to Melrose, illumines the causes of the quarrel, which included the use of pasture, access to it, the exploitation of the land, and the right to fuel.

12. *Earl Patrick [I] of Dunbar greets all sons of Holy Mother Church now and to come. For the salvation of his lord King William and his son Alexander and all his predecessors and successors, for the salvation of his own soul and the souls of his wife and his heir, and with the agreement and consent of Patrick his son and heir, he has given and confirmed by this charter to God and St Mary of Melrose and the monks there in free, pure and perpetual alms all of the arable land called Sorrowlessfield beyond the Leader to the west in the direction of the monks' grange as William Sorrowless most fully held it; to be possessed and held for ever as freely and peacefully, fully and honourably, without any service, custom or secular demand, as they possess and hold their other alms.The earl grants warrandice on behalf of himself and his heirs and exemption from all service relating to the land or forinsec or secular service.*

Hiis Test*ibus* . Rad*ulpho* Dune*n*si ep*iscop*o . Bricio ep*iscop*o Morauie . Henrico abb*at*e de Kelch' . Ernaldo p*ri*ore de Coldi*n*gh*am* . Alex*andro* . fil*io* Regis . Com*ite* D*avi*d fr*atr*e reg*is* . Will*elm*o . 7 Oliuero Capellanis . d*omi*ni Reg*is* . Eust' de Vesci . Rob*erto* de Lund' fil*io* Reg*is* Will*elm*o de Boscho . Hug*one* de p*re*benda . Adam de Kingor' . Gileb*erto* de Striuelin Clericis d*omi*ni reg*is* . Geru*ase* Avenel . D*avi*d de Lindes' . Dunec*ano* fil*io* com*itis* Dunc*ani* . Joh*ann*e de Hunted' . Philipp*o* de Mubrai . Ingelr' de Balloel . Hug*one* de Norm*an*uill' . D*avi*d marescal' . Rog*ero* de Mort mer . Pat*ri*cio filio meo . Pat*ri*cio de Withu*n*s . Nesio de Walhtun . Rog*ero* . de Merl' . Philipp*o* de Coleuill' . Rolando de Grenelaw' . Alex*andro* de Sintun . Thom' Freser .

[c.6. 7.1208]

Endorsed Carta Comitis Pat*ri*cii de Sorowlesfelde (s.xiii)

Initial 'R' in red

Sigill'

Modern numeral endorsement

Source NAS, GD/ 55/104 = *A*

BL, MS. Harley 3960 (Melrose Abbey cartulary), f. 37v = *B*

Seal Detached and lost. It was formerly attached through a double slit in the footfold. The tags remain in the slit.

Printed *Melrose Liber,* no 104 (from *A*)

Comment This charter of Earl Patrick, which effects what he has agreed in no 11 above, is referred to in the attestation of Brice, bishop of Moray (*Melrose Liber*, no 101). The list of thirty-one witnesses differs only slightly from that of the 28 witnesses to the agreement made in the *curia regis* at Selkirk on 6 July 1208 (*Melrose Liber,* no 102), and the assumption can be made that it was given by the earl near to this date. King William confirmed the earl's charter in an undated charter, no 105, which can be assigned to the period 1208 x 1214 and possibly also to 6 July (*RRS*, ii, no 482).

13. *Patrick [I] earl of Dunbar greets to everyone who sees or hears these letters, now and to come. He has confirmed to God and to the church of St Mary of Melrose and the monks there all the gifts, agreements and grants made to them concerning the land of Penshiel by John of Methil with all their pertinents and liberties and with the easements rightfully belonging within and outwith Penshiel; to be had and held by them for ever of John of Methil and his heirs according to the tenor of the charters which the monks have from him regarding the above land. The earl reserves the service due to him from John son of Waldeve.*

Hiis Test*ibus* . Pat*ricio* fil*io* no*st*ro . Wille*l*mo fil*io* no*st*ro . Walt*ero* . Olifard . Justic*iaro* Laodon' . Be*r*nardo Fras*er* . Adam de Paulewurth . Rog*ero* de Merlay . Wille*lm*o de Bolteby Alano fil*io* Alan*i* fil*ii* Edgari 7 Pat*ricio* fr*atr*e eius Tunc tempo*r*is cl*er*ico Comitis .

[13.12.1229 x 31.12.1232] .

Endorsed confirmat*io* comitis pat*ri*cii . de Pannescel' (s.xiii)
Conf*ir*matio Comitis Pat*ri*cii De te*rr*a pannesceles (s. xiii)
Black initial 'E'
Sigill'
Modern numeral endorsement

Source NAS, GD/55/212 = *A*
BL , MS. Harley 3960 (Melrose Abbey cartulary), ff. 78v – 79r = *B*

Seal Seal detached and lost. Formerly attached through double slit in footfold.

Printed *Melrose Liber,* no 212 (from *A*)

Comment John's grants are contained in a charter printed as *Melrose Liber,* no 210 and in no 211, a fuller version. Penshiel lies on rising ground on the south bank of the Whiteadder Water. John appears in the Penshiel charters variously as John son of Michael, John of Methil (in Fife) and John son of Michael of Methil. He held his land in Lammermuir of John of Waldeve, a distant cousin of Earl Patrick, who held of the earl and owed service to him for Penshiel. He was also a benefactor of the priory of May and the hospital at Soutra. Dating is by Walter Olifard, Justiciar of Lothian c.1220 –1242 and by John's second charter (no 211) which it confirms and which is datable to 13.12.1229 x 1231. This was another benefaction to Melrose confirmed by Patrick IV and Patrick V (*Melrose Liber*, nos 365, 431).

14. *Earl Patrick [II or III] of Dunbar gives eternal greeting in the Lord to all the sons and the faithful of Holy Mother Church, now and to come. In the dispute between Earl Patrick of Dunbar and the monks of Melrose over the contents of the agreement made between the earl's father and the monks concerning the*

road to Lauder by the causeways and Malcolm's Road, eventually, in the interests of peace and wishing to avoid future controversy, he has for the salvation of his soul and the souls of his predecessors and successors quitclaimed to the monks of Melrose, for himself and his heirs, any right they have or might have concerning Malcolm's Road, or any other right to the public road to the west beyond the causeways. He also wishes the public road to be held by the rightful boundaries between the monks and himself. He corroborates everything else contained in the agreement as permanent.

Omnibus sancte m*at*ris eccl*es*ie filiis . et fidelibus p*rese*ntibus et fut*uri*s . l*ite*ras istas visuris uel audit*uri*s . Comes Patrici*us* de Dunbar . filius comitis Patricii eternam in d*omi*no sal*ut*em . Noue*ri*t vniuersitas u*est*ra q*uo*d cum controu*er*sia esset inter me et monachos de Melros sup*er* quad*am* compos*iti*one . inter d*omin*u*m* Patricium comitem p*at*rem meum et eosd*em* monachos sup*er* eo q*uo*d in eadem compos*iti*one continebant*ur*. Via qu*e* itur uersus Lauuedir per calceias 7 Malcolmisrode . Tandem pro bono pacis volens in posterum omnem co*n*trouersie auferre occasionem pro sal*ut*e anime mee et a*nim*a*rum* antecesso*rum* . et successo*rum* meorum . quietum clamaui pro me et heredibus meis quicunq*ue* iuris h*ab*ebam uel h*abe*re pote*r*am r*ati*one illius Malcolmisrod . uel q*uo*cumq*ue* alio iure uersus occidentem ultra d*ic*tas calceias . q*uo*d est publicum stratum . Volo enim ut illud publicum stratum de cete*r*o h*ab*eatur pro rectis diuisis inter me et ip*s*os . Omnibus aliis in d*ic*ta compos*iti*one contentis in suo robore imp*er*petuum p*er*manentib*us* .

test*ibus* . 7'.

[31.12.1232 x 1248 (x 13.12) or 1248 (x13.12) x 24.8.1289]

Heading P. com' de dunbar de malcolmisrode (*A*)

Quieta clama*tio* . P . com*itis* . de dunbar de malcolmisrod . (*B*)

Source NLS, MS. Adv. 34.4.11 f. 43r (pencil foliation) = *A*

BL, MS. Harley 3960 (Melrose Abbey cartulary), ff 39r-v = *B*

Printed from *B*, with corrections from *A*

Notes *A*, the copy of the text in the thirteenth century Reg. Vet. (NLS, MS. Adv. 34.4.11) is much damaged. A better preserved copy is in the fifteenth-century Reg. Rec. (BL, MS. Harley 3960). The charter was not printed in *Melrose Liber* possibly because the Reg. Vet. was so incomplete that the decision was taken, and then overlooked, to use the version in the Reg. Rec. The confirmation of the charter by King Alexander II (1232 x 1249) is in both registers and is printed in *Melrose Liber,* no 259.

Comment Malcolm's Road which figures also in the earl's charters to Dryburgh (Charters to Dryburgh, nos 2,5) was the name given to part of Dere Street, the main highway north through Lauder to Edinburgh via Soutra. It was partly causeway, on account of the terrain (See R.P. Hardie, *The Roads of Medieval Lauderdale,* Edinburgh and London, 1942*)*. It was of strategic and commercial importance and so had occasioned friction between the earl and the monks.

15. *Patrick [II] earl of Dunbar gives greeting in the Lord to all the Christian faithful who see or hear this document.By the will and consent of his son and heir Sir Patrick he has sold to the abbot and convent of Melrose the whole of the stud he had in the feu of Lauder in the year of grace 1247 in the feast of the death of John the Baptist [29 August] for one hundred and twenty merks,a hundred to himself and twenty to his son and heir Sir Patrick. With Sir Patrick's consent he has granted and quitclaimed to the abbey and convent that neither he and nor his heirs nor anyone of his name shall in the future ever have or demand any claim in law or common right to the stud, or to feeding or pasturage for any other animal in the lands and pastures which they then hold and possess, by virtue of any right or custom the earl has enjoyed until now. For his stud and his grant and quitclaim the abbot and convent of Melrose have given him a hundred merks sterling*[9]*, and twenty merks to his son Patrick*

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[9] In Reg. Vet. the text breaks off here, after the words *quietaclamancia dederunt michi centum….* Folio 62r-v has been bound out of sequence and is followed by folio 58r-v. Folio 63r-v is lost.

for his confirmation, payment for these now having been made in full to them both. Earl Patrick and his heir give warrandice for the sale, grant and quitclaim and for everything surrendered to the monks, and the earl has given corroboration on behalf of himself and his heirs.

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Testib*us* . d*omi*no Patricio . fil*io* . meo ; 7 h*e*rede . D*omi*no Will*elmo* fr*atr*e meo . D*omi*no .Rob*erto* . senescall*o* . fr*atr*e meo . D*omi*no Malcolmo . fil*io* Walleui . D*omi*no Petro ..... meis . D*omi*no Will*elmo* de Normanwill' . Rector eccl*esie* de Machust'. Ricardo de Mernes ; 7 [*multis*] aliis .

[1247 (x 29.8.)]

Endorsed Carta . C (or P) [10]. Com*itis* . de Dumbar sup*er* uendit*ione* past*uri*s feodi de
LauuedeR (s. xiii ex)
Sigill'
Modern numeral endorsement

Source NAS, GD 55 / 230 = *A*
NLS, MS. Adv. 34.4.11 (Melrose Abbey cartulary Reg. Vet.), f. lxii v (partial text) = *B*
BL , MS. Harley 3960 (Melrose Abbey cartulary), ff. 39v-40r = *C*

Seal Detached and lost. Formerly attached through double slit in footfold. The reverse of charter has been reinforced with parchment behind seal slit.

Printed *Melrose Liber*, no 230 (from *A*)

Comment The sale of the stud was confirmed by the king (*Melrose Liber*, no 231) and by Earl Patrick's son as Patrick III (no 18 below). The quitclaim of any right to land and pasture is an integral part of the sale and gives an insight into how the stud was organised, with dedicated grazing. It may be that Earl Patrick was raising money through the sale to finance his expedition to the Holy

Land in 1248 but there is no direct evidence linking the two events. The payment to the heir, presumably for his consent, is striking, as is the fact that the transaction, though a sale, was confirmed by the king and by the earl's son when he succeeded his father.

16. *Patrick [II] earl of Dunbar gives eternal greeting in the Lord to all who see or hear this document. He announces that an agreement has been made between himself and the abbot and convent of Melrose in the presence of A[lexander], illustrious king of Scotland, and his barons, to allow the abbot and convent to have peaceful and permanent possession of the land which Master William of Greenlaw, who held land in the feu of Hassington given him by Earl Patrick's tenant, Robert of Muscamp, solemnly gave to them in the earl's court at Edrom. Master William dissaised himself of the land there and then, and solemnly gave sasine of it to the abbot and convent and full warrandice on behalf of himself and his heirs. The earl has promised, granted and by this charter has bound himself and his heirs to deliver free of obligation, guarantee and protect the right to the tenement of the abbot and convent against all men, for ever.The land is to be held by the abbot and convent by the same boundaries by which Master William held it, with all pertinents, liberties and easements belonging to it, and with the common pasture of the toun of Hassington, and with free access to it and to the easements, as wholly and honourably, as free and quit of all secular service and demands as any alms is held or possessed in the kingdom of Scotland. If anyone starts an action against the abbot and convent of Melrose over what has been surrendered and the earl or his heirs do not defend them so that they lose the land or are driven out of it by the judgement, the earl and his heirs shall give to the claimant an area of land in their demesne lands or elsewhere, equal to the value of the land in question. The earl will do everything to ensure that the abbot and convent retain possesion of the land which Master William of Greenlaw gave over to them free and quit, peacefully and without interruption. Furthermore, he has taken an oath on behalf of himself and the heirs of his*

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[10] . P. is written above the . C .

body and has fully bound himself and them to put these things into effect; submitting himself and them to the authority of the bishop of Glasgow so that in addition to the power and authority of the king by which which they ought to be and wish to be constrained, the bishop may compel the earl and his heirs through ecclesiastical censure to observe everything above, if all right of redress is removed and all means of appeal exhausted. The earl gives corroboration.

Testib*us* . Mag*ist*ro Gamell' D*omi*nis Rob*er*to de Ros . D*avi*d . de Graha*m* . Rob*er*to de Mane*r*iis . Will*elm*o filio Comit*is* . Th*oma*. de Normanvilla . Joh*ann*e Cumin . Henr*ico* de Graha*m* . Nicholao Corbeth . Walte*r*o filio Walte*r*i senescalli . Rob*er*to filio Comitis . Thom*a* de Boscho . Bernardo de Ripelae . et multis aliis .

[14.4.1248]

Endorsed Warantia Comitis P . sup*er* ter*r*a de Halsinto*n*' (s. xiii)
Du....ata carta su...de pittelsuthe (s. xiv)
Red initial ? 'A'
Sigill'
Modern numeral endorsement

Source NAS, GD 55/ 236: with seal and counterseal

Seal Seal of Patrick II in green wax, with a counterseal of a lion rampant on a triangular shield, attached through a double slit in the footfold.

Printed *Melrose Liber*, no 236
APS, i, 408-409

Comment Hassington is about seven miles west of Coldstream and three and a half miles south-east of Greenlaw. William, son of Roland of Greenlaw, held land in Pittlesheugh in Hassington of Robert de Muscamp who held of the earls of Dunbar, and William witnessed charters of the earls and the Dunbar family (Charters to Coldingham, no 3; of the Heirs, no 7; *ND*, nos 133, 134; *Yester*

Writs, 8, no 14). Between 1243 and his death in 1247 he surrendered his three ploughgates, willingly or not, in the earl's court at Edrom and granted them in free alms to Melrose Abbey. Then at Berwick, on 14 April 1248, Earl Patrick in the presence of the king gave full and detailed warrandice for the gift. Perhaps William of Greenlaw's death had triggered a crisis, Earl Patrick attempting to reverse the grant or refusing to confirm it and being compelled to do so in the *curia regis.* The earl's charter of confirmation is *Melrose. Liber*, no 235 (no 17 below). King Alexander's confirmation of 20 April is *Melrose Liber*, no 237.

17. *Patrick [II] earl of Dunbar gives greeting in the Lord. He has confirmed the gift [made] by Master [William of Greenlaw] in his court at Edrom to the abbot and convent of Melrose as to their assignees, of land in the territory of Hassington of which Master [William] dissaised himself and solemnly gave them sasine. This land, which was given to Master William and his assignees in perpetuity by the earl's tenant Robert de Muscamp, is be held by the abbot and convent in [free] pure and perpetual alms by those boundaries by which Master William held it and with all pertinents, liberties and easements belonging to it [and with] the common pasture of the toun and [free] access in and out of the pasture and the easements as wholly, freely, peacefully and fully, and as free from all secular service and demand, as any alms in the kingdom of Scotland is held and possessed. And so that the abbot and convent are not troubled by anyone over this land, the earl and his heirs, for the salvation of their [souls] give warrandice for the land by its rightful boundaries and all that has been granted. By letters patent they give the abbot and convent an undertaking to do this without difficulty. Dated 18 April 1248, at Berwick.*

Test*ibus* . Robe*r*to de Ros' . Dauid de Graham . Rob*er*to de Meiners . Wille*l*mo filio Co[mi]tis . Th[o]m*a* . d[e]..... [H]enrico de Grah[am] . Nicholao Corbeth . Walte*r*o filio Walte*r*i Senescalli . Rob*er*to filio Comitis . Thom' . de Boscho . et Be*r*nardo de Ryppelei . 7....

[18. 4.1248]

Endorsed Conf*ir*mac*i*o P . Comitis de du*n*bar sup*er* quadam te*rr*a in te*rr*itorio de Halsinto*n*' (s. xiii)
con...
Red initial H
Sigill' on reverse of tag
Modern numeral endorsement

Source NAS, GD 55/ 235: with seal and counterseal

Seal Well-preserved seal of Patrick II in green wax; lion rampant within a triangular shield on counterseal. Attached by tag through a double slit in the footfold.

Printed *Melrose Liber*, no 235, with text in brackets supplied from no 16 above.
APS, i, 409

Notes The charter which is included in neither of the two cartularies of the abbey has been very damaged, probably by water, and the text including the witness list is incomplete.
This confirmation of William of Greenlaw's grant of three ploughgates in Hassington to Melrose Abbey by Earl Patrick was given by the earl at the *curia regis* four days after the guarantees given by him in no 16 above.

18. *Patrick [III] earl of Dunbar gives greeting in the Lord to all the Christian faithful who see or hear this document. He has confirmed by this charter to Melrose Abbey the sale which his father Patrick [II] made in 1247 on the day of the beheading of John the Baptist [29 August] to the abbot and convent of his entire stud in the feu of Lauder. Earl Patrick confirms also the grant and quitclaim made to the abbot and convent by his father of his common land which he had for his stud or for other livestock feeding or pasturing within the lands and pasturelands which the abbot and convent held and possessed from that day within the feu of Lauder. Neither the earl nor his heirs or anyone of his*

name therefore shall in future have or demand any common right or claim which they have enjoyed up till now, by any right or custom, in these lands and pastures. Rather he gives warrandice – he and his heirs shall guarantee and protect for ever the sale of the stud and the grant and quitclaim of the pasture, and everything relinquished in the charter of Lord Patrick, the earl. He also gives corroboration on behalf of himself and his heirs. Dated 9 December, 1251

Testib*us* . D*omi*no Adam de Gordu*n*a milite . D*omi*no Euerardo de Monte Acuto . D*omi*no Joha*nn*e capellano meo 7 multis aliis.

[9 . 12. 1251]

Endorsed Con*firma*ci*o* . p . comit*is* . de du*n*bar sup*er* vendit*ion*e equicii pat*ris* sui . (s. xiii- xiv)
(in different hand). de Lawd*er* (s. xiv)
Dumber (on reverse of seal tag)

Source NAS, GD/55/ 328: with seal and counterseal = *A*
BL, MS. Harley 3960 (Melrose Abbey cartulary), f. 40r = *B*
Red initial 'R'
Sigill'
Modern numeral endorsement

Seal First seal of Patrick III in red wax, in good condition, attached through single slit in footfold. On counterseal, lion rampant *contourne* in triangular shield surmounted by cross with trefoil on either side. Inscription SIGILL AMORIS

Printed *Melrose Liber*, no 328 (from A)

Comment Although the transaction between his father Patrick II and himself and the monks of Melrose in 1247 (no 15 above) was termed a sale, Earl Patrick issued this further confirmation in 1251, three years after he succeeded his father as earl. There is no evidence of a further confirmation by Alexander III.

19.* *Earl Patrick [I] and Countess Ada granted lands in Redpath to Melrose Abbey.*

[24.8.1198 x 1200]

Reference in Alexander Nisbet, *A System of Heraldry* (1722), 273. 'I have seen five charters of this earl, in the custody of Mr David Simpson, historiographer, who had them out of the earl of Morton's charter- chest; all granted by him to the abbacy of Melrose, with the consent of his wife Ada, of the lands of Redpath, for prayers to be said for the souls of his predecessors, and for the health of King William, his queen, and their son Alexander. The act is included here though the evidence for it is slight. Dating is by the birth of Alexander and the death of Ada.

Charters to Newbattle Abbey

The charters of the earls to the Cistercian abbey of Newbattle relate to Hailes and Fortune, an area of mixed arable and pasture which was Dunbar land and which was apparently held of them in the twelfth and thirteenth century by different branches of the Fraser family. From the charters can be gleaned references to mixed farming, to pastureland and the common pasture of the touns (nos 1 and 2), to rivers and mills (no 3) and boundaries marked by stones (no 2). The earls appear to have confirmed to Newbattle only the land granted by those who held of them, notably the Fraser family, but there is an ambiguity in, for instance, no 2; the term 'dedisse' is not used, yet it is possible that this charter may record an original grant by the earl of extra land to augment Oliver's grant.

The charters are instructive on a range of subjects. There is evidence of several layers of lordship, sometimes within the Fraser family, connected with the land granted. The participation of Oliver's wife Beatrice, in his grant (no1), and the grant of Oliver's sister, the widowed Mary of Hailes, of land in North Hailes (no 3) reveal something of the position and role of women in land transactions. Further insights into different kinds of grants and of tenure – in free alms, *in libere viduitate* – are offered (nos 1-5, no 3) and into the service said to be owed to the earl and reserved by him, and particular types of service such as suit of court (no 2).

Genealogical tables of the Fraser family and related branches are in Appendix 5 (ii) below.

The charters

1. Earl Patrick [I] greets all the sons and faithful of Holy Mother Church now and to come. For his own soul and the souls of his predecessors, he has confirmed by this charter to God and the church of St Mary of Newbattle and the monks there in pure and perpetual alms the ploughgate of the land of

Hailes given to them by Oliver son of Kilvert and confirmed in Oliver's charter. The earl also confirms Oliver's gift of pasture for three hundred sheep in total, of the common of the toun of Hailes, and free entry and exit for the use of the pasture, as in Oliver's charter. The earl confirms the alms to the monks as free and quit of all exaction and secular custom as any other alms may be given or held and as Oliver's charter confirms and testifies, with the agreement and consent of Beatrice his wife.

Test*ibus* . Ada Co*m*itissa filia Willl*elm*i Regis Scot' . Nesio filio Nesii . Wille*lm*o de Bouttebi . Robe*r*to filio Suani . Rolando filio Wille*lm*i . Warino le Malle et aliis Multis.

[1184 x 1200]

Title Confir*m*atio Comitis Pat*ri*cii

Source NLS, MS. Adv. 34.4.13 (Newbattle Abbey cartulary), f. 25r

Printed *Newbattle Registrum*, no 75

Notes None of the earls' charters to Newbattle has a heading or rubric. The titles are taken from the Tabula (ff.1r-5v) of Adv. 34.4.13. All references are to pencil foliation.

Comment Oliver's charter is *Newbattle Reg.*, no 73, and it dates to 1179 x 2.3.1189. The allusion to his wife Beatrice suggests that she had a particular interest in Hailes and that Oliver may have held it of the earl through his wife. Yet in nos 2 and 3 below it is clear that he held South Hailes while his sister Mary held North Hailes, almost certainly after the death of their father Kilvert. (For a discussion of this Scandinavian name see G. Fellows-Jensen, *Scandinavian Settlement Names in the North-West* (Copenhagen, 1985), cited in A.A.M. Duncan, 'Yes, The Earliest Scottish Charters', *SHR*, lxxviii, no 205, April 1999, 23). Both Mary and Oliver were Frasers or closely related to the Frasers (nos 2 and 3). This charter is dated by the witnessing of

Countess Ada, natural daughter of William I, who married Earl Patrick in 1184 and died in 1200.

2. *Patrick [I] earl of Dunbar gives greeting to all who see or hear these letters now and to come. He has confirmed to God and to the church of St Mary of Newbattle and the monks there by this charter the entire half ploughgate called South Rig in the holding of South Hailes which is divided into four as evidenced by the stones put in position as boundaries. He confirms also, as an addition to the half ploughgate, the entire half of the land between the point of exit which the monks have for the three hundred sheep gifted to them by Oliver, uncle of Sir Adam Fraser, son of Udard Fraser, up to the pasture towards 'Dunpelder' and South Rig. He further confirms to the monks pasture for a hundred sheep in the tenement of South Hailes in addition to the pasture for three hundred sheep which the monks have in the common pasture of South Hailes by Oliver's gift. They are to have all four hundred sheep in the common pasture of South Hailes, in the land from which the grass has been cut as well as in the other pasture of the toun. The monks and their successors are to hold of Oliver and his heirs in pure and perpetual alms free and quit of all secular service, custom and suit of court and all other demands, as set out and confirmed in Adam Fraser's charter. The earl reserves the service due him by Adam Fraser and his heirs.*

Hiis testibus . D*omi*no Pat*ricio* et d*omi*no Wille*lmo* filiis meis . Bernardo.Fraser . Thoma de Gordon et al

[c.1200 x 1209 or 1213 x 31.12.1232, probably c.1220]

Title Co*nfi*macio Comitis

Source NLS, MS. Adv. 34.4.13 (Newbattle Abbey cartulary), f. 26r

Printed *Newbattle Registrum,* no 79

Notes The witness list which is nearly identical to the witness lists of *Newbattle Reg.*, nos 93 and 115 (nos 3 and 4 below) suggests the dates of all are close. William, son of the earl, was a hostage

in England between 1209 and 1213 and so the charter must pre-date or post-date this period. It is difficult to judge whether the earl is confirming a number of grants, or augmenting Oliver's grant, confirmed in no 1 above. The careful regulation of the use of land in South Hailes is illustrated in some detail. Adam's charter is *Newbattle Reg.*, no 77. The earl's reservation of Adam Fraser's service suggests that he held the land of the earl and that Oliver held of Adam. One type of service normally due, suit of court, is specified, and the monks are exempted from this as from all other services.

3. *Patrick [I] earl of Dunbar greets all sons of Holy Mother Church, now and to come, who see or hear this document. For the salvation of his soul and the souls of his predecessors and successors he has confirmed to God and the church of St Mary of Newbattle and the monks there by this charter all the land which Mary of Hailes daughter of Kilvert and sister of Oliver gave to them 'in libera viduitate', in pure and perpetual alms, in the territory of North Hailes; in Mill Haugh, beside the river Tyne, with all the pertinents of the land and the easements in water and on land which belong to the land by the named boundaries and with all the liberties and immunities contained in Mary's charter. The earl wills that the monks and their successors may have and hold the land in alms for ever as set out in Mary of Hailes' charter, with his confirmation and protection. He reserves his service and has given corroboration by his charter and seal..*

Test*ibus* d*omi*no Pat*ricio* filio . Wille*lmo* filio meo . Bernardo Fraser et aliis

[c.1200 x 1209 or 1213 x 31.12.1232, probably c.1220]

Title	Confirmac*io* Co*m*itis Pat*ri*cii
Source	NLS, MS. Adv. 34.4.13 (Newbattle Abbey cartulary), f. 28v
Printed	*Newbattle Registrum*, no 93

Comment From the witness list, this charter appears to be contemporaneous with *Newbattle Reg.*, nos 79 and 115 (nos 2 and 4 in this section). Mary's charter, which it confirms, is *Newbattle Reg.*, no 92, but no 91 is a very similarly worded charter, perhaps emanating from the earl's court, with different witnesses and with a specific allusion to Earl Patrick her lord. Her grant consisted of nine acres of land in Mill Haugh and was confirmed also by Bernard Fraser and about the 1250's by Laurence Fraser (*ibid.*, nos 94 and 95). It would appear that Oliver and Mary had shared their father Kilvert's lands of Hailes, which he held of the earl, Oliver acquiring South Hailes and Mary North Hailes.

4. *Patrick [I] earl of Dunbar greets all the sons of Holy Mother Church, now and to come, who see or hear this document. For the salvation of the souls of himself and his predecessors and successors, he has confimed to God and the church of St Mary of Newbattle and the monks there by this charter all the land which John of Moray, son of John of London, gave them in pure and perpetual alms in the territory of West Fortune and which was confirmed by Bernard Fraser in his charter, with all the pertinents and easements attaching to the land by the boundaries stated and with all the liberties and immunities contained in the charters of both. The earl wills that the monks and their successors have and hold all the land in alms for ever with his confirmation and protection, as John's charter sets forth, and as is evidenced in Bernard's confirmation. The earl reserves the service due to him and has given corroboration.*

Hiis te*stibus* D*omi*no Pat*ricio* filio meo . Wille*lmo* filio meo Be*r*nardo Fraser et aliis

[c.1200 x 1209 or 1213 x 31.12.1232, probably c.1220]

Title Confi*rmatio* Comitis de dunbar

Source NLS, MS. Adv. 34.4.13 (Newbattle Abbey cartulary), f. 32v

Printed *Newbattle Registrum,* no 115

Comment John, son of John of London, witnessed King William's charter of 1211 x 1214 to Gilbert , earl of Strathearn (*RRS,* ii, no 524). His grant, which this charter confirms, is recorded in *Newbattle Reg.,* no 113. John refers to his brother, Nes of London, and to the land he has given to Newbattle as the part of West Fortune given to him by Nes, for service. Elsewhere John describes Bernard Fraser, his brother, who witnesses this charter, also as his lord. Bernard Fraser's confirmation, alluded to in the earl's confirmation here, may be *Newbattle Reg.,* no 110. But no 110 may be later, for it clearly refers to the death of Nes, as does *Newbattle Reg.,* no 114, where John gives the monks land he had held of Nes in Linton, for service. Possibly Nes's death triggered a flurry of family charters which it is difficult to date or arrange with precision. Bernard also confirmed his brother's grant . From these charters and from no 5 below, a complex pattern of lordship and of family relationships emerges. This charter is probably of the same date as nos 79 and 93 (nos 2 and 3 above).

5. *Patrick [I] earl of Dunbar gives greeting in the Lord to all the sons and the faithful of Holy Mother Church. For the salvation of all the faithful people of God, living or dead, he has confirmed to God and the church of St Mary of Newbattle and the monks there the half ploughgate in the feu of Fortune which Nes of London gave and confirmed by charter to them, by the boundaries declared in his charter; to be held in pure and perpetual alms of Nes and his heirs as free and quit of all service and custom and secular exaction, as is contained in Nes of London's charter. The earl reserves the service due to him.*

Hiis te*stibus*. d*omi*no Pat*ricio* . filio comitis . P . Tho*m*a Grym . et aliis

[c.1214 x 31.12.1232]

Title Confirmac*io* Comitis pat*ri*cii

Source NLS, MS. Adv. 34.4.13 (Newbattle Abbey cartulary), f. 31v

Printed *Newbattle Registrum,* no 108

Comment This charter is probably later than nos 2-4 above, judging by the witnessing of only the earl's son, Sir Patrick, and Thomas Graham, who was with the elderly earl and his doctor in 1231-2 as a witness to the earl's charter concerning Swinewood (Charters to Coldingham, no 7). Nes of London was the brother of Bernard Fraser and of John of London /Moray (no 4 above), holding also of the earl in Fortune. His charter, confirmed here, is *Newbattle Reg.*, no 107 and dates post-1214. The heading in the cartulary is obviously a mis-copying and refers to no 1 above. Bernard Fraser confirmed the land in Fortune and other land to Newbattle after the death of Nes (*ibid.*, no 110).

2. Charters to the monks of Durham regarding lands in Scotland
Charters addressed to Coldingham Priory

The charters of the earls of Dunbar to Coldingham priory have here been considered separately from those addressed to the monks of St Cuthbert or the monks of Durham, although nos 1, 4, 7 and 8 relate to touns and lands in Coldinghamshire granted originally to Durham (*ND* 2, 15 and 16).[11] No 12, moreover, refers to rights of hospitality owed to the earl by the priory which may well link to the holding by the priory of the Berwickshire estates of Edrom and Nisbet (see section on Durham charters below).

In other respects the Coldingham charters are of a more humdrum nature, dealing with disputes between the earls and the priory as neighbours over boundaries (nos 5, 6, 9, and 10), the protection of rights of property including human beings (no 3) and access to amenities (nos 2, 11).

There are interesting varieties of types of charter – the chirograph (nos 1 and 5), the receipt (no 8), the brieve *de nativis* (no 3). Twice, in the case of the charters regarding the settlement of boundaries by the division of Billie, the charters are paired, the earl implementing and defining in greater detail in the second charter the agreement recorded in the first (nos 5-6, 9-10). The texts of nos 5 and 6, dating from the earldom of Patrick I, are adapted and virtually repeated in nos 9 and 10, charters of Patrick III, his grandson.

The subject matter of the charters is instructive. The use of terms such as ' feu and heritage' and land 'at ferme' (no 1) adds to the complex picture of land tenure emerging from the collection. The ancient divisions of the land are described through boundary definitions (nos 5, 6, 9, and 10) and by the references to 'Coldinghamshire' (no 1) and Lothian (nos 6 and 10). Information is given on the land: on demesne farming (no 2), touns (nos 1, 4 and 7), mills

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[11] *ND*, nos 2, 15-16

(no 2), marshland (nos 5, 6, 9, and 10) and grazing, and also on service, on the old rights of hospitality which went with lordship of land and of which the prior and convent were acquitted (no 12).

The charters

1. *This agreement has been made between the prior and convent of Coldingham and Earl Waldeve and the sons of Swein the priest, namely Patrick the dean, Edgar, Eustace, Edward, Alexander, Robert and Roger. The prior and convent grant to Eustace and his heirs two ploughgates in Renton to be held of them in feu and heritage for the same service owed by his father for that land, which he held before he had the whole toun in ferme; on condition that Eustace, has sworn on the Holy Gospels that he will keep faith with the prior and convent. If Swein's son Jordan or anyone else starts an unjust claim against the monks with regard to any right claimed by Swein in Coldinghamshire by charters or other entitlements, Earl Waldeve and Eustace and Swein' s sons shall intervene so that no-one shall be able to implead the monks or trouble them further in this matter.The earl's son and his brother and three of Coldingham's men stand surety for the agreement.*

...hui*us con*uentionis hii s*unt* plegii . Pat*ric*i*us* fili*us* p*re*dicti Com*itis* 7 Pat*ric*i*us* fr*ater* ei*us*d*em* com*itis* . 7 Waldeu*us* de P*re*ndregest . Eadward*us* de Aldca*mbus* 7 fr*ater* eius Wille*l*m*us* .

His test*ibus* . Gileb*erto* Fras*er* . 7 Ada*m* fil*io* Aldani . 7 Ketello d*e* Letha*m* 7 filio suo Ketello . Aldano d*e* Eidingtun 7 Ada*m* filio suo . Ada*m* p*re*posito . Gillem' de Lumesd*en* . Hel' d*e* Eitun . 7 Dolfino d*e* Eit*un* . Roge*r*o de Rist' . 7 Rad*ulpho* dapife*r*o . Wille*l*mo de Cell' . 7 Cren d*e* Lu*m*mesd' .

[1166 x 1182]

Endorsed Cyrog*rafi* de de[12] duab*us* Carucatis t*erre* in Rayington' . (s. xiii ex)

inter. P*riorem* .7 co*nue*ntum de Cold' 7 Waldeuum

Comitem . (s. xiv)

tercia . sexte . M (s.xiv)

Modern numeral endorsements

Source DCM, MC. 788: with seal

Seal Seal of Earl Waldeve (DS, no 2812) in natural wax in good condition. Attached by tag through double slits in footfold. Inscription damaged to left of figure of horseman.

Printed J. Raine, *North Durham,* Appendix, no 115

NCH, vii, plate 4; between pages 48 and 49

Comment The document is a chirograph recording an agreement involving three parties- the prior and convent of Coldingham, seven of the eight sons of Swein, and Earl Waldeve. Swein is probably the king's priest who held extensive lands in Lothian and witnessed royal charters at Roxburgh and Coldingham and bishop Robert's charter to Dunfermline *(ND*, nos 21, 22*; ESC*, no 238*)*. His son, Patrick the dean, witnessed charters in the 1170's to Melrose and Durham (*Melrose Liber*, nos 42 and 409; *ND*, no 454). Renton, which is situated on the Eye Water about four miles west of Coldingham, on the edge of the moor, was apparently given to the monks of Durham by King Edgar (*ND*, no 2) and confirmed to the monks by David I in his confirmation charter of 1126 (*ibid.*, nos 15 and 16); though Professor Barrow has now thrown some doubt on the authenticity of David's charter (*David I Charters*, 70). In Edgar's charter to Durham and in the confirmation charter of Rufus, it was included in Berwickshire (ND, nos 7 and 435). Swein had been a major landholder in Renton, and this charter (which may have been occasioned by his death) seeks to protect the rights of the Durham monks at Coldingham against a

---

[12] Sic

possible challenge by one of his sons, Jordan, who is not party to the agreement.

2. *Earl P[atrick] [I] of Dunbar greets everyone present who sees these letters. He has given and confirmed by this charter to God and St Cuthbert and the monks of Coldingham the easement of River Aikieside and River Elmedene for their mill of Oldcambus as long as they hold the toun of Oldcambus as demesne.*

Hiis test*ibus* Gileb*er*to de Hom senscaldo Co*m*itis Walte*r*o fil*io* Edge*r*i . Wille*lm*o fil*io* Edge*ri* Wille*lm*o Olifard' Walte*r*o capellano Patricio pe*r*sona de Duns' Gileb*er*to cle*r*ico 7 m*u*ltis aliis .

[1182 x 31.12.1232, probably 1182 x c.1200]

Endorsed Carta comit*is* de Dunbar de asim*entis* riuuli de Akiside. (s. xiii)
pro molendina/o de Aldcambus (s. xiv)
M t*er*tia sexte . (s. xiv)
Modern numeral endorsement

Source DCM, MC. 763: with seal

Seal First seal of Patrick I (DS, no 2804) in natural wax, chipped on rim. Head of horseman chipped. Attached by tag on which is written '...' through double slits to the left on the footfold.

Printed J. Raine, *North Durham*, Appendix, no 120

Comment Dating is by witnesses. Gilbert of Hume witnesses also Charters to Durham, no 5 (1189 x 1198) and *Kelso Liber*, no 299 (1173 x 2.2.1194). The seal is the first seal of the earl (cf W. MacDonald, *Scottish Armorial Seals*, 95 where it is classified as both first and second seal) . The charter links with the agreement between Edward of Oldcambus and Bertram prior of Durham (*ND*, no 647, 1203 x 1207) whereby Edward and his sons gave up the toun and mill of Oldcambus in Coldinghamshire in exchange for land in Greater Lumsden, an agreement later challenged by Edward's

grandson and heir, David (*RRS,* ii, nos 415-6). Here the earl confirms a previous agreement on access to water power for Oldcambus mill, which would lapse if the monks leased the land out. In 1329, in return for their prayers for himself and his parents and his wife Agnes, Patrick V gave the monks leave to dig a water channel on his land beside the Elmedene to the south of Oldcambus mill which they could open and close without any interference or objection from himself or his heirs. See also no 11 below.

3. *P[atrick] [I] earl of Dunbar greets his beloved and faithful steward and firmly orders his steward to hand over without delay or disruption any serfs and neyfs of the prior and convent of Coldingham wherever they are found in the earl's lands, together with all their goods and chattels. He has sent his letters patent secured by his seal.*

[1182 x 31.12.1232 or possibly x 1248 or x 1289]

Source DCM, MC. 768 (missing since 1887)

Printed J. Raine, *North Durham,* Appendix, no 121

Notes Brieves *de nativis* ordering someone to restore serfs and others to their lords survive from the reign of David I (*David I Charters,* nos 20, 142). This is an interesting variation of the brieve, an instruction to an employee rather than a royal command. The dating is problematic because the original in Durham is missing and because there are no witnesses (though both royal administrative brieves cited above did have witnesses). It probably dates to the earldom of Patrick I, probably late in his earldom, judging by the use of the plural style.

4. *Patrick [I] earl of Dunbar greets all the Christian faithful to whom this document comes.Prompted by godly piety and out of love and reverence for the glorious confessor Cuthbert and for the souls of himself and his mother and father and all his other relatives, he has confirmed by this charter the resignation and quitclaim of the toun of Swinewood made by his son Sir Patrick to God and St Mary and St Cuthbert and St Ebba and the monks of Durham at Coldingham as contained in the charter which they have from him.*

Hiis testib*us* . Waltero de Lindesei . Herueio . marescall*o* . Dauid marescallo . Be*r*nardo Fraser . Rog*ero* de M*er*ley . Adam de Paulwrth' . Thom*a* de Nesebit' . mag*istr*o Will*elm*o de Edenha*m* . mag*istr*o Will*elm*o de Grenelawe . Alano filio Alani . Et multis aliiS .

[c.1200 x 31.12.1232, probably c. November1222]

Endorsed Carta d*omi*ni . P .Comitis d*e* Dunbar sup*er* q*ui*eta clamat*io*ne d*e* Suinewde (s. xiii)
.... sec*un*da . sexte (s. xiv)
modern numeral endorsement

Source DCM, MC. 769

Seal Detached and lost; formerly attached through single slit on footfold.

Printed J. Raine, *North Durham,* Appendix, no 118

Comment Swinewood in Coldingham shire was gifted to the monks of Durham by King Edgar (*ND*, no 2) and confirmed to them by King David in 1126, though Professor Barrow now questions the authenticity of this latter charter. The wood and the toun have disappeared though Swinewood mill survives, on the north bank of the Eye Water near East Reston. The witness list here is identical to that of Sir Patrick's charter; since both were confirmed by King Alexander in November 1222 (ND, no 64) it can be assigned to the period immediately prior to the royal

confirmation (cf Donnelly, 'Lands', 106, where he dates this charter to 1231).

5. *This chirograph announces that Lord Patrick [I] earl of Dunbar and Prior Thomas and the monks of Coldingham have amicably settled the disagreement between them concerning Billie marsh. Prompted by charity and of his own free will the earl has granted to God and St Cuthbert and the prior and monks of Coldingham the entire half of Billie as their right, the half, that is, between the two Restons and Auchencraw on one side and Chimside and Blackburn on the other, free and quit and complete. Neither the lord earl nor any of his men or beasts may go into the monks' part to graze animals or take anything from it, and similarly neither the prior nor the monks nor anyone belonging to them may go into the lord earl's part to graze animals or take anything from it. The earl and prior have both given corroboration.*

Hiis testibus . D*omi*no Patr*i*cio filio Comitis . Walte*r*o de Lindeseie Vice*comite* de Berwic' . Roge*r*o de Me*r*leye senecaldo d*omi*ni Patr*icii* Comit*is* . Patr*i*cio filio Ade . Joha*nne* de Letham . Adam de Pauliswrthe . Wille*lmo* de Morthigtona . Henrico de Prendregest . Wille*lmo* de Wideslade . Alano de Suintona . Thoma de Nesbit . Wille*lmo* de Lumesdene . 7 multis Aliis .

[c.1212 x c.1221, or c.1229 x 31.12.1232]

Endorsed Comes Patricius . de Diuisis (s. xiii)
Compos*itio facta inter* Patr*ici*um com*item* et Th*omam* pr*iorem* de Cold' de diuis*is* de Bilie (s. xiv- xv)
A. sec*un*da sexte (s. xiv)
'A' (s. xv) on reverse of tag of earl's seal
Modern numeral endorsements

Source DCM, MC. 744

Seal Second seal of Earl Patrick I (DS, no 2805) and seal probably of Thomas de Melsonby (DS, no 3649) in green wax. The earl's

seal is to left, also in green wax, attached by a tag through double slits in footfold.

Printed J. Raine, *North Durham*, Appendix, no 122

Comment This charter and no 5 below are difficult to date with precision. Prior Thomas might be Thomas prior of Coldingham c.1212 – 1221x or Thomas de Melsonby, prior 1229-1234 (*HRHS*, 30). Of the witnesses Walter de Lindsay occurs as sheriff of Berwick probably c.1212 x 1226. The earlier dates seem more likely therefore, but the seals attached to the charter suggest the later date of 1229 x 1231. Billie was on the boundary of the land of the monks and of the earl, the boundary here being the Billiemire Burn, almost equidistant from Reston in Coldinghamshire and the earl's lands at Chirnside.

6. *Patrick [I] earl of Dunbar greets all who see or hear these letters. Prompted by charity and hope of etemal reward, he has given and confirmed by this charter to God and St Cuthbert and the prior and monks of Coldingham the entire half of Billie which is situated between the two Restons and Auchencraw on one side and Chirnside and Blackburn on the other in free and pure and perpetual alms, freely and peacefully, wholly and honourably. He wills and grants that they shall have, hold and possess it for ever in its entirety as freely and peacefully and honourably as any alms in the whole of Lothian. He has given corroboration.*

His Testibus . Dom*i*no Patricio fil*io* Comit*is* . Walt*e*ro de Lindeseye Vice*comite* de Be*r*wic . Roge*r*o de Me*r*leye senecaldo d*omi*ni Patr*icii* Comit*is* . Patr*i*cio filio Ade . Joh*ann*e de Letham . Adam de Pauliswrthe . Will*elm*o de Morthigtona . Henrico de Pre*n*dregest . Will*elm*o de Wideslad . Alano de Suintona . Thoma de Nesbit . Will*elm*o de Lum*m*esdene . 7 multis Aliis .

[c.1212 x c.1221 x or c.1229 x 31.12.1232]

Endorsed Comes Patricius De Diuisis (s. xiii)

C *secun*da . sexte (s. xv)

Carta Cospatrici[13] com*itis* de Diuisis De Bilie (s. xiv-xv)

de Beele (s. xv)

Modern numeral endorsement

Source DCM, MC. 743: with seal

Seal Second seal of Patrick I (DS, no 2805) in green wax, attached by tag through double slits on footfold. Very clear impression, with details of cheque armour visible.

Printed J. Raine, *North Durham*, Appendix, no 123

Comment In this charter Earl Patrick records that he has effected what has been agreed and stated in the chirograph (no 5 above). His charter was confirmed by his grandson Patrick III (nos 9 and 10 below). Dating is as for no 5 above, the witness lists being identical. In 1288 at Norham there was an *inspeximus* of charters relating to Billie involving this charter and no 10 below (*ND*, no 518). On the same day, 21 August, Antony Bek bishop of Durham confirmed the agreement or composition in no 5.

7. *Patrick [I] earl of Dunbar greets everyone who sees or hears this document. He has confirmed the resignation and quitclaim of the toun and demesne land of Swinewood complete and with all pertinents made by his son Sir Patrick on behalf of himself and his heirs to the prior and monks of Durham at Coldingham, as contained in the charter they have from him. For himself and his heirs he quitclaims for ever any right whatsoever or any claim which he or his predecessors had or might have had in that toun and demesne. The earl has given corroboration.*

Hiis testib*us* . D*omi*no Ranulfo de Bonekil . D*omi*no Rog*ero* de Merlay . D*omi*no Thoma Grym . Mag*istr*o Wille*lm*o phisico . 7 multis .

---

[13] Sic

[30 .03.1231 x 31.12.1232]

Endorsed Confirmatio dominі P. Comitis de dunbar secundo facta super quietaclamatione ville de Swynewod (s. xiii)

d . secunda sexte . (s. xiv)

Modern numeral endorsements

Source DCM, MC. 765: with seal and counterseal

Seal Second seal of Patrick I (DS, no 2805) in varnished natural wax, attached by tag through a single slit on the footfold. Head of mounted figure damaged, inscription clear. Counterseal shows woman's head to sinister.

Printed J. Raine, *North Durham,* Appendix, no 124

Comment The case involving Swinewood may have been re-opened following the royal assize at Stirling in 1230 at which Prior Thomas was present. The endorsement indicates that this is the second confirmation by the earl, this time of the quitclaim made by his son on 30 March, 1231 (Charters of the Heirs, no 8) at the lattter's request. His son's charter was confirmed by King Alexander at Roxburgh, curiously on 29 March 1231 (*ND*, no 67). The impression from the witness list of the earl attended by a small number of close associates, including his doctor, indicates a date late in his life.

8. *P[atrick] [I] earl of Dunbar greets all to whom this document may come. He acknowledges the receipt of one hundred merks of silver from Prior Thomas and the convent of Coldingham which they owed to him for the quitclaim of the toun of Swinewood. Payment in full has now been made and they are quitclaimed of the debt.*

[30. 3.1231 x 31.12.1232]

Endorsed Main endorsement indecipherable

?.D. or . O .

Modern numeral endorsements

Source DCM, MC. 767: with seal and counterseal

Seal Second seal of Patrick I (DS, no 2805), very damaged, in natural wax, formerly attached to tongue cut from left of document, now torn. The seal is now detached from a second tongue. The counterseal shows the head of a woman to sinister.

Printed J. Raine, *North Durham,* Appendix, no 119

Comment The charter is an example of a business document, a receipt for the one hundred merks for the quitclaim of Swinewood paid by Coldingham doubtless for the earl's confirmation of 1231 (no 7 above). There is no reference to the payment of any money as part of the agreement in Sir Patrick's quitclaim or in the earl's charter of confirmation (no 4 above); but subsequent letters and receipts of Sir Patrick (Charters of the Heirs, nos 11-14) indicate that substantial payments were made. This charter would fit better into the narrative if it were a charter of Patrick II. But the seal, though damaged, shows a horseman riding to sinister and therefore cannot be the seal of Patrick II. The counterseal, as in no 7 above, shows a female head.

9. *Earl Patrick [III] son of Patrick son of Patrick earl of Dunbar gives greeting in the Lord to all the faithful people of Christ to whom this document comes. Out of charity and pure goodwill he has confirmed to God and St Cuthbert and to Prior Henry and the monks of Coldingham the entire half of Billie as their right, the half, that is, between the two Restons and Auchencraw on one side and Chirnside and Blackburn on the other. The monks and their successors are to have and to hold the land from the earl and his heirs freely and peacefully, wholly and honourably. As in the amicable settlement between his grandfather the Lord Earl Patrick and Prior Thomas and the convent of Coldingham, neither the earl nor his heirs nor any of his men or livestock will*

go into the Lord Prior's part to graze animals or take anything from the land. And similarly neither the prior nor the monks nor anyone belonging to them shall go into the earl's part to graze animals or take anything from it. He has given corroboration.

Hiis testibus ; d*omi*no Pat*ri*cio Edger senescall*o* meo . d*omi*no Rob*er*to Auunc*u*lo meo . d*omi*no Dauid de Gr*a*ham vicecomit' de Berewyc . d*omi*no Symone Bayard . d*omi*no Ada de Eddington' . d*omi*no Rob*er*to de Mundegu*m*ery . d*omi*no Will*elmo* de Scr*e*merston' . d*omi*no Joh*ann*e capell*a*no procuratore meo . Thom*a* de Nesbyt . Rob*er*to fil*io* senescallo de Coldingh*am* . Ada de P*r*endergest . et multis ALiis .

[1248 (x13.12) x 1260, or 1276 x 24.8.1289]

Endorsed Carta Patricii com*itis* de medietate de Bily . (s. xiii)
duplicata (s. xiv)
d . sec*un*da sexte . (s.xiv)
W
Modern numeral endorsement

Source DCM, MC. 773: with seal and counterseal

Seal Well-preserved first seal of Patrick III (DS, no 2808) in red wax, attached by tag through single slit on footfold . Counterseal shows lion rampant *contourne* with inscription SIGILL AMORIS.

Printed J. Raine, *North Durham,* Appendix, no 140

Notes Earl Patrick III confirms no 5 above, updating the text but otherwise using the words of the original chirograph. Henry was the name of two priors of 1244-1260 and 1276-1296. The earl's uncle is still alive and Patrick Edgar, who lost his land in Lennel in 1273, is still his steward. The seal is the first seal of the earl. David de Graham occurs as sheriff of Berwick as early as 1.12. 1246, and as late as 21.04.1248. The cumulative evidence thus suggests a 1248-1260 dating range. Note the presence here of the earl's procurator, and, as at the original settlement (nos 5 and

6 above), of the sheriff of Berwick, suggesting that the case had been reactivated and was being heard again in the sheriff's court.

10. *Earl Patrick [III] son of Patrick son of Patrick earl of Dunbar greets everyone who sees or hears these letters. He has confirmed to the prior and monks of Coldingham the entire half of Billie for the same reasons, by the same boundaries and on the same terms as contained in the charter of his grandfather Earl Patrick, namely the half between the two Restons and Auchencraw on one side and Chirnside and Blackburn on the other, freely and peacefully, wholly and honourably, as any alms in the whole of Lothian. He has given corroboration.*

Hiis Testibus . d*omi*no Dauid de Gr*a*ham tunc Vicecomit*e* de Berewyc . d*omi*no Aymero tunc vicecomit*e* de Rockesburg' . d*omi*no Nicholao de Sules . d*omi*no Will*elm*o de Mordington' . D*omi*no Rob*er*to de Mundegumery . D*omi*no Patricio Edger senescall*o* meo . D*omi*no Rob*er*to Auunc*u*lo meo . d*omi*no Rob*er*to de Powelewrthe . D*omi*no Ad' de Morha*m* . d*omi*no Will*elm*o de Scr*em*er*s*ton' . Ada de Pr*e*ndergest' . Thom*a* de Nesbyt 7 Aliis .

[1248 (x 13.12) x 24. 8.1289, probably x 1260]

Endorsed Carta . P . com*itis* . de med*ietate* . de Byli . (s. xiii-xiv)
duplicata(s.xiv)
.d. sec*un*da sexte . (s. xiv)
W
Modern numeral endorsement

Source DCM, MC. 772: with seal and counterseal

Seal First seal of Patrick III (DS, no 2808) in red wax broken almost in half,with left side of seal missing. Attached by a tag through a single slit on the footfold. The horseman's head is damaged. The counterseal shows a lion rampant *contourne* with the inscription 'SIGILL AMORIS'.

Printed J. Raine, *North Durham,* Appendix, no 139

Comment Earl Patrick III confirms no 6 above; again the text of his grandfather's charter is updated, but otherwise copied exactly. The witness list shows considerable overlap with that of no 9, but it is not identical. It is very high-powered, for it includes the past and present sheriffs of Berwick and Roxburgh. (William of Mordington in 1247 and Nicholas de Soules in April 1248 have occurred as sheriffs of Berwickshire and of Roxburgh respectively – see *ND,* no 74). Possibly therefore the renewed dispute, if that was the occasion for the charter, had been settled in the *curia regis*. The seal is the first seal of the earl, suggesting the earlier dating.

11. *An agreement has been reached by which Prior German and the convent of Coldingham have granted and set at ferme to P[atrick][III] earl of Dunbar the entire part of Aikieside Bum from Swineside Ford to the mouth of the Elmedene for a reddendo of a pound of cumin for all service annually at the Nativity of John the Baptist [24 June]. Earl Patrick, for himself and his heirs, has conceded that neither he nor they may claim any right within the wood beyond that river by reason of this grant. As corroboration, the prior has appended his seal to one part of this chirograph and the earl his seal to the other.*

Hiis testib*us* . d*omi*no Joh*ann*e q*u*ondam receptore d*icti* Com*itis* . Rob*erto* de Coupland . Pat*ricio* de Lemocston' . Henr*ico* de p*rend*ergest . Elia cl*e*rico . Ada fil*io* Cos*pa*tric*ii* 7 aliis .

[c. April 1260 x 12.06.63]

Endorsed Dimissio G. pr. C. C*omi*.ti de Dunbar de Akesideburne (s. xiv)

P. de Dunbar (s.xiv)

Pr. De Cold'

Cold.

Modern numeral endorsement

Source DCM, MC. 661

Seal Third seal of Patrick III, in green wax, attached by tag through single slit in footfold

Printed J. Raine, North Durham, Appendix no 580

Comment Like Coldingham no 2 above, this act deals with access to the rivers which ran through the lands of both the priory of Coldingham and the earl of Dunbar. It descibes land set at ferme by the priory with a *reddendo* which is presumably additional to the ferme. It shows the anxiety of the monks that it should not occasion any encroachment by the earl on their woodland and demonstrates the preoccupation with boundaries seen also in nos 5-6 and 9-10. The date for payment was 24 June each year. Dating is by Prior German's tenure.

12. *Patrick [III] earl of Dunbar gives greeting in the Lord to all who see or hear this document. For the salvation of his soul and the souls of his predecessors and successors, and on behalf of himself and his heirs, he has given and by this charter confirmed and quitclaimed in perpetuity to God and St Cuthbert and the prior and convent of Coldingham all right and claim whatsoever which he had or any entitlement he might have to annual hospitality in the priory. Neither he nor any of his heirs shall have the power to demand or claim any hospitality of any sort in future from the prior or convent or from the house. He has given corroboration. Dated 29 May, 1279, at Duns*

Testibus d*omi*no Thoma Ranulphi t*u*nc vicecomite de Berwyk d*omi*no Symone Fraser . d*omi*no Hugone de Peresby vicecom*ite* de Rokesburg' . d*omi*no Alano de Ormestun' . Will*elm*o de Baddeby . Joh*ann*e filio suo . Philippo de Haliburtun' . Joh*ann*e de Wyndsceles . Joh*ann*e cl*er*ico et Aliis .

[29 . 5. 1279]

Endorsed de resig*nation*e festi com*itis* Pat*ri*cij de dunbar (s. xiii)

Resig*nati*o pat*ri*cii com*itis* de dunbar de q*uo*da*m* conuiuio fieri solito eidem

cum suis i*n* domo de Cold' (s.xiv)

1279

V. p*ri*ma septime (s. xiv)

modern numeral endorsement

Source DCM, MC. 774: with seal, no visible counterseal

Seal Second seal of Patrick III (DS, no 2809) in natural wax, very damaged and worn, attached by tag through double slits on footfold which has been folded after the charter was written.

Printed J. Raine, *North Durham,* Appendix, no138

Comment The hospitality in question may be the conveth or corrody due to the king from the earls' lands in Berwickshire. From Edrom and Nisbet, thirty shillings per annum were due to the king for corrody, and the monks paid this money to the earl (*ND*, no 21, 1147). It seems that the obligation to pay the thirty shillings had fallen on the priory of Coldingham by the mid-thirteenth century; in surrendering wardship and marriage rights in East Nisbet to Durham in 1261, Patrick III had reserved this payment to himself and his heirs, along with the forinsec service for which the monks of Coldingham were liable (Charters to Durham, no 9). This may represent a further concession on the part of the earl, waiving his right to the thirty shillings. Or it may relate to other lands held of him by the monks. The presence of the sheriffs of Berwick and Roxburgh again signals contentiousness. Settlement was in the sheriff's court or in the *curia regis*, with the charter then being given by the earl at Duns.

Charters addressed to the monks of St Cuthbert or of Durham Priory

The charters in this section are treated separately from those addressed to the monks of Coldingham in the previous section, partly to give them greater clarity and coherence but also partly because they are addressed not to the monks of Coldingham but variously to the monks of St Cuthbert (no 1), the brothers of the church of St Cuthbert at Durham (no 2), the monks of Durham (nos 3, 4, 5, 6, 7), the prior and monks of Durham (no 8), the prior and convent of Durham (no 9). Bishop Robert of St Andrews confirmed the touns and church to St Cuthbert and his monks in 1150 (*ND*, no 449), Bishop Richard (1165 x 1178) to the church of Durham (*ibid.*, no 457). There is no agreed date of the date of the foundation of the priory at Coldingham, a cell of Durham, but it seems likely that the first of the charters in this section, Earl Gospatric's grant or surrender of Edrom and Nisbet to the monks, pre-dates or at latest coincides with it. Indeed the foundation may have been the occasion of Gospatric's charter and grant. Yet the Edrom and Nisbet charters of the earls were from the first addressed to the monks of Durham or of St Cuthbert, with no reference to Coldingham, even though it appears that Edrom became part of the Coldingham estate by about 1235.[14] The reason for this may be simply that the text of no 1 was re-used and updated in later charters (nos 3-6), with the original address remaining substantially unaltered; for when in 1139 David I confirmed the grant in no 1, it was to the church and monks (*ND*, no 20) and to the convent of Coldingham (*ibid.*, no 19). Earl Henry's confirmations of Edrom and Nisbet in 1141 and about 1147 (*ibid.*, nos 103, 105) were to the church and monks of Coldingham. No 9 reminds us that the commutation payment for services due to the earl from Edrom and Nisbet was paid by the prior of Coldingham. The distinction between charters to one house or the other, therefore, may be somewhat artificial, but it adheres to the texts of the earls' charters.

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[14] Donnelly, 'Lands', 114-5

Both nos 8 and 9 touch on the complexities of the Edrom and Nisbet question. The touns were granted by Earl Gospatric and said to be 'alms', but they were also to be held of the earl with service commuted.

No 6 relates to land in Swinton. Swinton was one of the touns, surely logically of Berwickshire, secured by Durham (*ND*, no 4), but nevertheless the focus of much dispute. Here again the issue was not a simple one, for the seizure of land by the earl is connected to claims on the teinds (*ibid.*, 525) and thus to some continuing proprietorial interest or claim. Since the grant of Swinton by Edgar almost certainly pre-dates the foundation of Coldingham priory, the charter relating to it is, as in the case of Edrom and Nisbet, also addressed to the original recipients, the monks of Durham.

The charters

1. *Earl Gospatric brother of Dolfin greets all sons of God's Holy Church, high and low, ordained and lay. He has given in alms to the monks of St Cuthbert the toun of Edrom and the church of Edrom with all its chapels and the toun of Nisbet, to be possessed free and quit in perpetuity with everything which belongs to these touns – lands and waterways, meadows and pastures – for the souls of Kings Malcolm, Edgar, and Alexander, for King David and his son Henry, and for the earl himself, his wife and his sons, and the souls of all his relatives. Two anathemas are pronounced.*

Testib*us* Wille*lm*o filio Dun*cani* . Gosp*atricio* filio ei*us* . Vlkil filio Meld*redi* . Rand*ulpho* de Lind' . S. p*res*bite*ro* . Joh*anne* capellano . Gosp*atricio* . filio Crin . 7 Aldan fr*atre* ei*us* . 7 La*m*be*r*t dap*ifero* .

[23 or 25.04.1124 x 22.08.1138, probably August 1138]

Endorsed de Heder' C*art*a . Gospatric' fr*atris* Dolfini . (s. xiii)
de heder' Nesbito 7 eccle*si*a de Ede*r*ham (s. xiii). A possible contraction mark is barely visible

F (ff) near corner next to the tongue

p with suspension mark directly above seal

. p . p*r*ima . septi*me* (s.xiii ex- s.xiv in)

modern numeral endorsement

Source DCM, MC. 778: with seal, no visible counterseal

Seal Seal of Gospatric brother of Dolfin (DS, no 2802) in varnished natural wax appended reverse to front on left of document. Seal originally attached to tongue, then detached, now re-attached at 90° to vertical to tongue cut from left side of document and secured with a cross-stitch.

Printed J. Raine, *North Durham*, Appendix, no 111

Facsimile in Anderson, *Diplomata*, plate 71

Nat. MSS., Facsimiles, no 25

NCH, vii, plate 1, between p 40 and p 41

Comment Edrom and and its associated toun, Nisbet, were two of the touns of Berwickshire given to Durham by Edgar and then apparently taken back. Thereafter they possibly came into Earl Gospatric's possession, or were claimed by him. This charter may therefore record a grant –or a surrender of his claim. Despite four royal and episcopal confirmations before 1150, Edrom church does not appear in the papal confirmation of 1146 of the spiritual estate of Durham, though it is included by 1157 in the bull of Adrian IV (*Papsturkunden*, ii, 51 and 107).

2. *Earl Gospatric greets all the sons of Holy Church. He has confirmed by this his charter to God and the brothers of the church of St Cuthbert at Durham, Edrom and Nisbet and Edrom Church, the gift in alms which he and his father had made to them with all the pertinents which his father gave them and confirmed to him by his charter.*

His Testib*us* . Andr*ea* Archidiacono . Adam fr*atr*e suo . Nigello capellano . Ketello filio Dolfin*i* . Ernaldo . Alden dapif*er*o . Adam filio Alden . Adam filio Gospat*ri*cii ;

[1164 or 1165 x 1166, probably 1164 x 9.12.1165]

Endorsed . C*arta*. cospatrici comitis; (s. xiii)
C. de Ederham et Nesbethe et Eccl*e*sia de Ederham (s. xiii ex – xiv in)
. N. p*ri*ma septi*me* (s. xiii ex - xiv in)
II on seal tag
Modern numeral endorsement

Source DCM, MC. 777: with seal and counterseal = *A*
DCM, Cartuarium Vetus, f.111v = *B*
Printed from *A*

Seal Seal of Earl Gospatric father of Waldeve (DS, no 2803) in varnished natural wax left rim chipped and inscription very damaged. Attached by tag through single slit on unfolded foot of charter. Counterseal shows seated figure with animal.

Printed J. Raine, *North Durham,* Appendix, no 112
Anderson, *Diplomata*, plate 71

Comment This is the shorter of two charters of Earl Gospatric (nos 2-3) confirming his father's grant of Edrom and Nisbet to Durham (no 1 above). All the witnesses also witness no 3 below, (though there is some ambiguity about Adam's identity), the charters appearing to be contemporaneous. They are datable by Andrew the archdeacon (*Chron. Holyrood*, 143) to the last two years of Gospatric's life. These charters, together with the charter given by Gospatric's son and successor Waldeve in 1166, no 4 below, were confirmed by King William (*RRS,* ii, no 66, 1166 x 1171). The dispute over Edrom toun and church continued and now involved a rival claim by Crowland abbey which was not settled until 1167 at the earliest, in Durham's favour (*RRS*, ii, no 105, 1167 x 1170).

3. *Earl Gosp[atric] son of Earl Gosp[atric] the brother of Dolfin greets all the sons of God's Holy Church now and to come. He has confirmed by this charter to the monks of Durham in perpetual alms the toun of Edrom and its church with all its chapels, and the toun of Nisbet, to be possessed free and quit, for ever, with everything belonging to the touns – lands, waterways, meadows, pastures and mills – for the souls of his father and mother and of all his relatives and of Kings Malcolm, Edgar, Alexander, David and Henry his son, and for King Malcolm and his brothers, and for the earl himself and his wife and his sons Waldeve and Patrick. An anathema is pronounced.*

His testib*us* Andrea Archd*iacono* . Alano presb*itero* . Ada*m* fra*tr*e Com*itis* . Rom*f*aro presb*itero* . Nigello capell*ano* . Ketello filio Dolfini . Ernald milite . Waltheuo de Prene*r*g' . Aldan dapif*ero* . Adam filio Aldan . Adam filio Gospa*tricii* .

[1164 x 9.12.1165]

Endorsed Cospat*ri*ci comitis de eaderham . (s. xiii) [Carta ... Nesbit et ecclesia de hederh*a*m] enclosing first endorsement (s.xiv)
F p*ri*ma septi*m*e (s.xiii ex - s.xiv in)
III on tag attaching seal
Modern numeral endorsement

Source DCM, MC. 779: with seal and counterseal = *A*
DCM, Cartuarium Vetus, fo.111v = *B*
Printed from *A*

Seal Seal of Earl Gospatric, father of Waldeve (DS, no 2803) in varnished natural wax, originally attached by tongue on left of charter, now re-attached through single slit in foot of charter (no footfold). The seal impression is fuzzy. The area of the shield is chipped. The counterseal shows a seated figure and an animal, possibly a goat.

Printed J. Raine, *North Durham,* Appendix, no 113

Notes It is possible that 'Ernald the knight' is Ernulf of Morwick to whom David I gave Swinton (*David I Charters,* nos 53, 54).

Comment This is a fuller version of no 2 above. The considerable overlap of witnesses suggests closeness in dating but the reference to King Malcolm (cf no 4 below) suggests an end-date of late 1165. The text is very similar to that of no 1, which it updates, conflating the double anathema. As in nos 1 and 4, the chapels of Edrom church are not named. See notes for no 2 above for details of William I's confirmation.

4. *Earl Waldeve son of Earl Gospatric greets all the sons of the present or future of God's Holy Church. He has confirmed by this his charter to God and St Cuthbert and his monks of Durham in perpetual alms the toun and church of Edrom with its chapels and the toun of Nisbet, with the same pertinents and on the same terms as in his father's grant, for the souls of his father and mother and all his relatives, and the souls of King Malcolm and his sons, the kings Edgar, Alexander and David, and his son Henry, and of King Malcolm, and for King William and his brother David and for himself, his wife and his sons, Patrick and Constantine. An anathema is pronounced. Dated 1166*

His test*ibus* Andrea archid*iacono* . Patr*i*cio fr*atr*e comitis . Adam filio Aldeni . Walte*r*o . Gilleb*er*to Frasier . Ricardo clerico Regis . Magist*ro* Joh*ann*e nepote Rod*berti* . ep*iscop*i . Rob*er*to canonico S*anct*i Andree . Rob*er*to filio Seulf . Mag*istro* Hereb*er*to . Cetello de Leth*am* . Aldene senescallo comitis . Gamello . seneschallo . Rog*ero* seneschallo . AEdwardo de Aldecamb*us* . Will*elmo* de Bolthebi . Stephano Papedi . 7 aliis multis .

[1166]

Endorsed Waldeui comitis (almost obscured by heavy stain) (s. xiii)

1166

. N . or . H . (s. xiii)

[On reverse of seal tag] iiii

modern numeral endorsement

Source DCM, MC. 787 = *A*

DCM, MC. 677 is a later copy (s. xiv) = *B*

DCM, Cartuarium Vetus, f.111v = *C*

Reg I fo 17v = *D*

Printed from *A*

Seal The seal is detached and lost but the seal tag remains, passing through a double slit in the footfold.

Printed J. Raine, *North Durham,* Appendix , no 114

Notes The charter, unusually, is dated, by the Incarnation and also by the regnal year.

Comment Constantine appears also as a son of Earl Waldeve in *ND,* nos 177 and 647. The witnesses include Richard, the king's clerk, and several of the earl's people who witness nos 2 and 3, with the addition of four who hold land of the Durham monks. The text is again an updated form of nos 1 and 3 – King Malcolm has died and so the *pro anima* is for his soul and also for the new king, William. It was issued very soon after Waldeve's accession to the earldom in 1166 and is close in date to nos 2 and 3; the monks may have sought to have their title confirmed by father and son as a precaution. King William's confirmation, in which he refers to the gift of Edrom and Nisbet by Earl Gospatric and his successors, is *RRS,* ii, no 66 (1166 x 1171). Again there is reference to the chapels of Edrom, but not by name. There is no hint of the continuing dispute with Crowland Abbey over Edrom.

5. *Earl Patrick [I] son of Earl Waldeve greets all the sons of Holy Mother Church now and to come. He has confirmed by this charter of his to the monks of Durham in perpetual alms the toun and church of Edrom with the chapel of Earlston and its other chapels and pertinents and Nisbet toun, to be possessed free and quit,with all the pertinents of these touns; for the souls of his father and mother, and of all his relatives, and of Kings Malcolm, Edgar, Alexander, David and Henry his son, and Malcolm and also for his lord, King*

William, and his brother David, and for the earl himself, his wife and his heirs. An anathema is pronounced.

Hiis Test*ibus* . D*omi*no Hugone Cancell*ario* . Mag*ist*ro Will*elm*o Malo uicino . Ricardo de p*re*benda . Hugone de Sigillo . Will*elm*o de Bosco . Mag*ist*ro Ric*ardo* de Coldingh*am* . Mag*ist*ro Ange*ri*o . Gaufr*ido* de Anecroft . Gileb*er*to de Whitingh*am* . Rob*er*to de Muschauns . Ric*ardo* de Mer*l*eia . Stephano Papedi . Ada filio Alden . Pat*ri*cio filio eius . Nes de Waleton' . Rob*er*to de Burnauill'. Rob*er*to filio eius Gileb*er*to de Houme . Gileb*er*to filio Walt*er*i . Roudlando Senescaldo . Will*elm*o filio Edgari . Henrico de P*re*ndregest . Eduardo de Aldecamb*us* . Alano d*e* Suint' . Will*elm*o de Nesebite . 7 Aliis multis .

[1189 x 1198, possibly 1189 x 1193]

Endorsed Carta Pat*ri*cii Comitis de Ederh*am* 7 Eccl*e*sia ei*us*de*m* . uille . 7 de Capell*a* de Ercheldun' (s. xiii)
7 villa de Nesbit (s. xiv)
2ti pixide Coldyngham (s.xiv- s.xv ex)
modern numeral endorsement
symbol (of duplicate or copy?) on reverse of seal tag

Source DCM, MC. 764: with seal, no counterseal = *A*
DCM, Cartuarium Vetus, f.112r = *B*
Printed from *A*

Seal This is the first seal of Earl Patrick (DS, no 2804) in varnished natural wax, attached by a tag to the footfold through double slits. Chipped on left and right of image. Inscription damaged.

Printed J. Raine, *North Durham,* Appendix, no 116

Comment Professor Watt, who regards this charter as suspect, dates it to 1189 x 1193 (Watt, *Grads.*,105). Hugh became chancellor in 1189 and Richard of Coldingham died in 1198 but the reason for Watt's end-date is unclear. This confirmation to Durham of Edrom church and the touns of Edrom and Nisbet by Earl Patrick

follows and adapts the text of earlier charters of his great-grandfather, grandfather and father(nos 1, 3, 4). It is the first, however, to name Earlston as a chapel of Edrom. It was confirmed by Robert I (*RMS*, i, 389; *RRS*, v, no 340), by David II (*RMS*, i, 322-3; *RRS*, vi, no 313), and Robert II (*RMS*, i, 435); in 1391-2 in an inspeximus Robert III confirmed it along with the confirmation charters of his father and grandfather (*RMS*, i, 839). The witness list suggests that there had been a high-level dispute with the earl probably seeking to resist the appropriation of revenues from Earlston church by the monks.

6. *Earl Patrick [I] of Dunbar greets all sons of Holy Mother Church. For the salvation of his soul and of the souls of all his predecessors and successors he has quitclaimed to God and St Cuthbert and the monks of Durham the land in Swinton between Fogo and Swinton which he unjustly claimed from them. He wishes them to have and possess the land of him and his successors for ever, quit, and by its rightful boundaries; by the road, that is, which comes from Earnslaw and goes alongside Ryslaw to Foul Ditch, from Foul Ditch to Blackburn up to the boundaries between Swinton and Kimmerghame.*

His testib*us* . Adam filio Aldan . Patricio filio suo . Waltero capell*a*no . Gilb*er*to clerico . Rolando senescallo . Gilb*er*to de Polwrthe . Ricardo de Gordun . Adam de Gordun . Ricardo de Leynale . Henrico de P*re*nd*er*gest . Alano de Suintona . Will*e*lmo de Nesebith . Dauid de Pakestun . Gregorio senescallo . Adam de Rystona . Elya de P*re*ndregest . Elya de Eytona . Stephano de Eytona . Reginaldo 7 Moricio filiis magist*ri* M*er*lini . 7 multis aliis .

[1182 x 31.12.1232 ; probably c.1200]

Endorsed Carta patricii Comitis ...[qu]i[et]a clam*a* de terra de Swinton' (s. xiii)

Q*ui*eta clam*a* . pat*ri*cij comitis de Dunbar de t*er*ra *in* swynton' (s. xiv)

C *secun*da . sexte (s. xiv)

modern numeral endorsement

Source DCM, MC. 766: with seal

Seal First seal of Patrick I (DS, no 2804) in green wax, which has been detached. It was formerly attached by a tag through double slits, one on rim of footfold.

Printed J. Raine, *North Durham* , Appendix, no 117

Notes Swinton was given to the monks of Durham by Edgar (*ND*, no 4) and confirmed to them by Alexander I (*ibid.*, no 10) and David as earl (*ibid.*, no 101); but from the first it was the subject of competing claims. The background to Earl Patrick's charter is not clear, but it seems that there was a dispute between the earl and Durham Priory over the teinds of Little Swinton (*ibid.*, no 525) and that the earl had seized Swinton or challenged the monks for the toun as a move in the legal process. The boundaries outlined here are those of Greater Swinton which was in the hands of Coldingham priory about 1235 (Donnelly, 'Lands', 115). Richard was the son of Norman of Lennel and his charter appears in *Cold. Cart.*, no 5.

7. *Earl Patrick [II] son of Earl Patrick greets all sons of Holy Mother Church now and to come. He has confirmed by this his charter to God and St Cuthbert and the monks of Durham in perpetual alms the toun of Edrom and Edrom church with its chapel of Earlston and its other chapels and pertinents, and another toun, Nisbet; to be possessed, free and quit for ever with everything belonging to the touns, lands, waterways, meadows, pasturelands and mills, for the souls of his father and mother and all his relatives and of Kings Malcolm, Edgar, Alexander, David and his son Earl Henry, and Malcolm, and for King William his lord, David his brother, his lord, King Alexander and himself, his wife and his heirs. There is an anathema.*

Hiis Testibus . D*omi*no Ranulfo de Bonekil . D*omi*no Rogero de Merley . D*omi*no Rob*er*to de Anesey . D*omi*no Dauid de Burdun . Petro capellano . Dauid de Graham . Rob*er*to de Lambeley . Patricio clerico . 7 Multis Aliis .

[31.12.1232 x 13.12.1248]

Endorsed (A) C*arta*. P. Comitis de Ederha*m* . 7 Ecc*lesi*a ei*usdem* . et de Capella de Erceldon' 7 de Nesebit . (s. xiii- xiv)

. b . p*ri*ma Septi*me* (s. xiv)

modern numeral endorsement

(B) Carta . P . Comitis sup*er* villa de Ederha*m*. 7 Eccl*e*sia ei*us*dem . 7 de Nesebit . (s. xiii)

a . p*ri*ma septi*me* (s. xiv)

Modern numeral endorsement

Mark- duplicate mark? ⊕ above seal slit, on reverse of document.

Source (A) DCM, MC. 746: with seal and counterseal

(B) DCM, MC. 745: with seal and counterseal

The witness list here is printed from 746. Raine says 745 is the copy of 746; it does have a symbol ⊕ possibly indicating a duplicate. Since the hand is identical and both charters are sealed we can assume that they were contemporaneous. There are minor differences only, mainly of punctuation.

Seals Seal of Patrick II (DS, no 2807), in both cases in natural wax, attached through a single slit in the footfold. (A) is well-preserved, but (B) is damaged, with a crack through the figure of the horseman and the inscription damaged. Both have a counterseal which is described as displaying a warrior's head but this is not at all appparent.

Printed J.Raine, *North Durham,* Appendix, no 135

Comment The likelihood is that this was given by Patrick II after his accession to the earldom in 1232 following the death of his father on 31 December 1232, for it is witnessed by Ranulf de Bunkle and Roger de Merlay who witnessed the old earl's charter of

1232 regarding Swinewood (Charters to Coldingham, no 7). The text again is an update of nos 1,3,4, and 5; and it includes Earlston with Edrom, as in no 5.

8. *Patrick [III] earl of Dunbar, son of Earl Patrick, gives greeting in the Lord to all who see or hear these letters. He has restored the wardship of East Nisbet to the prior and monks of Durham with the marriage of the heir of that toun as their right for ever. Neither he nor his heirs may in future pursue any right or claim to the wardship and marriage. He reserves fully to himself and his heirs everything of which he and his predecessors were vest and seised with regard to the toun, providing however that the heirs of the toun are not disparaged. He has given corroboration.*

Test*ibus* . D*omi*nis . Alano de Harecarr' Ad' de . Edington*a* . Rob*erto* de Nesebith . Laurentio Fras*er* militib*us* . D*omi*no . J .p*er*son' de Aldehamstoc . Sym*one* p*er*son' de Chirnesyde . Ric*ardo* tu*n*c cap*ellano* No*s*tro . et aliis .

[1248 (x 13.12) x 24.8.1289]

Endorsed Com'. p . de warda et marita*g*io he*redis* de nesbith (s. xiii – xiv)
Carta . p . com*itis*. De Du*n*barr' de restit*utio*ne Ward*i* 7 marit*agii* de Nesbyth (s. xiv)
I . p*ri*ma septi*me* (s. xiv)
Modern numeral endorsement

Source DCM, MC. 775: with seal

Seal Second seal of Patrick III (DS, no 2809) in natural wax, in good condition, though rim and inscription are damaged. Attached by a tag through single slit in footfold.

Printed J. Raine, *North Durham*, Appendix, no 136

Comment The charter is dated by the seal of Patrick III. It is probably the second seal of the earl though it has no counterseal. It reminds us that Edrom and Nisbet remained a subject of contention between the earls and the monks of Durham. Apparently by 1235

Edrom was regarded as part of the Coldingham estate, Nisbet part of the estate of Durham. (Donnelly, 'Lands', 115) and this charter may result from an attempt by the monks to regularise or alter arrangements. Alternatively Patrick III may have been attempting to exploit his lands financially by activating a claim to these incidents. The dates of the witnesses suggest a date of 1248 x c1270, and perhaps a date close to the charter of November 1261 (no 9 below)

9. *Patrick [III] earl of Dunbar, son of Earl Patrick, gives greeting in the Lord to all who see or hear this document. He has restored to the prior and convent of Durham the wardship of East Nisbet and the marriage of its heirs as their own right for ever. Neither he nor his heirs therefore may pursue any right or claim regarding the wardship or marriage. He completely reserves to himself and his heirs thirty shillings annually at the feast of St Martin from the prior of Coldingham for Edrom and East Nisbet and also the forinsec service owed from these touns, of both of which he and his predecessors were vest and seised; providing moreover that the heirs of the toun shall not be disparaged. He has given corroboration. Dated 4 November 1261, at Chimside*

Hiis testib*us* . D*omi*nis . Rob*er*to de Meyners . Hugon*e* de Gurlay tu*n*c senescallo Com*itis* . Joh*ann*e de Esselington' . Patric*io* fil*io* Walt*er*i Thom*a* de Herinton' . Ric*ardo* de Tweng' . Rob*er*to de Cokeburn' militib*us* . Joh*ann*e rectore eccl*es*ie de Aldehamstok . Henr*ico* Categang' . Et aliis .

[4 November 1261]

Endorsed Carta . p . com*itis* . de Ward*a* 7 marit*agio* de Estenesbyth (s. xiii – xiv)

I p*ri*ma septi*me* . (s. xiv)

1261 (corrected from 1260)

modern numeral endorsement(s)

Source DCM, MC. 776: with seal = *A*

~~DCM, MC. 661 (a copy, probably s. xiv) = *B*~~

Printed from *A*

Seal A fine impression of the third seal of Patrick III (DS, no 2810) in varnished natural wax, attached by a tag through single slit in footfold.

Printed J. Raine, *North Durham*, Appendix, no 137

Comment This is a more detailed version of no 8, to which it may be a companion charter, defining the obligations and services owed by the monks of Durham to the earl for Edrom and Nisbet. The sum of thirty shillings for corrody or hospitality for the king due at the Feast of St Martin and the forensic service due from the monks was exactly what was stipulated in the charter of David I of 1147 confirming Edrom and Nisbet to Durham (*ND*, no 21). Here payment is to be made by the prior of Coldingham, perhaps because Edrom was by then part of the Coldingham estate. Whether there is a relationship between this charter and no 8 above, and the charter of Patrick III of 1279 giving up the right to hospitality in Coldingham priory (Charters to Coldingham, no 12) is not clear.

3. Charters to laymen

Of the ninety-two acts attributable to the earls in the period c1124 –1289, only seven are to lay beneficiaries; of these seven, four (nos 1-3 and 6) are 'lost' acts, a mere three surviving in full text, all dating from the 1230's or later (nos 4, 5 and 7). The issue of how frequently charters to lay recipients were produced in this period has been discussed by Dr Dauvit Broun in *The Charters of Medieval Scotland and Ireland* (Cambridge 1995); it bears on the question of whether the paucity of extant charters to laymen was due to a low survival rate or whether it reflects the fact that the Latin charter of the twelfth century was produced mainly and specifically for ecclesiastical beneficiaries. In the case of the earls of Dunbar that question is largely unanswerable, though the higher rate of survival of thirteenth century charters to laymen suggests that there was indeed an increase in their number.

The acts are of varied type. Three (nos 1-3) of the lost acts are grants by Patrick I of lands within the earldom of Dunbar in east Lothian and Berwickshire, and a fourth (no 6) is a grant of forest in Stirlingshire which had been recently given to the earl by the king in exchange for lands in Galloway. Two (nos 4 and 5) are confirmations of grants made within families who held of the earl. The last of the charters in this section, no 7, unusually, survives in the original and records the grant to a husband and wife of the homages and services due to the earl from his land.

These few charters give immensely valuable insights into lay tenure, contrasting with the grants to religious houses which are invariably in free alms. Here there is evidence of hierarchical structures of lordship, of heritability, of homages and services and dues, of knight service, of the cash *reddendo*, and the right to the proceeds of wardship, relief, marriage and escheats. How widespread these were, or how specific to particular lands, are more complicated questions.

The charters

1. * *Patrick [I] earl of Dunbar granted Ruchlaw to Bertram son of Alexander of Seton, with additional land.*

[1182 x c.1202]

Reference in the confirmation of Earl Patrick's grant by William I at Stirling 22 February 1200 x 1202 (*RRS* ii no 578, 479; *Family of Seton,* ii, 842; BL, MS. Harley 4693, f.11a). Professor Barrow identifies the 'Richelkellach' of the charter as Ruchlaw, near to Whittingehame, 'Stevenstone' as the standing stone south of Traprain Law and 'Salowhild' as the Sauchet Water which divides Whittingehame from Stenton.

2. **Earl Patrick [I] of Dunbar granted tofts in Tranent to Bertram son of Alexander of Seton.*

[1182 x 4.12.1214]

Reference in the confirmation of Earl Patrick's grant by William I, probably late in William's reign (*RRS,* ii, no 579; *Family of Seton,* ii, 842; BL, MS. Harley 4693, f.10).

3.* *Earl Patrick [I] gave land at 'Selburleche' to Alan, Thomas's son.*

[1182 x 31.12.1232]

Reference in Charters to the Heirs, nos 2-3, where Sir Patrick confirms the land to the nuns of Coldstream by the rightful boundaries by which it was held and possessed by Alan, by the gift of his father, Earl Patrick. The place-names in the charter are obscure but here 'Selburleche' is taken to be the Sell Burn east of Duns; the identification fits geographically with the allusion to the Vieuxpont lands in Langton, near Duns. Alan son of Thomas was probably but

not certainly the grantor of land in Darnchester to Coldstream priory (*Cold. Cart.*, nos 32, 33) which would suggest an early thirteenth-century date for those charters (c.f. W.W. Scott, *Coldstream Syllabus*, where the charter is dated to mid-late thirteenth century).

4. *P[atrick I or II] earl of Dunbar greets all who see or hear these letters, now and to come. He has confirmed by this charter to David son of David de Graham, brother of Richard of Fans, two tofts in Mellerstain, and twenty-one acres in Whitefield and in Kingside, and thirty-five acres beside the Eden of Richard of Fans' demesne toun. These are to be held by him and his descendants of Richard and his heirs with all liberties and guarantees and everywhere and in every way as the charter of Richard of Fans sets out and confirms. The earl confirms that Lady Amabel, Richard's mother, may hold this land of David her son, paying a reddendo during her lifetime of twelve pence for everything annually at Hexham during the Corbridge market days to him or his emissary. Amabel is to hold the land as peacefully and completely with all liberties and in all respects, as is contained in Richard of Fans charter. The earl reserves his service.*

Hiis test*ibus*

[1182 x 31.12.1232]

Rubric Carta Patricii Comit*is* s*uper* t*erra* in Melostan' data D*avid* . fil*io* . D*avid* de grame .

Source NLS, MS. Adv. 34.5.1, f. 50r

Printed *Kelso Liber*, no 131

Comment Earl Patrick confirms land granted to David de Graham by his brother Richard of Fans (*Kelso Liber*, no133). It is not clear whether all the land confirmed in Whitefield and Kingside and near the River Eden lay within the Mellerstain estate which is adjacent to Fans or whether the two tofts in Mellerstain were part only of the total grant. The pattern of family and lordship

relationships is illuminating. The dating of this charter is difficult. This David de Graham, probably the half-brother rather than the brother of Richard of Fans, witnessed charters of the 1230's and 1240's to Coldstream, Durham and Melrose. He held substantial lands and was a close associate of Patrick II from whom he received land (eg no 6 below) and with whom he swore in 1244 (*Cal. Docs. Scot.*, i, 2672). The likelihood is, however, that this charter is datable to Patrick I's earldom when Richard of Fans was prominent.(see Charters to Coldstream, no 4). Even allowing for a considerable age gap between the half-brothers the fact that their mother was still alive suggests earlier dating.

5. *Patrick (II) earl of Dunbar greets all who see or hear these letters. By this charter of his he has confirmed Stephen Papedy's gift of Manderston by its rightful boundaries, meadows, pasturelands, roads, and paths, moors and marshes, mills, waterways and ponds and all easements and liberties belonging to the toun; to be held by Thomas and his heirs freely and peacefully and honourably, free from all service, custom, exaction or demand, for the homage and service of Thomas and his heirs, who are to perform the service of one- eighth of a knight and a reddendo to Henry Papedy on behalf of Stephen and his heirs of half a merk of silver annually at the feast of St James, during Roxburgh Fair. If Thomas dies without an heir the brother born after him, and his heirs, shall have possession of the land. Stephen Papedy and his heirs shall give warrandice against all men and women to Thomas and his heirs or to his brother and his heirs. The earl has given corroboration. At Duns*

Omnibus has literas visuris vel audituris Patricius comes de Dunbarre salutem. Noverit universitas vestra nos concessisse et hac presenti carta nostra confirmasse Thome Papedy filio Johannis Papedy, et heredibus suis, totam illam terram quam Stephanus frater eiusdem Thome eidem Thome pro homagio et servicio suo et heredibus suis dedit et concessit, scilicet Mandredestonam per suas rectas metas et divisas, in pratis et pascuis viis et

semitis moris et marresiis molendinis aquis et stagnis et omnibus aysiamentis et libertatibus ad eandem villam pertinentibus. Tenendam et habendam dicto Thome et heredibus suis de dicto Stephano et heredibus suis libere et quiete pacifice et honorifice ab omni servicio consuetudine exaccione et demanda. Faciendo dicto Stephano et heredibus suis dictus Thomas et heredes sui octavam partem servicii unius militis et Reddendo Henrico Papedy pro dicto Stephano Pepedy et heredibus suis dimidiam marcam argenti annuatim ad festum Sancti Jacobi, scilicet infra nundinas de Rokexburk. Si vero dictus Thomas sine herede de corpore suo in fata decesserit, frater eiusdem Thome post ipsum genitus et heredes sui secundum predictam formam predictam terram possideant. Ille vero Stephanus Papedy et heredes sui dicto Thome fratri suo et heredibus suis, vel fratri suo post ipsum genito et heredibus suis sicut predictum est, predictam terram contra homines omnes et feminas warantizabunt. Nos autem in huius rei testimonium presenti scripto sigillum nostrum apposuimus.

Hiis testibus, me tunc existente apud Dunsse, domino Waldevo tunc rectore ecclesie de Dunbarre, domino Rogero de Merley, domino David de Graham, domino Roberto filio comitis, domino Philippo Pethe tunc senescallo domini P[atricio] comitis de Dunbarre, domino Alano de Harkers, domino Henrico filio Waldeuui et multis aliis.

[31.12.1232 x 13.12.48, probably c.1247]

Heading Carta Thome Papedy de terris de Mandrestoun (Index A, Original, NAS)
Carta Confirmacionis to Thomas Papedy of the lands of Manderstoun, Berwick. (Index B, from Robertson's Index of Charters, 1798)

Printed. Text contained in inspection by David II (RMS, L.i.155, 10.02.1366-7), *RMS*, i, no 251. Printed here to unite with other charters of the collection.

Notes

The Papedy family were tenants and officials of the Dunbar family. Their roots were in Islandshire but the origins of the Scottish branch are obscure. Their later connection with Dunglass suggests that they had lands there in the twelfth century, when they first appear as witnesses to the earls' charters. Manderston is in modern Berwickshire, near Duns.The name Stephen recurs in the the family, making accurate dating difficult; but it would appear that the Stephen of this charter was the older brother of Thomas who witnessed a charter of Patrick III to Coldstream, datable to 1248 x 1270 (Charters to Coldstream, no 13). The witnesses, in particular Waldeve, rector of Dunbar, David de Graham and Patrick II's uncle Robert, suggest a date in the 1240's. Philip of Pitcox died in 1247 (*Chron. Melrose,* 107, s.a. 1247) but he had a son, Philip, so the end date cannot be firm. On the Papedy family, see James Hardy, 'On the Border Family of Papedy' (*HBNC,* 1867-8).

6. * *Earl Patrick [II] gave forest in Dundaff and Strathcarron to David de Graham.*

[7.7.1235 x 23.10.1237]

Reference in Alexander II's confirmation (Scone, 23 October, 1237) of the charter of Earl Patrick granting Dundaff and Strathcarron in Stirlingshire to David de Graham. (Scoular, *Handlist*, 41, no 237; Anderson, *Diplomata,* Facsimile no 30). Dundaff and Strathcarron had been granted to Patrick II by King Alexander on 7 July 1235, at Kenmore, for the service of one-third of a knight, in exchange for lands in Troqueer in Galloway. (Scoular, *Handlist,* 36 no 202; *Morton Reg.*, i, no 3). They were confirmed to David de Graham as the gift of Earl Patrick by Alexander III on 27 December 1253 at St Andrews, along with other lands gifted to him by Malcolm earl of Fife and Roger de Quincy earl of Winchester (Simpson, *Handlist*, 9, no 19; Fraser, *Lennox*, ii, 13-15).

7. Patrick [III] earl of Dunbar gives greeting in the Lord to all who see or hear this document. He has given and has confirmed by this charter to Geoffrey Caldicottt and his wife Margaret the homages and services of Walter of Graden and also of Peter Graden and William his son relating to all the lands and tenements which they hold of the earl in the toun of Graden. These homages and services of Walter, Peter and William and their heirs are to be held of the earl and his heirs for ever by Geoffrey and Margaret and their heirs with returns, wardships, reliefs, marriages and escheats and all other liberties and pertinents of their lands and tenements, freely, peacefully and hereditarily. In return, they are to render annually to the earl and his heirs the same payments and in the presence of the earl and his heirs perform the same services which Walter, Peter and William customarily rendered to him. The earl gives full warrandice for the homages and services on behalf of himself and his heirs, to Geoffrey and Margaret and their heirs, and has given corroboration.

[1248 (x 13.12) x 24.8.1289, perhaps 1286 x 24.8.1289]

Omnibus hoc sc*ri*ptu*m* visur*is* ve*l* auditur*is* Pat*ri*cius Comes de Dumbarr' sal*u*tem et*er*nam in d*omi*no Noue*ri*t uniu*er*sitas v*estr*a nos dedisse concessisse 7 hoc p*re*senti sc*ri*pto confirmasse Galfrido de Caldecote 7 Margarete sponse sue homagia 7 se*r*uitia . Walte*ri* de Greydene et etiam Petri de Greydene et Wille*lm*i filii ?sui de omnib*us* terris et tenementis que de nobis tene*n*t . in villa de Greydene Tenenda et Habenda p*redic*tis Galfrido 7 Margarete et eo*rum* heredib*us* d*ic*ta homagia et se*r*uitia d*ictorum* Walte*ri* Petri 7 Wille*lm*i et heredu*m* suo*rum* cu*m* eo*rum* redditib*us* . Wardis releuiis maritagiis 7 escaetis quibuscu*n*que et etiam om*n*ibus aliis libertatibus 7 pe*r*tinentiis ad terras eo*rum* et tenementa pe*r*tinentib*us* de nobis 7 heredib*us* nos*tr*is . libere quiete 7 hereditarie inpe*r*petuu*m* . Reddendo inde annuatim nobis 7 heredibus nos*tr*is eosdem redditus et faciendo inde . coram nobis et heredibus nos*tr*is eadem servitia quos 7 que p*redic*ti Walte*r*us Petrus 7 Wille*lm*us reddere 7 facere nobis consueuerunt. Et nos 7 heredes nos*tr*i

predicta homagia 7 servitia ut predictam est predictis Galfrido 7 Margarete 7 eorum heredibus contra omnes gentes inperpetuum . Warantizabimus aquietabimus 7 d[e]fendemus.[15] In cuius rei testimon' presenti scripto sigillum nostrum apposuimus.

Hiis testibus . dominis . Patricio . Johanne 7 . Alexandro . filiis nostris . Nicholao de Rutherford Waltero de Horndene Militibus . Willelmo de Rameseye . Edwardo . de Letham 7 aliis .

[1248 x 24.8.1289]

Endorsed Carta donaconibus c[o]mitis de dunbar
?Hom'ia (not visible on digital screen)
W de ...(indecipherable}
C
Modern numeral endorsement

Source NAS, RH6/60

Seal Detached and lost

Notes The charter is listed in the National Archives under Register House Charters (RH6/ 60) as a charter of 1286 x 1289, perhaps because it was originally classified as a charter of the period of the Guardians after Alexander III's death in 1286.

Comment Graden is situated on the Tweed, some three miles down river from Coldstream, one of the touns of Berwickshire which evidently became one of the Dunbar estates. Dating is by the identification of Earl Patrick through his sons Patrick, John and Alexander.

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[15] There is a hole in the document here

4. Charters of the earls' heirs

These charters have been calendared in brief outline only for reference purposes.

1. *Waldeve, son of Earl Gospatric, confirms by charter to the monks of Kelso all the possessions given to the church by his father – churches, lands, pastures, shielings – in perpetual alms, as his father granted them, that they may have and hold them in perpetuity, as freely and peacefully as anything they possess.*

Test*ibus* . Huctredo capell*a*no . Walte*r*io de Teyse . Will*e*lmo fr*atr*e Elgera*m* cancel*larii* reg*is* . Huctredo p*re*posito . 7 aliis

[c.1162 x 1164 -1166]

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 117v

Printed *Kelso Liber,* no 304

Comment Since Waldeve does not style himself as earl, and Ingram was the king's chancellor c1162 x 1164-5, this charter probably dates to before 1166 when he succeeded his father Earl Gospatric. Patrick I, however, is styled merely son of Earl Waldeve (Charters to Kelso, no 10) many years after he succeeded as earl. This charter may date to Waldeve's accession.

2. *Patrick, son of Earl Patrick of Dunbar, has confirmed to the nuns of Coldstream all the land of 'Selburleche' which Alan son of Thomas had by gift of Patrick's father, by the rightful boundaries by which Alan held and possessed the land. And to add to that land he grants and confirms to them all the pastureland at the head of 'Whielhope' from the wood across to the hollow, then down between 'Familey' and 'Strikesley'; down to 'Crumbesside' river and up that river between 'Crumbesside' and 'Sengedwd' as far as the boundaries between his father the lord earl and William de Vieuxpont; to be held of his*

lord father and his heirs in pure and perpetual alms, as the charter of his lord father sets out and declares.

[c.1200 x 1232].

Hiis testib*us* d*omi*no Will*elm*o fratre meo . Bernardo Fresel . Ada de Pollewrth' . Rogero de Merley . Thoma de Gordun . Joh*ann*e de Letha*m* . Joh*ann*e fil*io* Waldeui . Will*elm*o de Bolteby . Will*elm*o de La Babo'r Et multis aliis.

Source NAS, GD 212/ 29

Printed *Coldstream Cartulary*, no 29

3. *Patrick, son of the lord earl of Dunbar, has granted and confirmed to God and the church of St Mary of Coldstream and the nuns there all the land of 'Selbuklethe' which Alan son of Sir Thomas had by gift of Patrick's father by the rightful boundaries by which Alan held and possessed the land. In addition he grants and confirms all the pastureland at the head of 'Wlweshope' by the boundaries stated above to be held by them in alms according to his confirmation and that of his heirs. No-one shall be allowed inside these boundaries with his animals to have any common pasture without permission from the nuns, as Patrick's father's charter sets out and declares. He has given corroboration.*

Hiis test*ibus* . D*omi*no meo comite Pat*ri*cio . Will*elm*o fr*atr*e meo . Bernardo FraseR . Adam de Pouwurd . Roge*r*o de Merley . Thoma de Gordun . Johanne filio Waldeui . Joh*ann*e de Letham . Will*elm*o de Boutely . Will*elm*o de Labarre . Hugone forestario de Duns . 7 m*u*ltis aliis.

[c.1200 x 1232]

Source NAS, GD 212/ 30

Printed *Coldstream Cartulary*, no 30

4. *Patrick, son of Patrick earl of Dunbar, announces that in a dispute between his father Patrick earl of Dunbar and the abbot and convent of Dryburgh over the rightful boundaries between Earlston and the convent's grange of Kedslie, his father Patrick eventually gave the canons a certificate regarding the boundaries, and in the presence of his trustworthy men perambulated the rightful boundaries to be held in perpetuity by the canons: starting from where the sike beside 'Redeheugh' flows into the Leader and up westwards to the old ditch and across the flat land to the stone cairn called 'Harlaw' and down as far as 'Dunenisden' to Hunter's Ford. He has granted and confirmed these for ever by this charter as alms as his father's charter fully declares, and he has given warrandice.*

[c.1200 x 31.12.1232]

Source NLS, MS. Adv. 34.4.7 (Dryburgh Abbey cartulary), f. 37v
Printed *Dryburgh Liber*, no 115

5. *Patrick, son of the earl of Dunbar, greets all his bailies and servants. He has granted and confirmed by this charter to God and St Mary and the newly built church of Dryburgh one merk of silver, in perpetuity, from his ferme of Birkenside. He orders them to be answerable to the canons for the merk and to pay them without any quibble half at Pentecost and half at the feast of St Martin.*

[c.1213 x 31.12.1232]

Source NLS, MS. Adv. 34.4.7 (Dryburgh Abbey cartulary), ff. 38r-38v
Printed *Dryburgh Liber*, no 118
Comment Sir Patrick's marriage is thought to have taken place c.1212. Birkenside was the marriage portion of his wife Euphemia . Reference to the new building at Dryburgh suggests an early thirteenth-century dating.

6. *Patrick, son of the earl of Dunbar, has gifted to God and St Mary of Dryburgh and the newly built church and the canons serving God there one merk of silver annually from his ferme of Birkenside for the construction and repair of their church, half at Pentecost and half at the feast of St Martin. The canons shall receive him and his wife and their heirs in fraternity and allow them to participate for ever in the benefits of their church.*

[1214 x 31.12.1232]

Source NLS, MS. Adv. 34.4.7 (Dryburgh Abbey cartulary), f. 38v

Printed *Dryburgh Liber,* no 119

Comment The reference to heirs suggests a date later than 1214, but the question of whether King William is alive is difficult – he is called king, and not late king, of Scotland and there is no reference to King Alexander.

7. *Patrick, son of Sir Patrick earl of Dunbar, prompted by godly piety and out of love and reverence for Cuthbert, the glorious confessor, has resigned and quitclaimed unreservedly on behalf of himself and his heirs to the Durham monks serving God at Coldingham the toun of Swinewood with all its men and pertinents which his predecessors unjustly kept and occupied. He wishes the monks to have and hold the toun with all its pertinents freely and peacefully and according to their wishes, that they may make arrangements for it as suits them best.*

[1222, x 30 November]

Hiis testib*us* . Walte*r*o de Lindesey . Herueio marescallo . D*avi*d . marescall*o* . Be*r*nard*o* . Fras*er* . Rog*ero* . de Me*r*ley . Ada*m* . de Pauleswrthe . Thom*a* de Nesebit' . Mag*ist*ro . Will*elm*o . de Edenha*m* . Mag*ist*ro . Will*elmo* de Grenelawe . Alano filio Alani . Et multi*S* . ALIIS

Source DCM, MC. 741, 742 (witness list of 742 here)

Printed J. Raine, *North Durham,* Appendix, no 125

Comment Alexander II confirmed the quitclaim at Roxburgh, 30 November 1222 (*ND*, no 64)

8. *Patrick, son of Patrick earl of Dunbar, has come to recognise in King Alexander's court, through King Edgar's charter and many other pieces of evidence, the full right of the prior and monks of Durham at Coldingham with respect to the toun and demesne of Swinewood with its pertinents over which he had once unjustly given them trouble. For himself and his heirs he has unreservedly quitclaimed under oath and by staff and baton in the court of the lord king the toun of Swinewood and its whole demesne with its pertinents and any right or claim in the toun, demesne lands, men, services and homages, woods and plains, cultivated and uncultivated lands to God and the saints and the prior and monks of Durham at Coldingham. He has given them back what his predecessors unjustly kept and occupied. Neither he nor his heirs nor anyone of his side may in future have any right or claim in the toun and demesne land with its pertinents. This quitclaim was made in the court of the lord King Alexander illustrious king of Scots at Roxburgh, 30 March 1231.*

[30. 03.1231 x 31.12.1232, probably March,1231]

Hiis Testib*us* . D*omi*no Walte*r*o Olifard' Justiciar*o* Laodon' . D*omi*no Wille*lm*o d*omi*ni reg*is* Cancellar*io* . D*omi*no Joh*ann*e de Macc*us*wel d*omi*ni regis Camer*ario* . D*omi*no Rob*er*to de Ros' . D*omi*no Rannulfo de Bonekil . D*omi*no Bernardo Fraser . D*omi*no Thom*a* filio Ran' . D*omi*no Thoma de Haya . Dauid Cle*ri*co d*omi*ni Walte*ri* Olifard' . 7 multis aliis

Source DCM, MC. 734 and 733 (witness list of 733 here)

DCM, MC. 678 (copy)

Printed J. Raine, *North Durham,* Appendix, no 126

APS, i, 407-8

Comment King Alexander's confirmation is dated, interestingly, 29 March 1231 (*ND*, no 67), a day earlier than the date of the quitclaim to which the charter refers.

9. *P[atrick], son of Lord Patrick earl of Dunbar, informs King Alexander that he has resigned and quitclaimed completely to the monks of Durham serving God at Coldingham the little toun called Swinewood which his predecessors without any right to do so had kept and occupied. Prior Thomas had shown him King Edgar's charter and had attested it and demonstrated fully St Cuthbert's right in respect to the toun. He earnestly beseeches the king that out of godly piety and love and reverence for the glorious confessor Cuthbert whom his ancestors loved with a special love he will confirm it to God and St Cuthbert and the monks.*

[30. 3. 1231 x 31.12.1232]

Source DCM, MC. 736

Printed J. Raine, *North Durham*, Appendix no 127

10. P*[atrick] son of the earl to his venerable and dearest father Lord P[atrick] earl of Dunbar. He prevails upon him to confirm the charter which he had given to the monks of Durham serving God at Coldingham concerning the resignation and the quitclaim of the toun and demesne land of Swinewood with all its pertinents. He sends these letters patent to his father in evidence of this.*

[30. 3.1231 x 31.12.1232]

Source DCM, MC. 739

Printed J. Raine, *North Durham*, Appendix, no 128

11. *P[atrick], son of Earl Patrick of Dunbar, greets the venerable man, and dearest friend Lord T[homas] prior of Coldingham and informs him as a friend that he cannot come east to him in person at the next feast of John the Baptist, 24 June 1231, to receive the money which the prior owes him at that date. So he is sending to him his special and faithful people, Sir Robert of*

Anesey his close friend, and Sir David of Burradon his knight and faithful man and Robert of Lambden his notary who has charge and custody of his seal. He entreats him to produce promptly and on the agreed day the correct sum of money ie a hundred merks for his own use and ten merks for his wife's use so that he does not have to poind and trouble the pledges he has. He sends the message by letters patent and gives corroboration.

[30. 3.1231 x 24.06.1231]

Source DCM, MC. 738
Printed J. Raine, *North Durham*, Appendix, no 129

12. *P[atrick], son of earl P[atrick] of Dunbar, acknowledges receipt at the Vigil of Thomas the Martyr, 29 December 1231, of forty merks sterling of the two hundred merks owed him for the quitclaim he made of the demesne land and toun of Swinewood with all pertinents. The forty merks were owed to him at the Feast of the Purification (2 February) that year. He has appended his seal as corroboration.*

[29.12.1231 x 31.12.1232]

Source DCM, MC. 734*
Printed J. Raine, *North Durham,* Appendix, no 130

13. *Patrick, son of Lord P[atrick] earl of Dunbar, states that in 1232 he received from the prior and convent of Coldingham one hundred and sixty merks of silver of the two hundred owed him by the prior and convent for the quitclaim of the demesne land and toun of Swinewood with all pertinents, to the payment of which two hundred merks Sir W[alter] Olifard, Justiciar of Lothian and Sir Ranulf of Bunkle are pledges. He has appended his seal as evidence of the receipt of the hundred and sixty merks..*

[1232, x 31 December]

Source DCM, MC. 737

Printed J. Raine, *North Durham*, Appendix, no 132

14. *P[atrick], son of earl P[atrick]of Dunbar, acknowledges that on the Day of John the Baptist, 24 June 1232, he received from the prior and convent of Coldingham two hundred merks of silver which the prior and convent are legally bound to pay him for the quitclaim in perpetuity of the demesne land and toun of Swinewood he has made on behalf of himself and his heirs. As evidence of the receipt of this he has appended his seal.*

[24. 6.1232 x 31.12.1232]

Source DCM, MC. 735

Printed J. Raine, *North Durham*, Appendix, no 131

15. *Sir Patrick, son and heir of Lord Patrick earl of Dunbar, and Cecilia daughter of John solemnly promises that neither he nor anyone of his name will at any time in his life inconvenience the abbot and convent of Kelso within the lands he holds. He will not allow them to be obstructed in the use of any of their spiritual or temporal possessions. Rather he will protect and support them and their possessions as he is able and will allow and arrange for their tenants and servants, their monks and lay brothers to enjoy their possessions unhindered. Nor at any time shall they be prevented from making use safely of their spiritual and temporal possessions as they wish. He has given corroboration.*

[1248 (x 13.12) x 24.8.1289]

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 31v

Printed *Kelso Liber*, no 81

16. *P[atrick], son of Lord P[atrick] earl of Dunbar, has confirmed to God and St Mary of Coldstream and the nuns there all the land which the nuns hold*

there along with the houses in Berwick which belonged to David the tailor in the street of Ramsden on the Ness, all given to them by his father. They are to be held by the nuns as freely and peacefully as his father's charter declares. He has given corroboration.

Hiis testib*us* . Pat*ricio* de Dunbar fil*io* no*s*tro . d*omi*nis . Joh*anne* . Alexandro fr*atri*b*us* no*s*tris . D*omi*no Pat*ri*cio de Lemouchton' rector' ecc*lesi*e de Duns . Mauricio cl*eri*co 7 Multis aliis .

[1248 (x 13.12) x 24.8.1289]

Source NAS, GD 212/ Box 10/ 14
Printed *Coldstream Cartulary,* no 14

17. *Sir Patrick, son of Lord Patrick earl of Dunbar, has given and by this charter confirmed to the holy nuns of the church of Coldstream all the land beside the Leet which is called 'Putanyshalwe' from the east side of the Leet as far as the territory of the nuns. The land is to be held in alms of Sir Patrick and his heirs as any other alms in the kingdom of Scotland. He gives warrandice and corroboration.*

[1248 (x13.12) x 24.8.1289]

Testibus . Domino . P. comite patre . meo . Domino . P. Eger Domino . Alano de Ormistun . Dominis P . de Sympryng . Johanne de Millyans Will*elm*o de Laynall . Adam Tunnoc de Kalchow Waltero de Derchester . cum multis aliis .

Source BL, MS. Harley 6670 (Coldstream Priory cartulary), ff. 14v –15v
Printed *Coldstream Cartulary*, no 20

Dating by Patrick Edgar (flor. 1248x) and Alan of Ormiston (witness to *Cold. Cart.* nos 1,2, and 16 of Patrick III)

18. *Sir Patrick, son and heir of Lord Patrick earl of Dunbar, and Cecilia daughter of John, has confirmed to the monks of the church of St Mary, Kelso in alms the churches of Fogo, Hume and Greenlaw, with the lands, teinds, offerings, liberties and everything belonging to them as contained in the charters of Cospatric, Waldeve, Patrick and his grandfather Patrick, earls of Dunbar. Likewise all the lands which Sir Patrick late Lord of Greenlaw and his son Sir William Lord of Greenlaw gave them there, as contained in their charters; especially the land in Greenlaw which had been held by Liulf, the head groom, beside the cemetery below the church on the south side gifted to them by Sir William over which there was a disagreement between himself and the abbot and convent of Kelso. By this charter he confirms also to them Bothwell shielings with everything belonging to them as contained in the charters of Cospatric and Patrick, earls of Dunbar. They are to have everything as in the charters of the earls of Dunbar of old, which he ratifies and accept on behalf of himself, his heirs and his assignees. He has given corroboration.*

[1248 (x13.12.) x 1289]

Source NLS, MS. Adv. 34.5.1 (Kelso Abbey cartulary), f. 30v

Printed *Kelso Liber,* no 77

Acts for which no charter is recorded

1.* *Earl Gospatric gave Hartside and Spott by rightful boundaries to the monks of Melrose.*

[1136 x 22.08.1138]

Reference in Charters to Melrose, no 2, where the boundaries are said to be those by which the monks held Hartside and Spott in the time of Earl Gospatric's father and King David. The earl's gift may have been his contribution to the endowment of the new foundation at Melrose in 1136 where he was present as a witness to the king's charter (*David I Charters*, no 120).

2.* *Earl Gospatric granted to the priory of May a lodging with a toft in Dunbar and access for one ship to provide necessities for the priory of May.*

[1153 x 9.12.1165]

Reference to the confirmation of this act by Malcolm IV (*RRS*, i, no 279) is contained in William I's charter of confirmation (*RRS*, ii, no 8, 1166 x 1171; Stuart, *May Recs*, 7, no 12). Possibly property in Dunbar was exchanged for the property in Biel, the grant of which is recorded in Charters to May, no 1. This may be an additional grant, or it may be a reference to the same toft, said to be in Dunbar rather than in Biel. See Duncan, *May Docs.*,75.

3.* *Patrick [I] earl of Dunbar gifted a chalder of corn annually to Paisley Abbey.*

Reference in confirmation by Pope Honorius III to Abbot William of Paisley of the possessions of the abbey; 'et annum redditum unius geldra frumenti quem percipitis ex donatione nobilis vir Patricii Comitis de Dunbar'. [NLS, MS. Adv. 34.4.14 (Paisley Abbey cartulary), f. 272v (pencil foliation) ; *Cal. Papal Letters*, i, 106-7 (1226); *Paisley Reg.*, 412]

This is the only surviving record traced so far of the earls' benefaction to Paisley Abbey. Patrick I's son and heir Patrick married Euphemia Bruce or Stewart about 1212 when he was about twenty-seven years of age. Their son Patrick, the future Patrick III, was born in 1213. Possibly Earl Patrick's gift was linked to the marriage or to the birth of his grandson, with Pope Honorius' confirmation following some years later.

Appendix 2

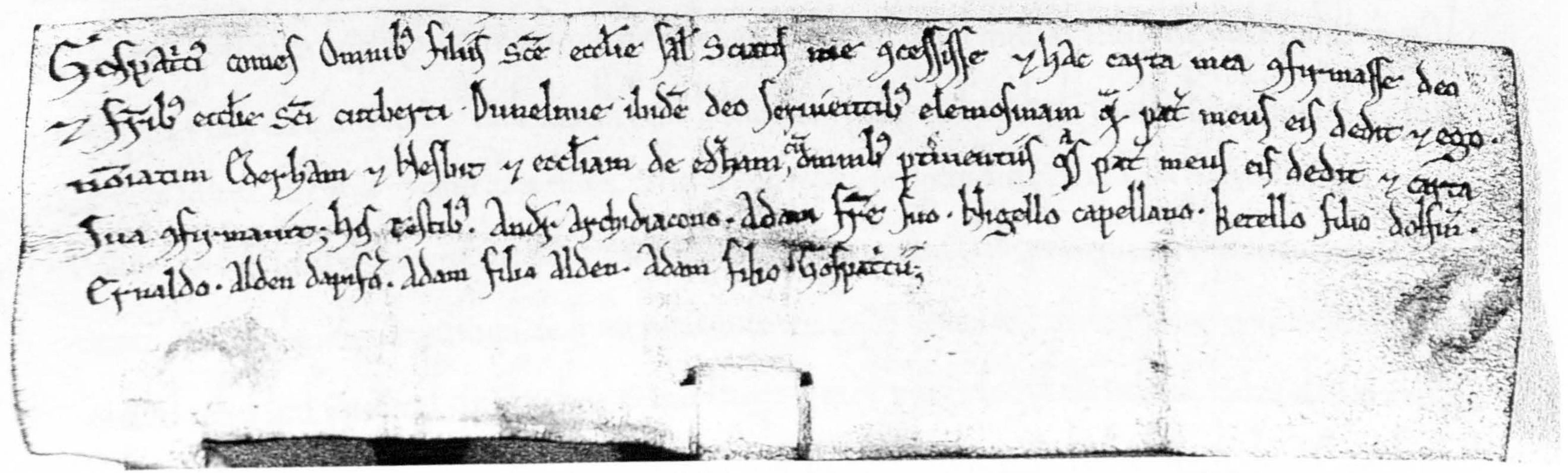


Plate 1 Charters to Durham, no 2 MC.777

Comes Waldeuus Omnibus fidelibus et amicis francis et anglis salutem. Sciant tam futuri quam presentes: me dedisse et confir-
masse hac mea carta concessione heredis mei deo et sancte marie de melros. et monachis ibidem deo seruientibus
communem pasturam super lambermoram mecum et cum hominibus meis per has diuisas scilicet de baldredestan per al-
tam uiam usque ad ellingcloh et inde deorsum sicut hellingcloh cadit in bothkyl et inde usque in diuisas de Inui-
wic pro salute anime mee et antecessorum meorum et successorum meorum in perpetuam elemosinam ita libere et quiete et hono-
rifice ab omnibus sectaribus seruicijs et consuetudinibus sicut aliqua elemosina liberius et quietius et honorificentius datur uel
tenetur. Si autem dimiserint pasturam de Inuei wic caule eorum sequuntur pecora sua cum logijs suis que pertinent ad ipsas
caulas infra has prenominatas diuisas sine manuali opere et meis proprijs logijs de beltun. Hanc donationem ego
et heredes mei warantizabimus predictis monachis contra omnes homines in perpetuum. His testibus. Aelina Comitis. Radul-
fo capello. Johe capl Walto. capl. Hugone de dunl. Patricio fratre comitis. Edwardo auuncto comitis. Gilbt
fraser. Adam filio alden. Alden senescaldo. Gamello de pethcox. Adam de foghou. Gilberto filio Walti.
Stephano papedi. Warmo femalla. Adam filio eggari. Adam de eduntun.

Plate 2 Charters to Melrose, no 3 GD/55/76

Comes Waldeuus omnibus probis hominibus suis et amicis. et omnibus in xpo dilectis Salt. Notum sit omnibus presentibus pariter et futuris. post datam
a patre meo com. cospatricio dimidiam partem ecclie de leinhal. scimonialibus de kaldestr. quam ego concessi et hac mea carta presenti confirma
ui. me integre dedisse. et hac mea carta presenti confirmasse aliam dimidietatem ecclie eiusdem de leinhal. eisdem scimonialibus de kaldestr.
post decessum institute psone. Preterea eisdem monialibus concedo. et hac presenti carta mea confirmo Witechestre per rectas diuisas suas. et
communam in pasturis meis circumiacentibus quantum ad propria aueria sua. et unam carucatam terre in territorio de heresill. et ecclesiam eiusdem
uille cum omnibus pertinentiis suis. quas derder comitissa mater mea eis dedit. et cospatricius comes pater meus carta sua confirmauit. et totam
terram quam normannus fil. edulfi dedit illis in leinhalle per rectas diuisas suas concedo et confirmo. pro dei amore et salute anime mee et omnium
antecessorum et successorum meorum in liberam et perpetuam elemosinam. ita libere et quiete in perpetuum possidendam. sicut aliqua elemosina in regno
scotie liberius et quietius tenetur et possidetur. his testibus. abbate nicholao de stuel. et priore Radulfo. patricio fratre com. Ric. de milei. patricio fil. ad
gari. Adam de dedintu. henr. clerico nepote abbatis de stuel. et thoma nepote magistri aelzi.

Plate 3 Charters to Coldstream, no 3 GD/212/Box10/26

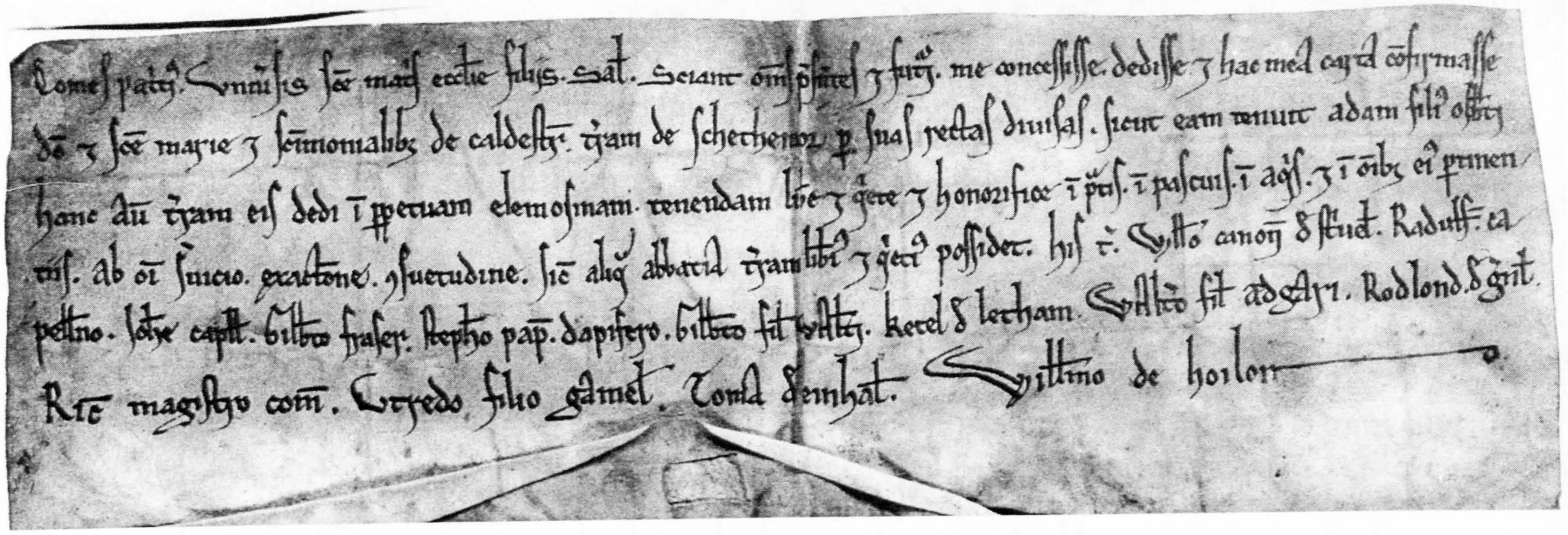


Plate 4 Charters to Coldstream, no 5 GD/212/Box 10/4

Comes Patricius de Dunbar universis sancte matris ecclie filiis salt. Sciatis me quietam clamasse deo
et sancto Cuthberto et monachis Dunelmi terram de Suintona quam calumpniavi ab eis. que iacet inter
Foghou et Suintona pro salute anime mee et omnium antecessorum et successorum meorum. Quare volo ut
predicti monachi habeant et possideant predictam terram quietam a me et a successoribus meis in perpetuum.
per rectas divisas suas. scilicet per viam que venit de Herneslawe et vadit iuxta Ryselawe usque Fullech. et sicut
Fullech vadit in Blakebourne usque ad divisas de Suintona et Kynebrigham. His testibus. Adam filio Aldan
Patricio filio suo. Waltero capellano. Gilberto clerico. Rolando senescallo. Gilberto de Polwrthe. Ricardo de
Gordun. Adam de Gordun. Ricardo de Leynale. Henrico de Prendregest. Alano de Suintona. Willelmo de
Hesebith. David de Pakestun. Gregorio senescallo. Adam de Rystona. Elya de Prendregest. Elya de
Lytona. Stephano de Eytona. Reginaldo et Mauricio filiis magistri Merlini. et multis aliis.

Plate 5 Charters to Durham, no 6 MC.766

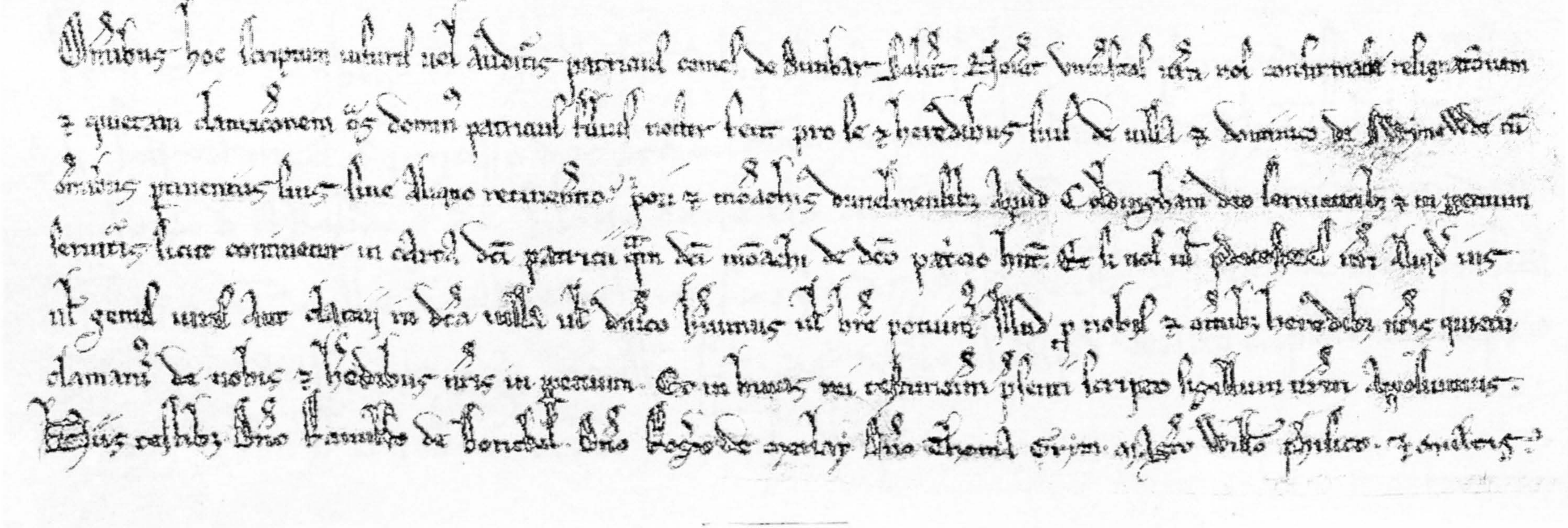


Plate 6 Charters to Coldingham, no 7 MC.765

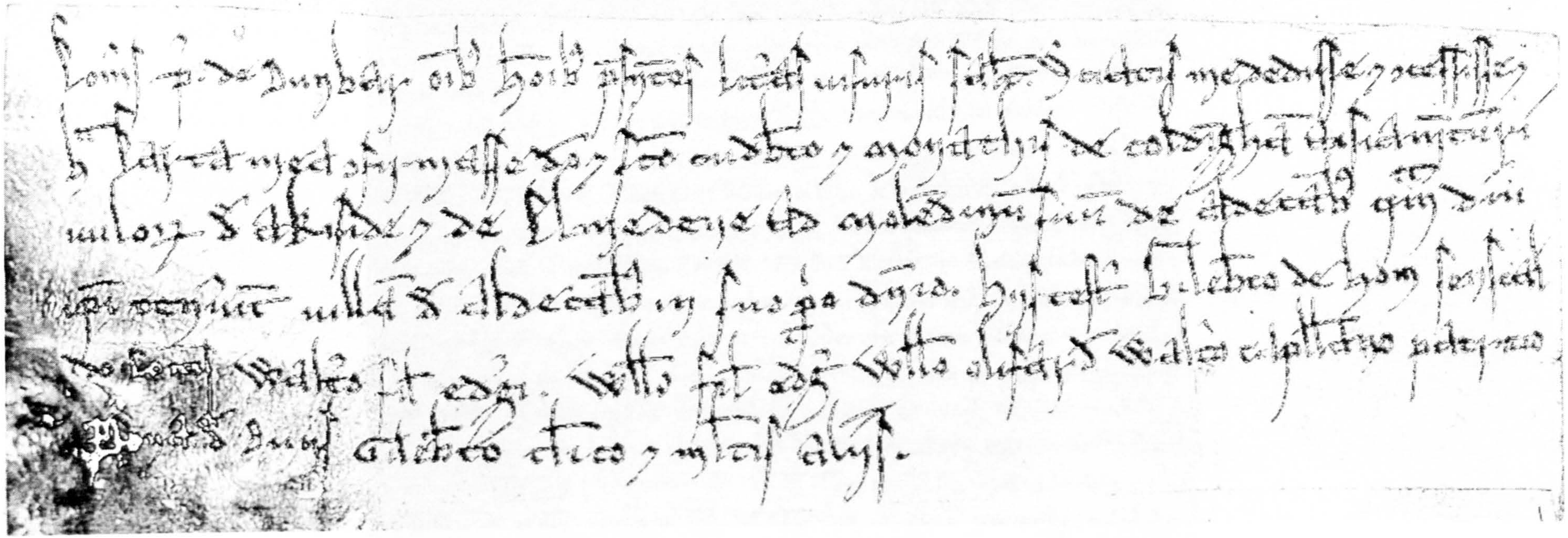


Plate 7 Charters to Coldingham, no 2 MC.763

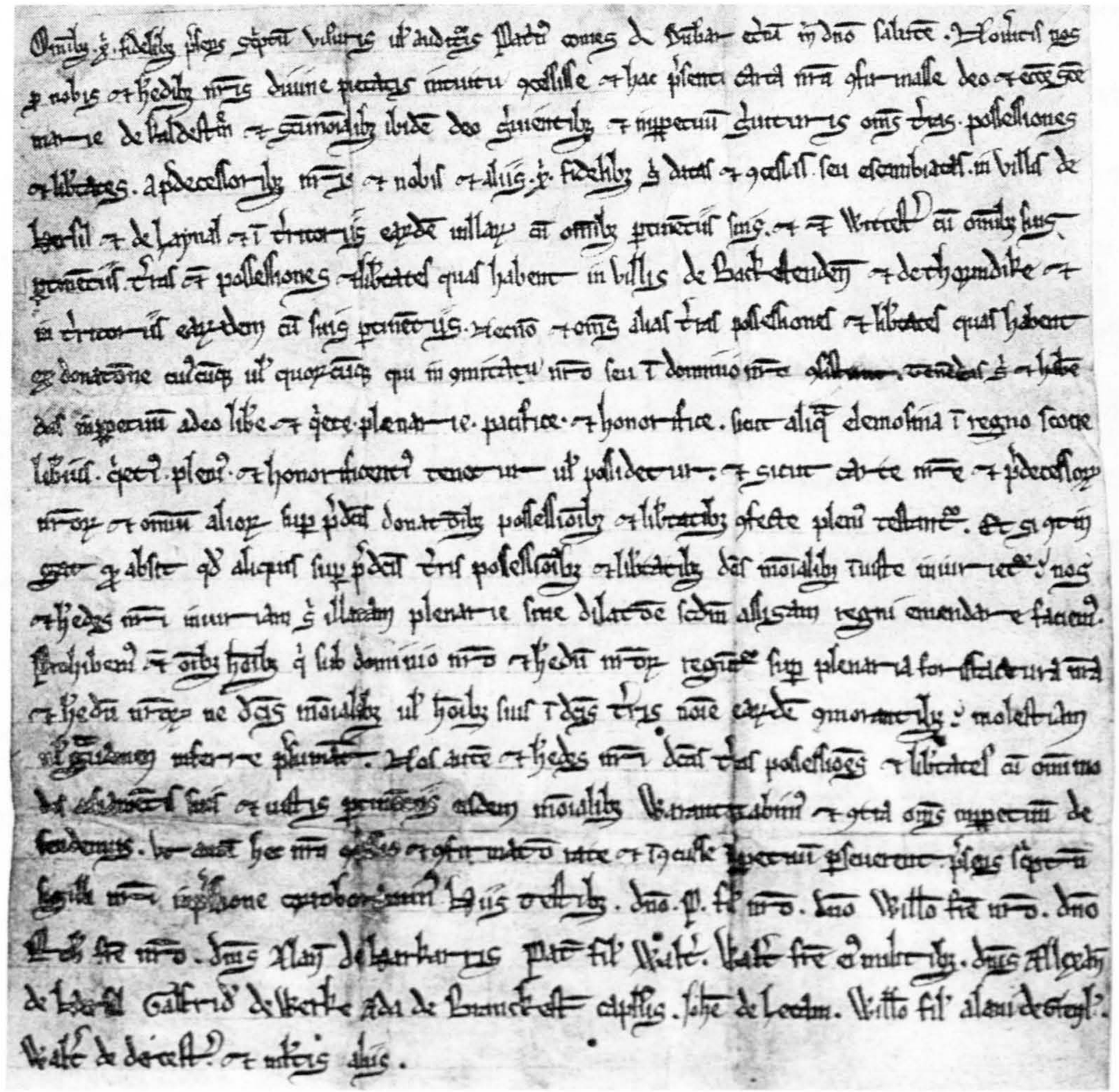


Plate 8 Charters to Coldstream, no 10 GD/212/Box10/57

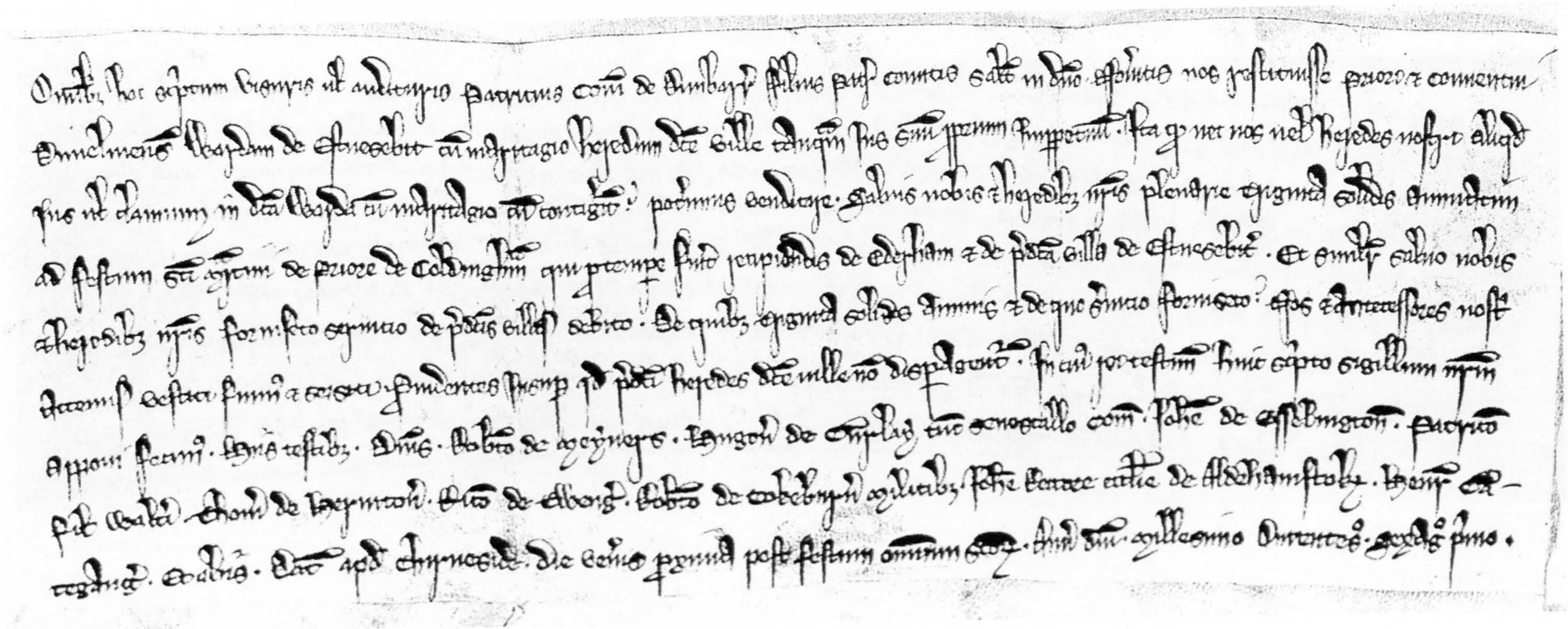


Plate 9 Charters to Durham, no 9 MC.776

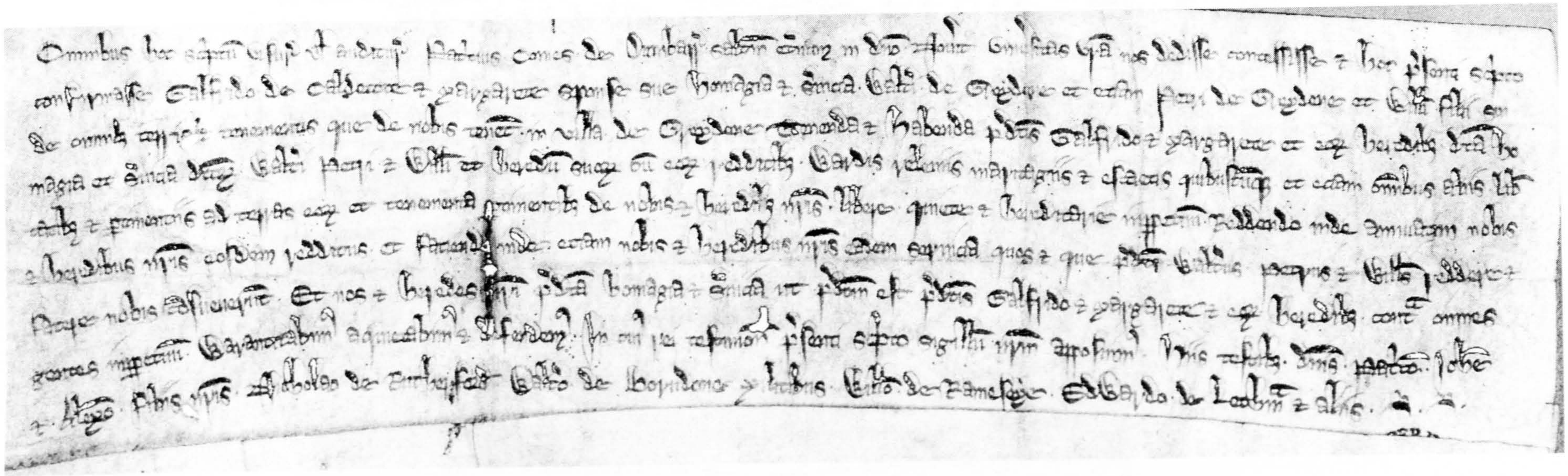


Plate 10 Charters to Laymen, no 7 RH6/60

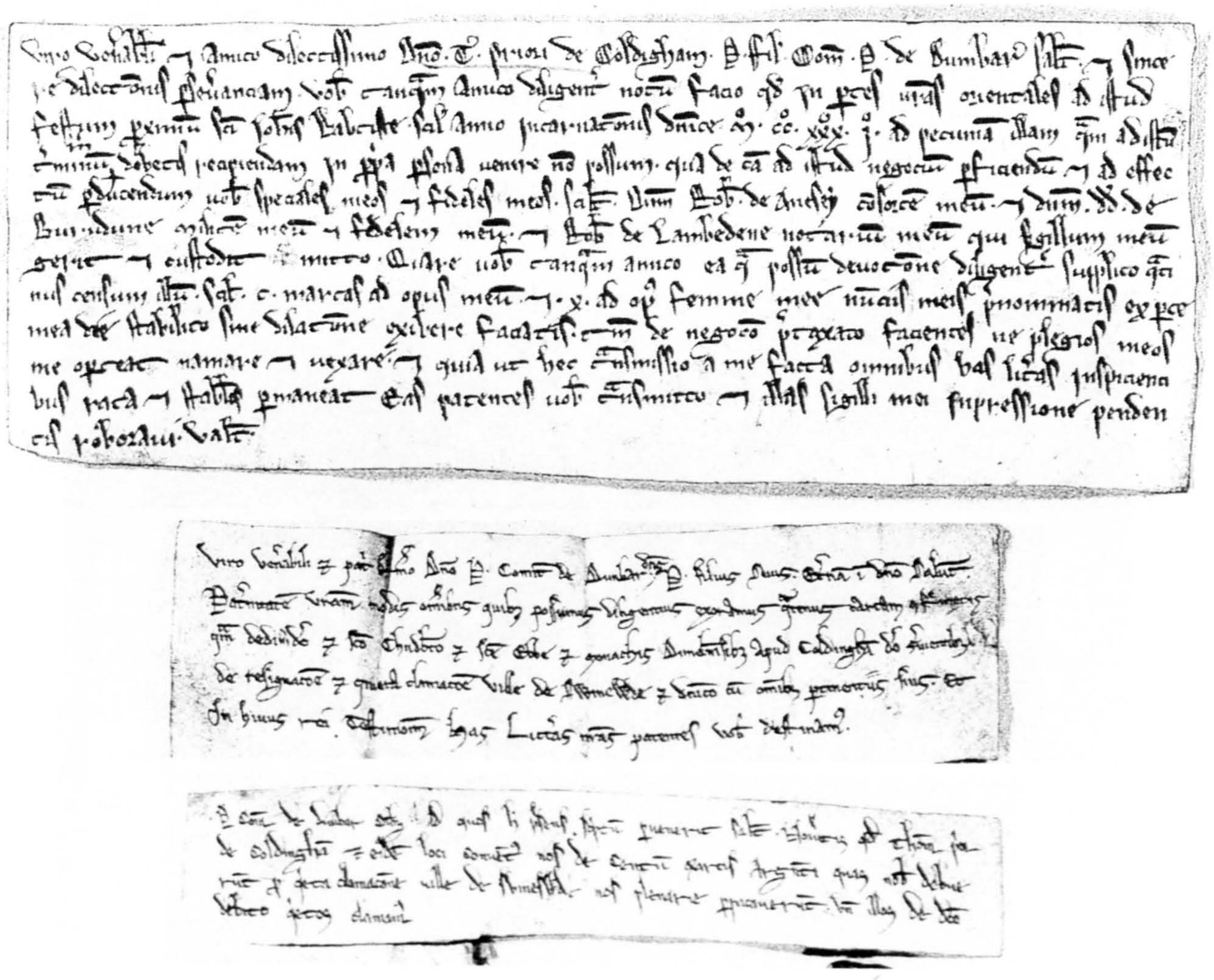


Plate 11 Charters of the Heirs, no 11 (MC.738); of the Heirs, no 10 (MC.739); to Coldingham, no 8 (MC.767)

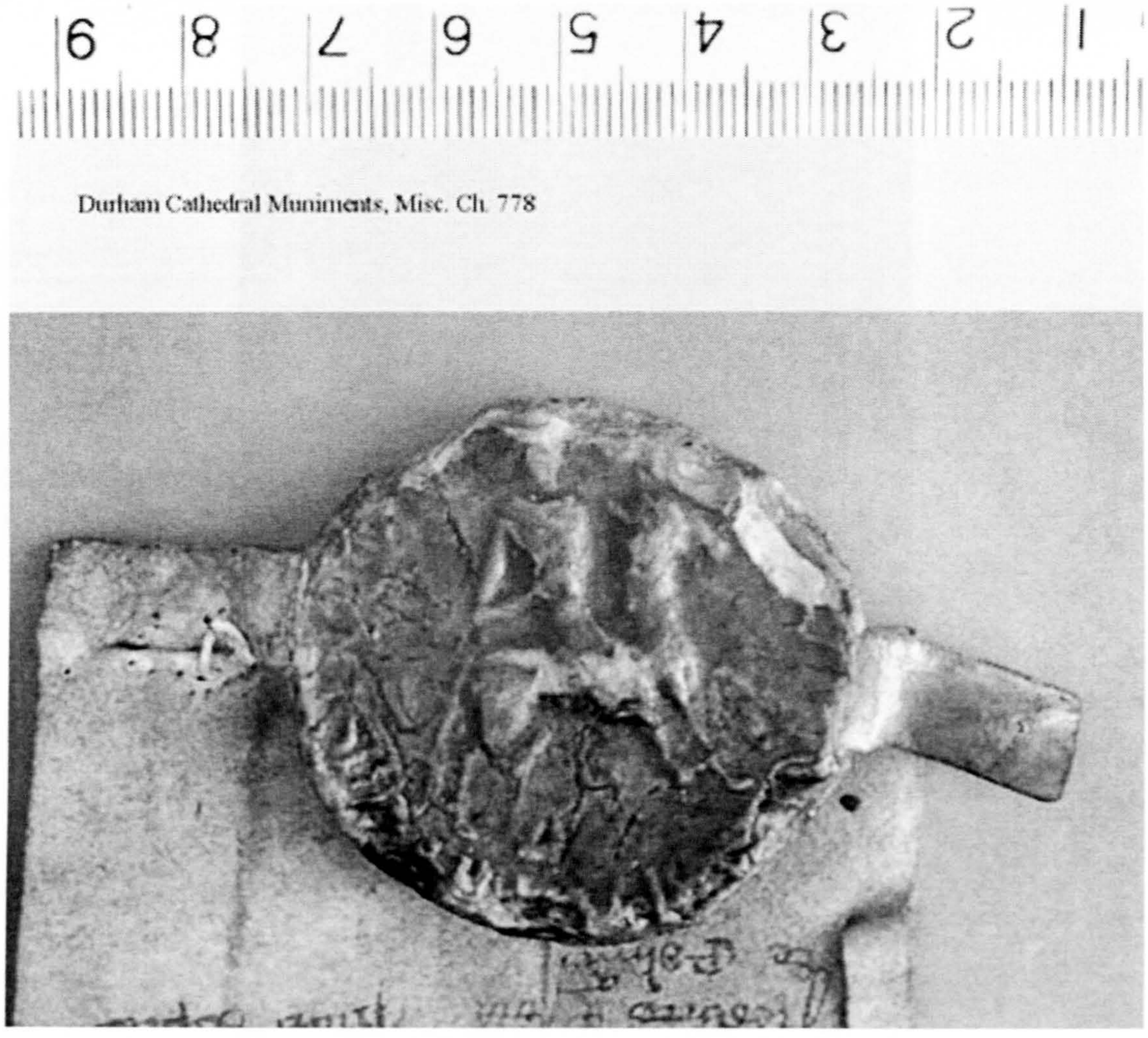


Fig. 1 MC.778 DS 2802 Seal of Gospatric, brother of Dolfin

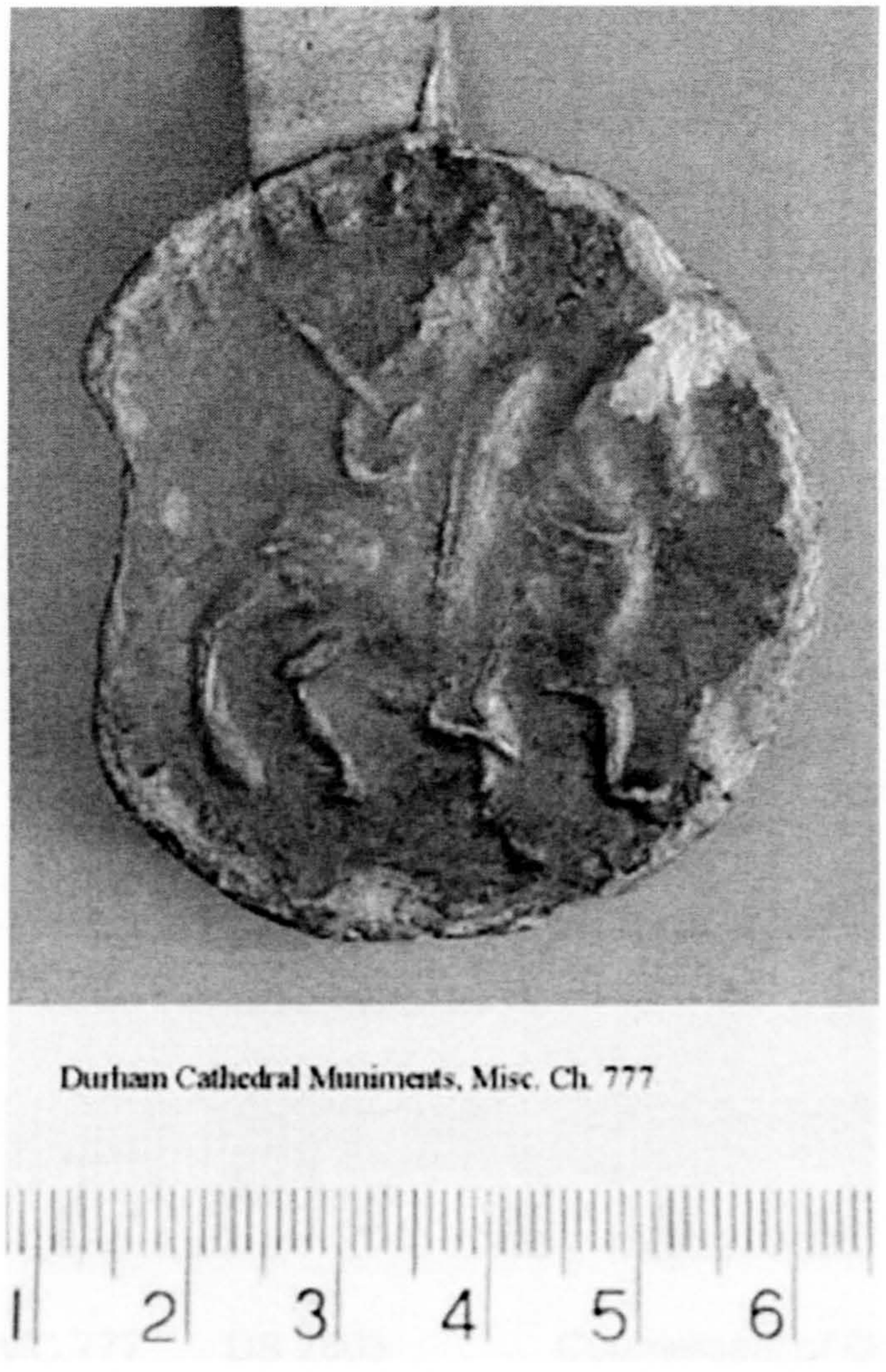


Fig. 2 MC.777 DS 2803 Seal of Gospatric, father of Waldeve

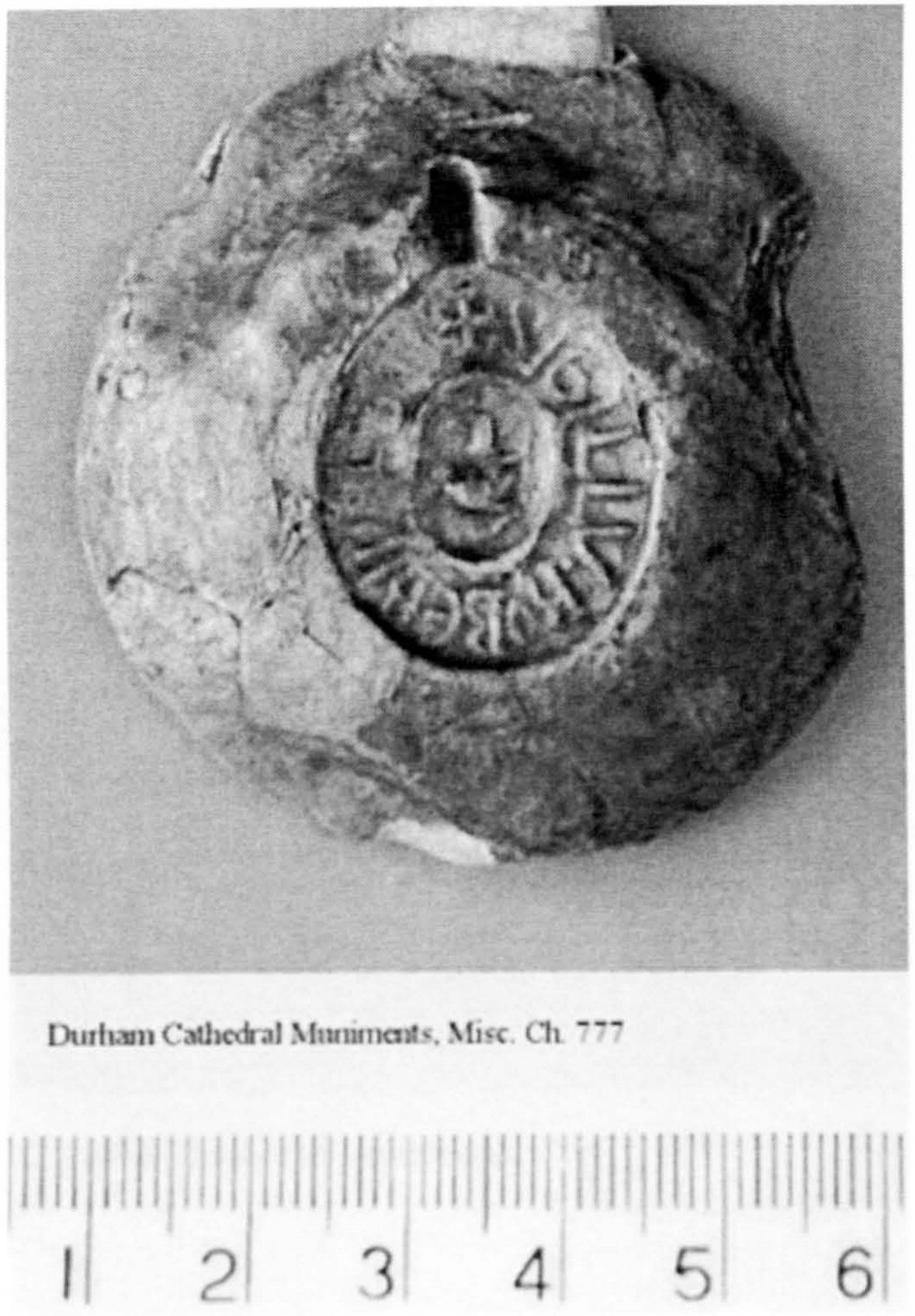


Fig. 3 MC.777 DS 2803 (Reverse) Counterseal of Gospatric, father of Waldeve



Fig. 4 MC.788 DS 2812 Seal of Earl Waldeve



Fig. 5 MC.763 DS 2804 First seal of Patrick I



Fig. 5 MC.763 DS 2804 First seal of Patrick I



Fig. 6 MC.765 DS 2805 Second seal of Patrick I

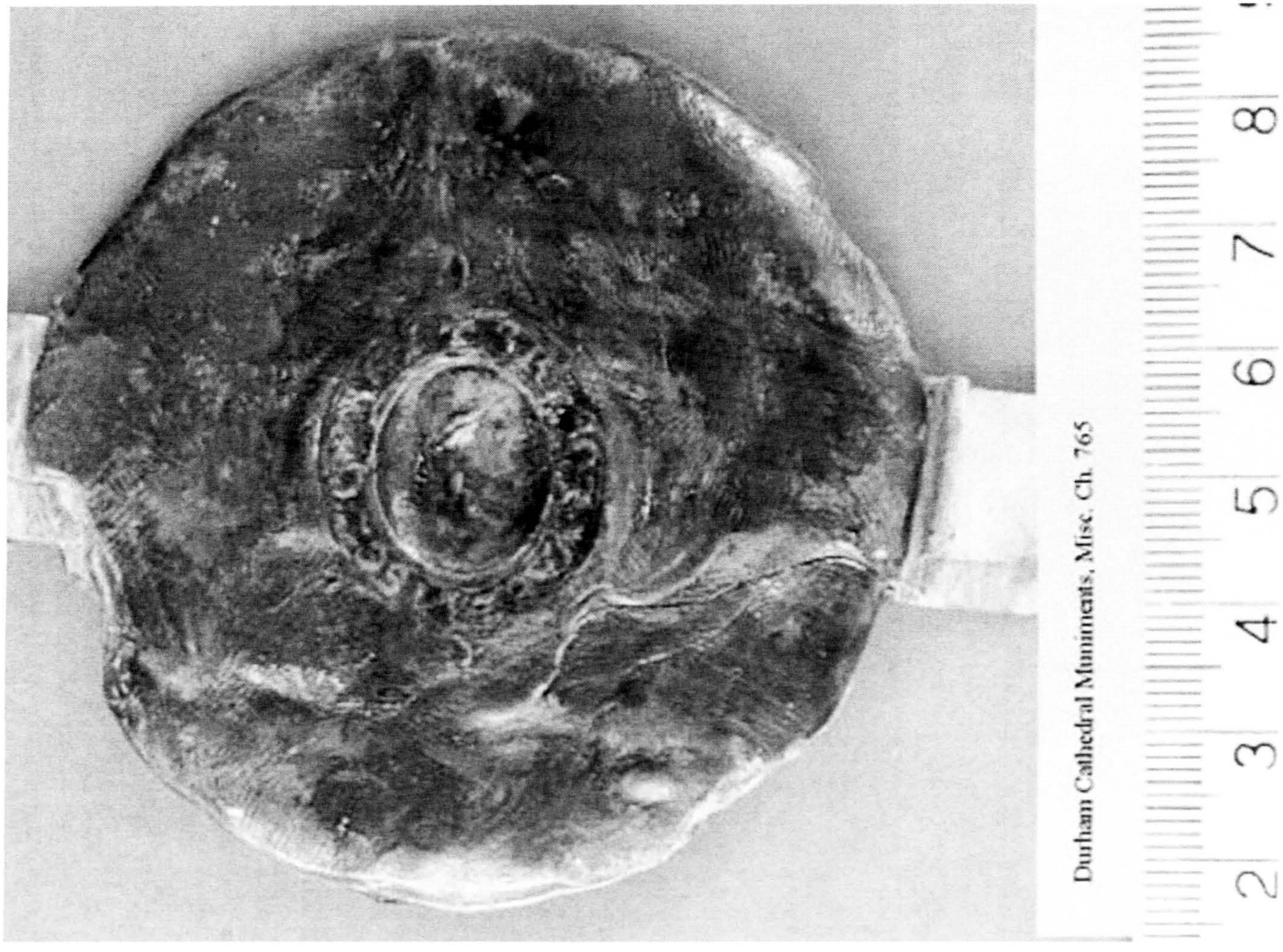


Fig. 7 MC.765 DS 2805 (Reverse) Counterseal of Patrick I



Fig. 8 MC.746 DS 2807 Seal of Patrick II

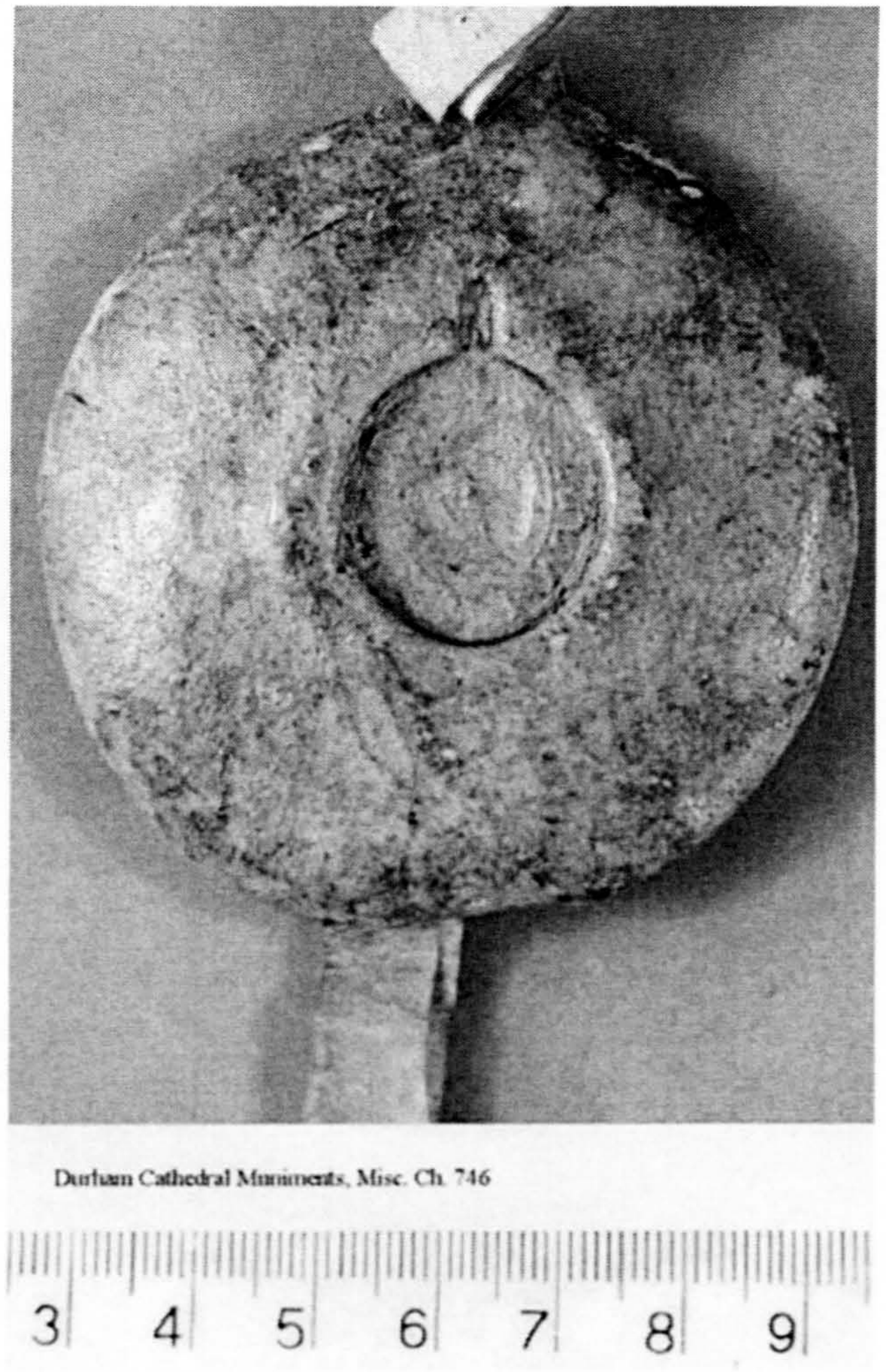


Fig. 9 MC.746 DS 2807 (Reverse) Counterseal of Patrick II



Fig. 10 GD/55/235, 236 (reverse) Counterseal of Patrick II



Fig. 11a



Fig. 11b



Fig. 11c
(Fig. 11b superimposed on Fig. 11a)

Fig. 11 MC.773 DS 2808 First seal of Patrick III



Fig. 12 MC.773 DS 2808 (Reverse) Counterseal of Patrick III



Fig. 13 MC.775 DS 2809 Second seal of Patrick III

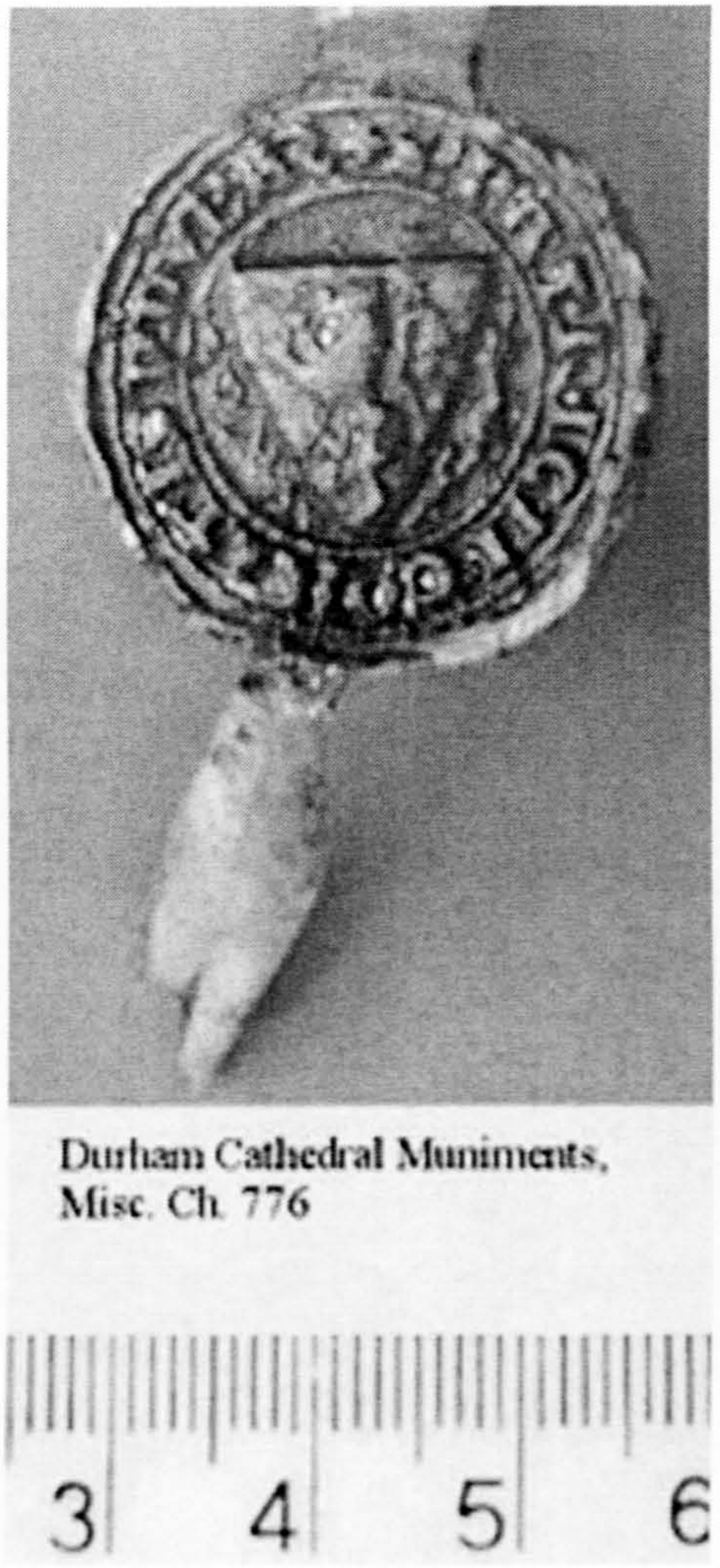
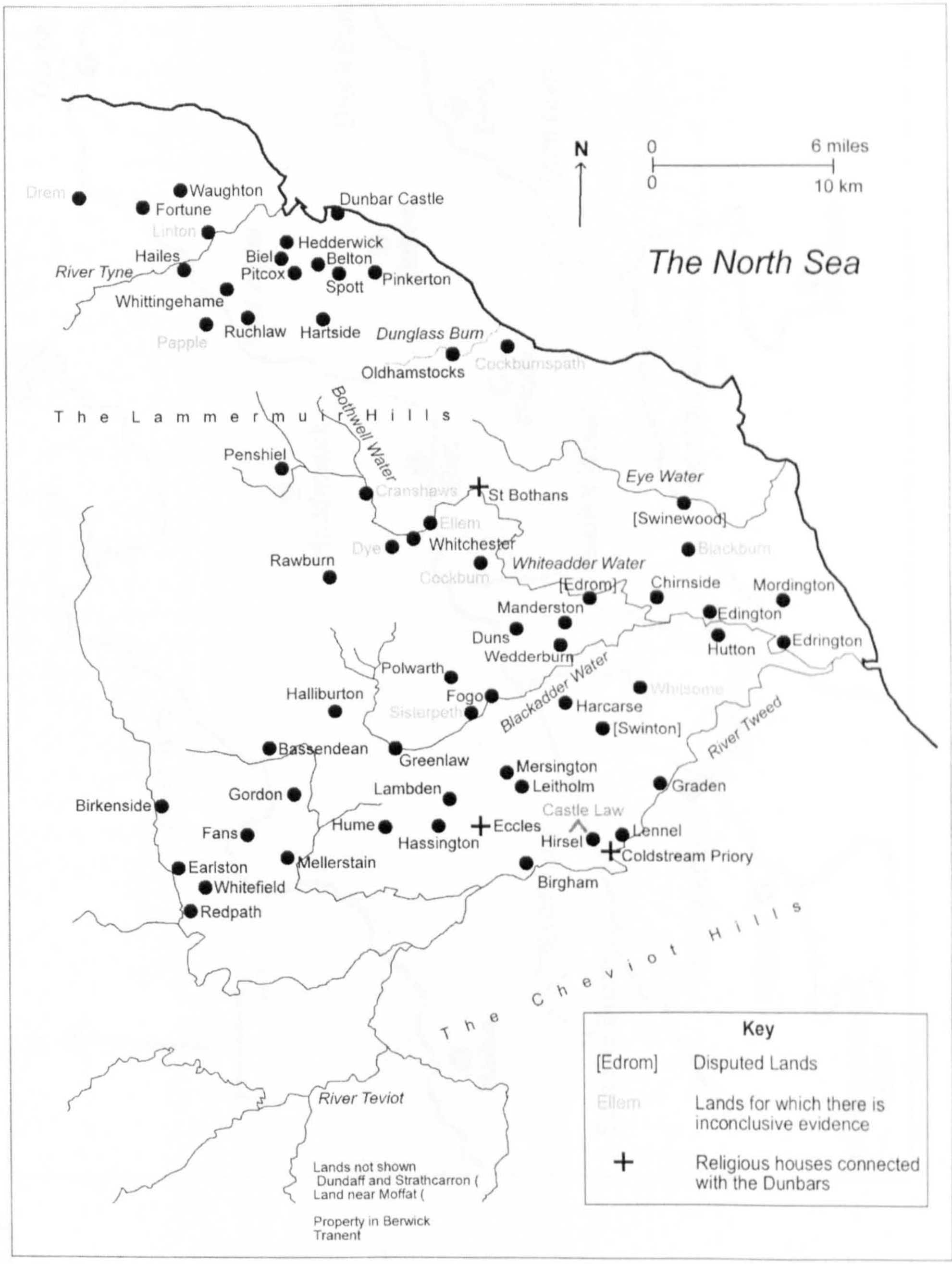


Fig. 14 MC.776 DS 2810 Third seal of Patrick III



Fig. 15 MC.733 DS 2806 Seal of Sir Patrick, Son of Patrick I

Map 1:
Major Identifiable Lands of The Earldom of Dunbar during the 12th and 13th Centuries: **Lothian and The Merse**

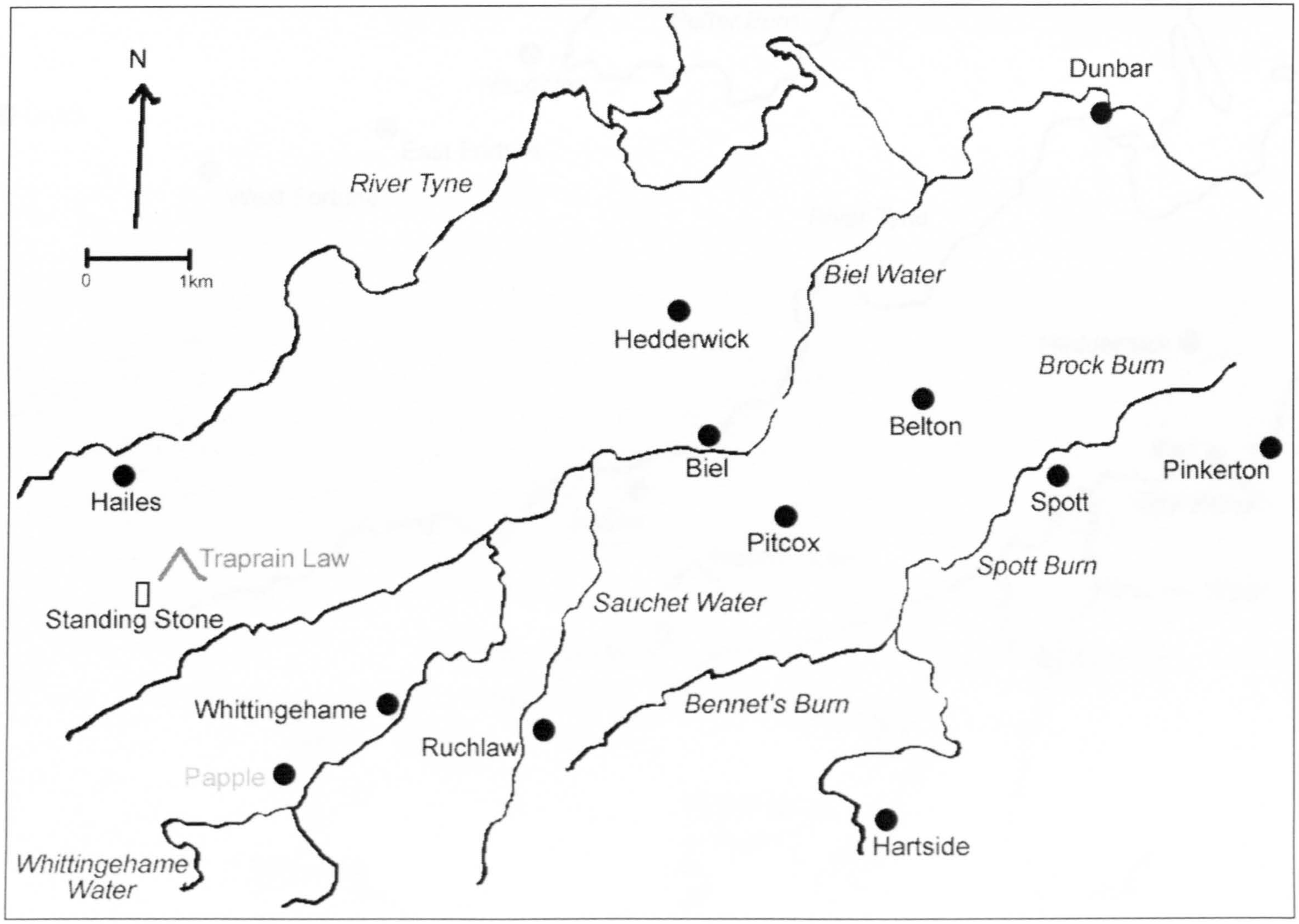


Lands not shown:

Dundaff and Strathcarron
Land Near Moffat
Property in Berwick
Tranent

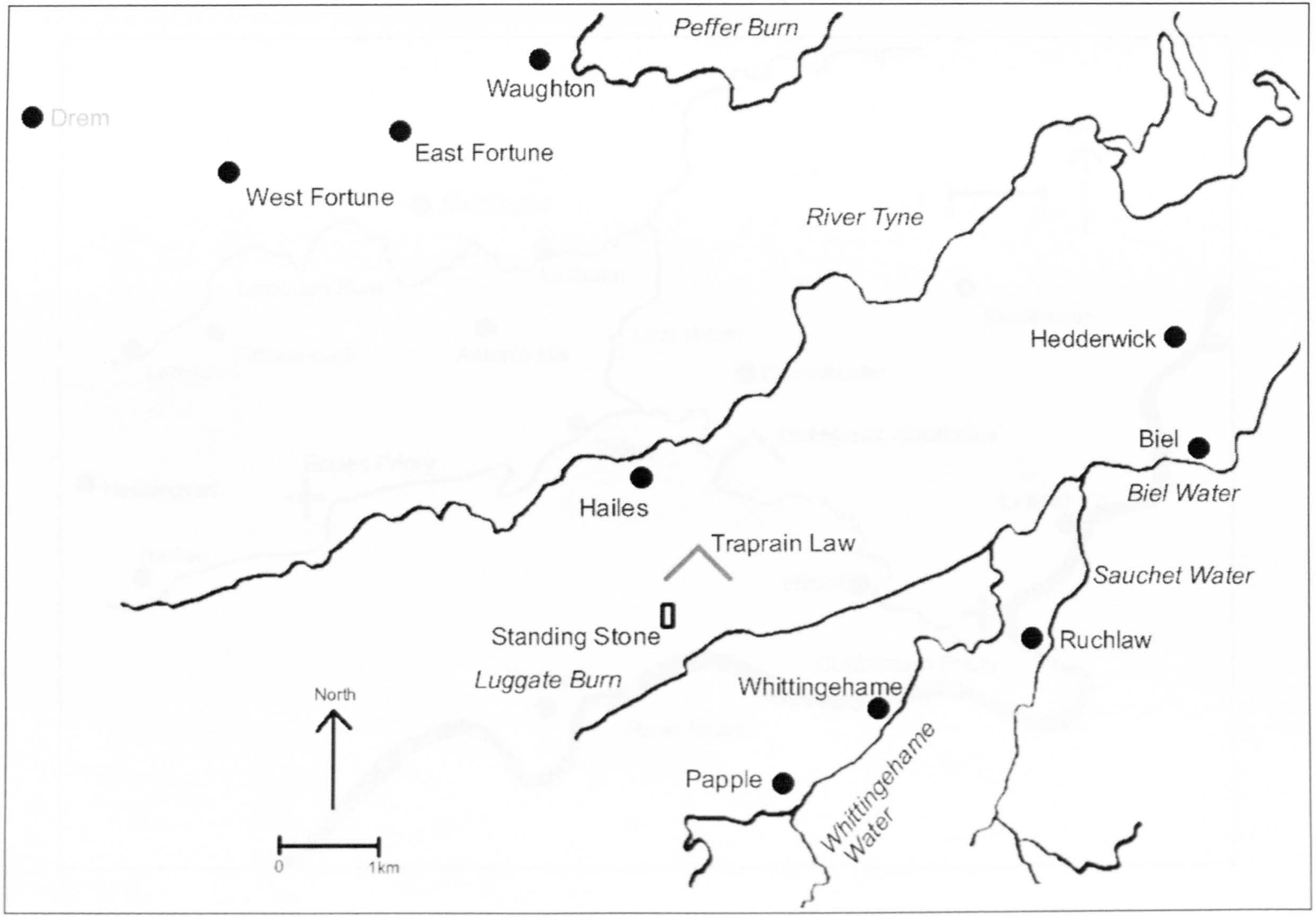
Map 2: Identifiable Lands of The Earldom of Dunbar during the 12th and 13th Centuries: **Dunbar and adjoining lands**

Lands not shown:
Penshiel



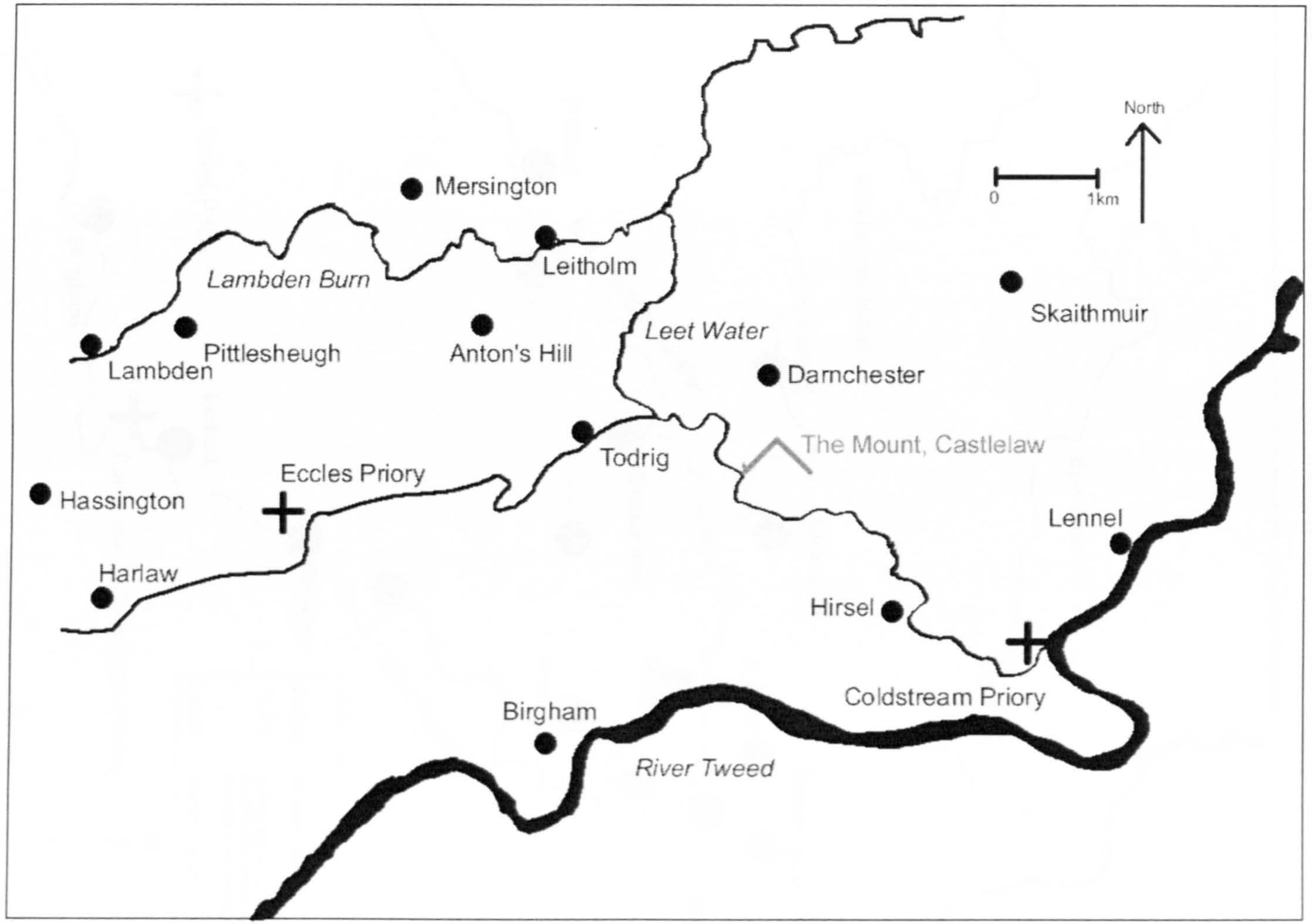
Map 3: Identifiable Lands of The Earldom of Dunbar during the 12th and 13th Centuries:
South-west of Dunbar

Lands not shown:
Tranent

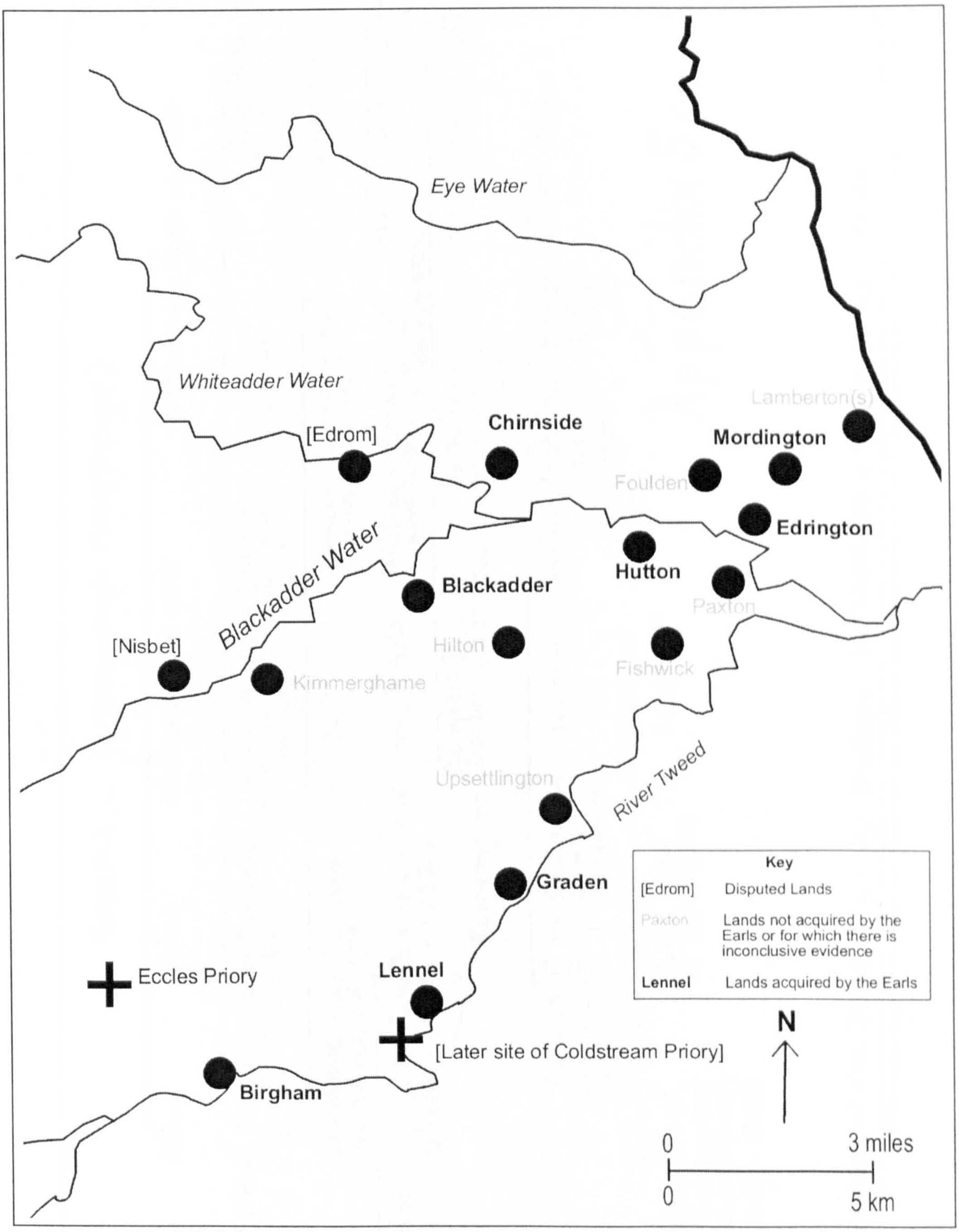


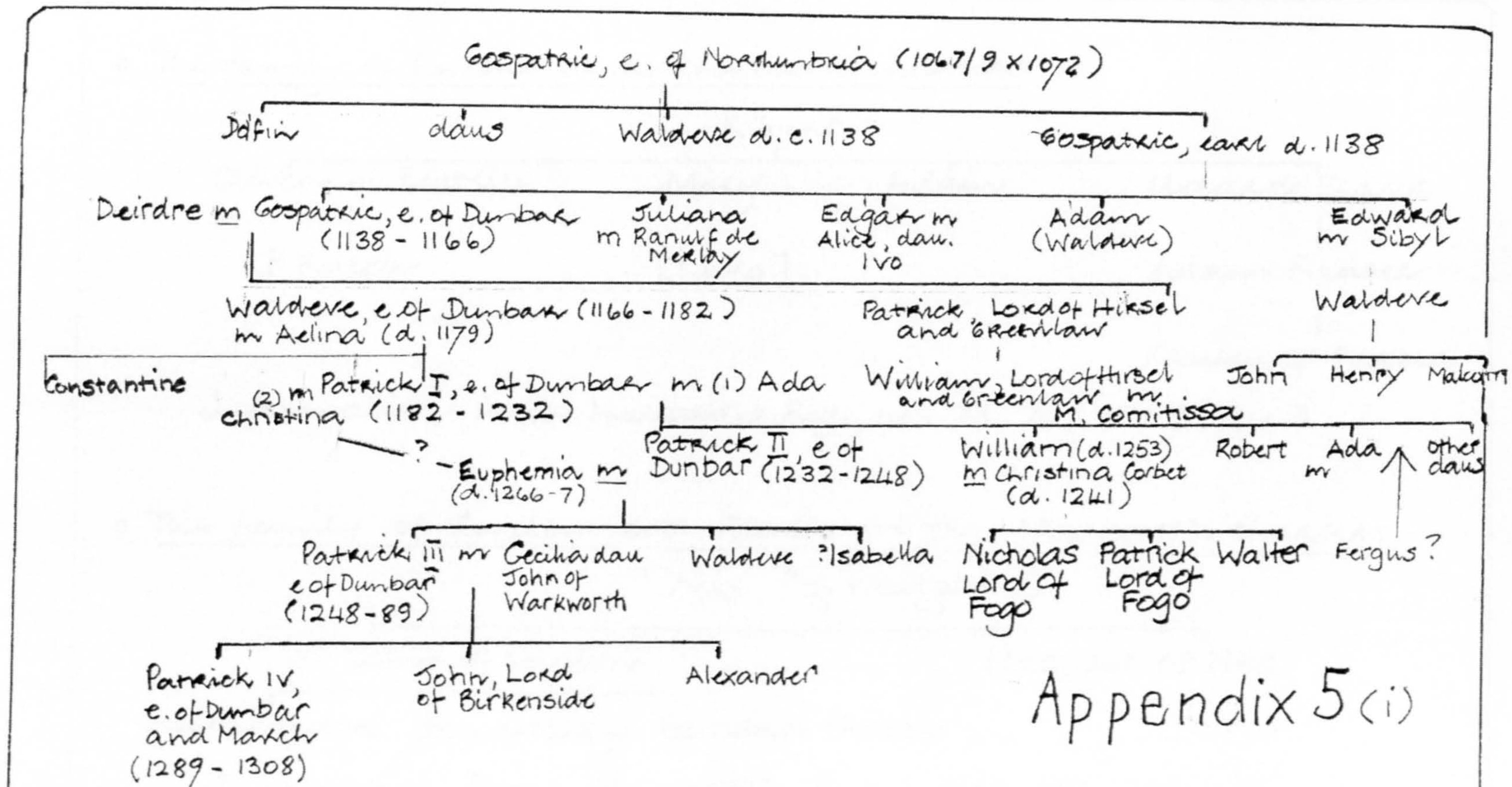
Map 4: Identifiable Lands of The Earldom of Dunbar during the 12th and 13th Centuries: **Coldstream Priory and surrounding lands**

Lands not shown:
Thornydykes
Whitchester
Bassendean



Map 5: Berwickshire (Place-names from MC973 Charter of William Rufus)

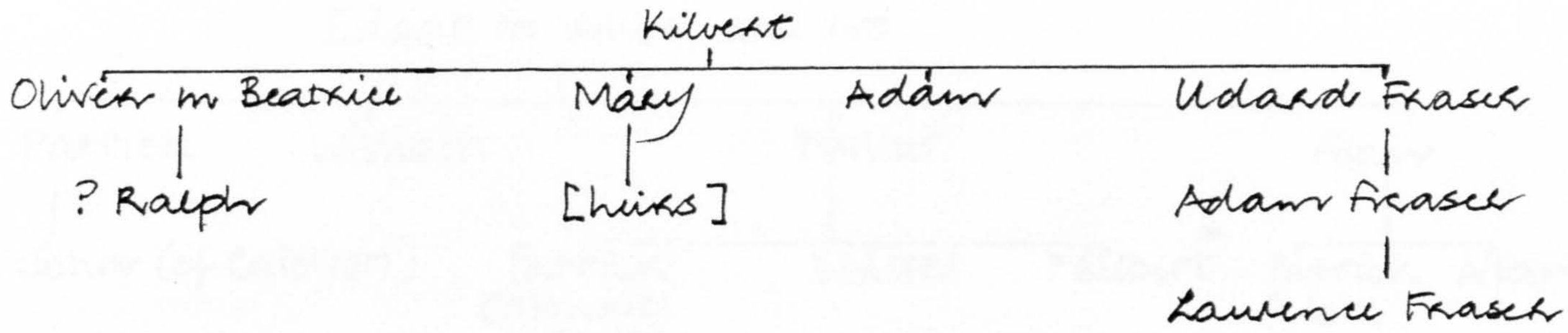




Appendix 5 (i)

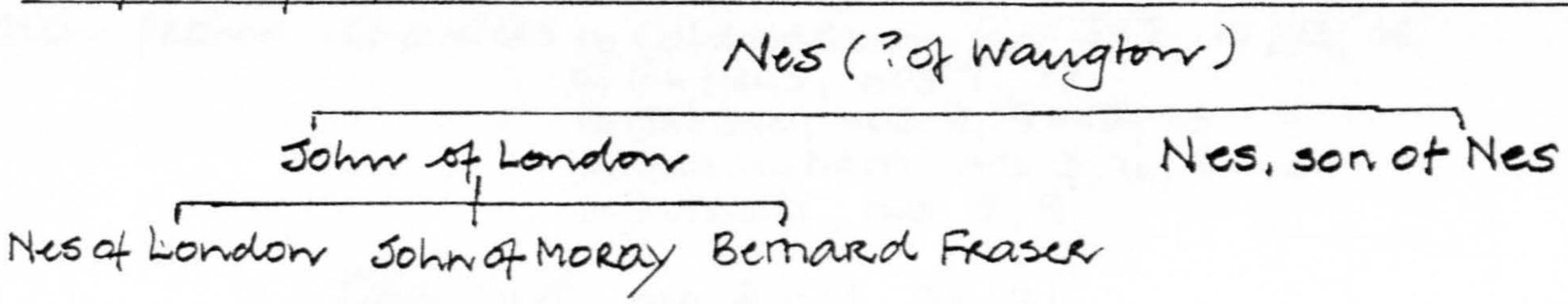
The members of the Dunbar family to whom the charters and chronicles allude

- The family of Kilvert in the Newbattle charters



Information from Newbattle Reg., nos 73, 74, 77-9, 91-3

- The family of London and Fraser in the Newbattle charters



Information from Newbattle Reg., nos 107, 109 - 15

Appendix 5 (ii)

Family of EDGAR. younger son of Earl Gospatric, brother of Dolfin

Edgar m Alice, dau. Ivo

- Alexander
- Patrick
  - John (of Caistron)
- William
- Walter
  - Patrick (steward to Earl Patrick I) m Mariota, Lady of Hurle
  - Walter
  - ?Gilbert*
- Alan
  - Patrick (clerk to Earl Patrick I)
  - Alan

Information from Charters to Coldstream, nos 3-7, 10, 13, 15
of the Heirs, nos 7, 17
to Melrose, nos 3, 9-10, 13
to Coldingham, nos 2, 4, 9-10
to Durham, nos 5, 9

Cold. Cart., nos 12-13, 34, 41

Melrose Liber, no 213

*Gilbert occurs in earlier charters than do his brothers

Appendix 5 (iii)

Appendix 6

The lands of the earls in England

The earls' roots were Cumbrian and Northumbrian[1] and the witnesses to many of their charters were obviously of northern England origin.[2] They were cross-border lords, holding lands in Northumbria, which are shown in Map 6. The core was the serjeanty of Beanley and other lands granted to Gospatric, brother of Dolfin, by Henry I after 1100. The text of Henry's charter is lost, but in Stephen's charter of confirmation we learn that fifteen manors in all were granted to Gospatric, probably before 1133, and possibly much earlier.[3] Some may have been restored or confirmed to the family, for there are indications that some had been held of King Henry by Edmund, Gospatric's uncle. There is every likelihood that others had previously been family lands lost when the first Gospatric was deprived of his earldom.

Other lands were acquired by Gospatric's descendants, and were recorded in later inquests and cartulary entries which are aften at variance.[4] Nevertheless the lists they provide have enough in common to enable us to assemble a picture of the lands held by the earls in Northumberland during the twelfth and thirteenth centuries. They are shown on Maps 6a and 6b and are listed below, with the dates at which they can be identified as belonging to the Dunbar estate.[5]

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[1] The origins of the family of Gospatric are discussed most recently in C. Phythian-Adams, *Land of the Cumbrians* (Aldershot, 1996), particularly 152-3 and Apps.1 and 2 (173-181)
[2] E.g.Charters to Coldstream, nos 10, 14-15 (Branxton, Wark, Lemmington)
[3] *RRAN*, iii, 373
[4] On these inconsistencies, see Simpson, 'RQ', 50.
[5] See Maps 6a and 6b. There was also 'the service of Gospatric', recorded in 1247 (*Cal. Docs. Scot.*, no 1712). The sources used are the charter of Henry I confirming land he and Earl Gospatric had given to the earl's daughter, Juliana, *in liberum maritagium* (*RRAN*, ii, nos 1848-9, at Woodstock, c.1121 x 1133); the charter of King Stephen confirming grants of land to Gospatric in Northumberland (*RRAN*, iii, no 373, at York, February 1136); entry under 'Barony of Earl Patrick' in the *Book of Fees,* ii, 1122 (1242-3); lands recorded in the Inquest of 1247 (*Cal. Docs. Scot.*,no 1712; *Inq. p.m.* 31 Henry III, no 38, April, 1247); lands recorded in the Inquest of 1290 (Stevenson, Documents, i, 117-8; Inq. *p.m.* 18 Edw. I, no 22, 3 January 1290); Dunbar lands and services in Northumberland forfeited to the Crown in 1335 (*Cal. Patent Rolls*, 1334-8, 79; *Cal. Docs. Scot.*, iii, no 1145, 19 February 1335)

Brandon ***(x1136, 1242-3, 1247)***

Beanley (x1136, 1242-3, 1247, 1290)
Hedgeley (x1136, 1242-3, 1247, 1290, 1335)
Branton (x1136, 1242-3, 1247, 1335)
Titlington (x1136, 1335)
Harehope (x1136, 1242-3, 1247, 1290, 1335)
The three Middletons (x1136, 1242-3, 1290, 1335)
Roddam (x1136, 1242-3, 1290, 1335)
Horsley (x1133, x1136, 1242-3, 1247, 1335)
Stanton (x1133, x1136, 1242-3, 1247, 1335)
Learchild (x1133, 1242-3, 1247)
Wingates (x1133, x1136, 1242-3, 1247, 1335)
Wotton (x1136, 1242-3, 1247, 1290)
Witton (x1133, x1136, 1242-3, 1247, 1335)
Ritton (x1133, x1136, 1247)
Lemmington (1242-3, 1247, 1290, 1335)
Edlingham (1242-3, 1247, 1290, 1335)
Shipley (1242-3, 1247, 1290, 1335)
Bewick[6] (1335)
Eglingham (1335)
East Lilburn (1335)
West Lilburn (1335)
Newtown (1335)

Henry I's grant, part of a more general strategy of creating baronies in the north, represented a considerable and remarkably early rehabilitation of the family of Gospatric in England. It is not clear whether the serjeanty originally comprised the six villages of Beanley, Brandon, Hedgeley, Branton, Titlington and Harehope alone, or included other villages given to Gospatric by Henry. By 1247 it was said to include everything except Titlington, the Middletons and Roddam, with the addition of Lemmington, Edlingham, Shipley and Learchild, then a dependency of Stanton.[7] By the mid-thirteenth century we learn that the obligations on the land were a mixture of cash payments and service. They were held *in capite* of the king, and for the three Middletons and Roddam, which were not in the serjeanty, thirty shillings per annum was paid by the earl to the king via the sheriff of Northumberland. For the other villages the earl

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[6] Bewick, Eglingham, East and West Lilburn and Newtown are also listed as Dunbar lands in the thirteenth century (*The Percy Chartulary*, 468-9). These lands have a complex history and were granted in alms at one stage to Tynemouth by Henry I (*RRAN,* nos 624, 640-1, 822). They were also the demesne lands of Edgar, Gospatric's son and Edward's brother, before the war of 1173 (*Cal. Docs. Scot.*, i, 297). Professor Barrow suggests also that Ilderton was held of the earl (*RRS,* ii, 52), but it seems that Ilderton was in the barony of and Henry of Ilderton held the Middletons and Roddam of the earls (*Book of Fees*, ii, 1122).
[7] *Cal. Docs. Scot.*, no 1712

was *inborwe et utborwe inter Angliam et Scociam.*[8] There has been much debate over the nature of this service. Neilson has shown that where the terms appear in the March Laws, which may be much older than the thirteenth century, they are connected with the distraint of pledges in both England and Scotland; a kind of 'machinery of international distraint'.[9] A recent re-assessment underlines the uniqueness of the service, which granted powers to a lord outwith his lordship on behalf of the king, and suggests that the earls were given these powers because of the proximity of their Merse lands and their Northumbrian connections.[10] Another aspect which links to Neilson's interpretation is that the serjeanty gave control of the route to Berwick, the old Roman road from Corbridge running north-east to the fort of Learchild through Edlingham. We later find Patrick I decribed as *custos* of Berwick, with joint responsibility for maintaining the bridge over the Tweed, and it is therefore possible to envisage the earls policing one of the main north-south routes, the one, moreover, which connected with the east coastal route north to Dunbar.[11]

It does not appear that the earls retained any of their English lands in demesne. Before 1133, as we have seen, the six villages of Horsley, Wingates, Witton, Ritton, Stanton and Learchild were granted *in liberum maritagium* to Ranulf de Merlay and Juliana. These lands were not incorporated into the Morpeth barony, and from them service was owed to the earls.[12] The villages of Brandon, Branton, Hedgeley, Harehope, Wotton, Lemmington and Edlingham were given to Juliana's brother Edward and were subsequently held by his son Edward and grandson John. The de Merlays and the descendants of Edward disposed of the lands in various ways, mainly through subinfeudation.[13] Land was granted by them and by others to religious houses. Ritton was given in alms to Newminster Abbey, founded by Ranulf and Juliana in 1138.[14] Harehope was given in alms by Edward's son, Waldeve, to the hospital of St Lazarus in Leicestershire, Titlington to Kirkham

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[8] *Book of Fees*, ii, 1122
[9] G. Neilson, 'The March Laws', *Stair Society Miscellany*,i (1971), 15-24
[10] W.W. Scott, 'The March Laws Reconsidered', *Medieval Scotland* (Edinburgh, 1993), 114-39. It is tempting to speculate that the earls may have acquired their Berwickshire lands at this point.
[11] *Chron. Howden*, iv, 98
[12] *Cal.Docs. Scot.*, i, nos 1719, 1728, 2342
[13] *The Percy Chartulary*, 468-70; *Cal. Docs. Scot.*, no 1712

priory near York.[15] West Lilburn, Bewick and Eglingham were given as alms to Tynemouth Priory.[16]

Beanley was converted from its drengage status by Patrick I and in the mid-thirteenth century was held of the earls for an annual money rent by John, son of Alexander.[17] Shipley, though held of Patrick II in 1247 for a money rent, had reverted to his son by 1290, and was rented to Edmund, younger brother of Edward I.[18] Newtown was held by William de Felton, the Middletons and Roddam, as we have seen, by Henry of Ilderton, for thirty shillings, the amount owed by the earl to the king, along with hospitality.[19]

The earls were thus cross-border lords: but the nature of their lordship in England and Scotland were in sharp contrast. Their English lands yielded revenue in cash.[20] They held *in capite* of the English king, and did homage to him for their English lands.[21] They had money and service obligations to him, though these were limited: in 1177, for instance,Waldeve was assessed for aid, but payment does not seem to have been enforced then or subsequently.[22] Cornage continued to be paid, however, and castle-ward was owed at Bamburgh and Newcastle.[23] From the Middletons, as we have seen, thirty shillings per annum was owed to the king, probably with hospitality, and from Beanley the service of *inborwe* and *utborwe*. The earls also owed suit of court at Newcastle. They were of course fully subject to the jurisdiction of the English king and his courts. In 1177, Waldeve's steward, Haldane, was fined forty merks for disseising a tenant unjustly; in 1187 Robert de Forde paid forty merks to regain his land of which Patrick I had disseised him.[24] In the 1250's,

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[14] *Newminster Chartulary*, 1
[15] For Harehope, see *The Percy Chartulary,* 469-70; *Cal.Docs. Scot.*, no 1712; J.C. Hodgson, 'The Hospital of St Lazarus and the Manor of Harehope', *Arch. Ael.*, xix (1922), 76-82. For Titlington, see *The Percy Chartulary*, 468.
[16] *Ibid.*, 469
[17] *Cal. Docs. Scot.*, no 1712; Stevenson, *Docs.*, i, 117-8
[18] *Ibid.*, 117-8; *Book of* Fees, ii, 1122
[19] *Ibid.*
[20] Stevenson, *Docs.*, 117-8
[21] Patrick II to Henry III after his father's death on 31 December 1232, Patrick III also to Henry III on 13 December 1248, following his father's death on crusade (*Cal. Docs. Scot.*, i, nos 1179, 1750)
[22] C*al.Docs. Scot.*, i, no 148
[23] Stevenson, *Docs.*, 117-8
[24] *Cal. Docs. Scot.*, i, nos 151, 188

Patrick III was compelled to pay debts owed to the Balliols from his father's time, perhaps in connection with his own marriage to Cecilia, daughter of John of Warkworth.[25]

Both Patrick I and Patrick II engaged energetically in litigation concerning their English lands. In 1201 Patrick I instigated proceedings to regain Bewick and Eglingham and Lilburn and also the Middletons and Roddam, which had been forfeited by Edgar after the 1173-4 war. The process went on for nine years, with the earl dragging his feet over the cost of the action.[26] The Middletons and Roddam seem to have been awarded to him, but the outcome of the action over Bewick and Eglingham, which he brought as a plea of trespass in 1210, was less clear-cut. In June 1225, therefore, he brought an action against the prior of Tynemouth over the advowson of Eglingham.[27] In 1237 his son Patrick II brought a further action against the abbot of St Albans over Bewick.[28] In 1212, almost certainly as a result of the war, Patrick I was deprived of his English lands by King John, getting them back only after a payment of 100 merks and his best palfrey.[29] In 1240 his son Patrick II was in trouble of a more mundane sort, accused with Robert de Ros, lord of Wark and one of the justices of the royal forest, of poaching deer; on this occasion he was not fined.[30] In 1247 and again in 1263 the earls took their relative, Roger de Merlay, to court, demanding, as we have seen, the 'customary service' for the lands granted to Ranulf de Merlay and Juliana by Earl Gospatric, brother of Dolfin.[31]

There is some evidence that the earls had lands also in the Cheviot area. Strategically this would make sense, linking Beanley with the southern bank of the Tweed and thus to the Border and their Scottish estates. A charter of Robert de Muscamp granting land in Trowhope, in the Cheviot, to Melrose c.1220 was witnessed by Patrick I and his son, Sir Patrick, and by Roger de

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[25] *Ibid.*, nos 1912, 1969, 1971, 2031, 2244
[26] *Ibid.*, i, nos 297, 321, 348,396, 400
[27] *Ibid.*, i, no 912
[28] *Ibid.*, i, no 1343
[29] *Ibid.*, i, no 502
[30] *Ibid.*, i, no 1518
[31] *Ibid.*, i, nos 1719, 1728, 2342

Merlay.[32] In an accompanying charter he refers to the earl as his lord.[33] We know that the Muscamps held Hassington, in Berwickshire of the earls, and so it is possible that Earl Patrick was his lord, but not with regard to Trowhope. But the presence of the earl, his son, and his relative, their witnessing of his first charter, and his specific reference to the earl as lord make it likely that Trowhope, in the Cheviot, was another of the estates of the Dunbars in England.

There was also some connection with Milburn, in Westmorland. In June 1263 Patrick III was named as the 'middleman ' in Milburn in a plea against Robert de Vieuxpont.[34] Patrick IV, who succeeded his father in 1289, was said to hold half of a knight's fee in Milburn which had formerly belonged to Isabel de Clifford.[35] Whether of not this land was held by the earl on a personal basis only, is difficult to say. He may indeed have been summoned to serve abroad with Edward I in September 1294 on account of it. Milburn is somewhat distant from the serjeanty and other lands in Northumberland, and it may well be one of a number of scattered holdings which were additional to and separate from the main English estate. Milburn's church interestingly, is dedicated to St Cuthbert.

We know, too, that after Ada's death in 1200 Patrick I married Christina Bruce, widow of William Bruce. From this marriage the Dunbar earls acquired Christina's dower lands in Scotland, near Moffat, and in England, in the Hartlepool area. In November, 1218, Earl Patrick and Christina made an agreement by which all their land in Hertness, part of the Bruce estate, was leased for eight years to her son, Sir Robert Bruce, for a down-payment of £36 in silver, and a yearly rent of six shillings.[36] Clearly the Dunbar policy of drawing revenue from their English lands was being continued. Perhaps the most notable feature of the lordship of the earls cross-border was a certain

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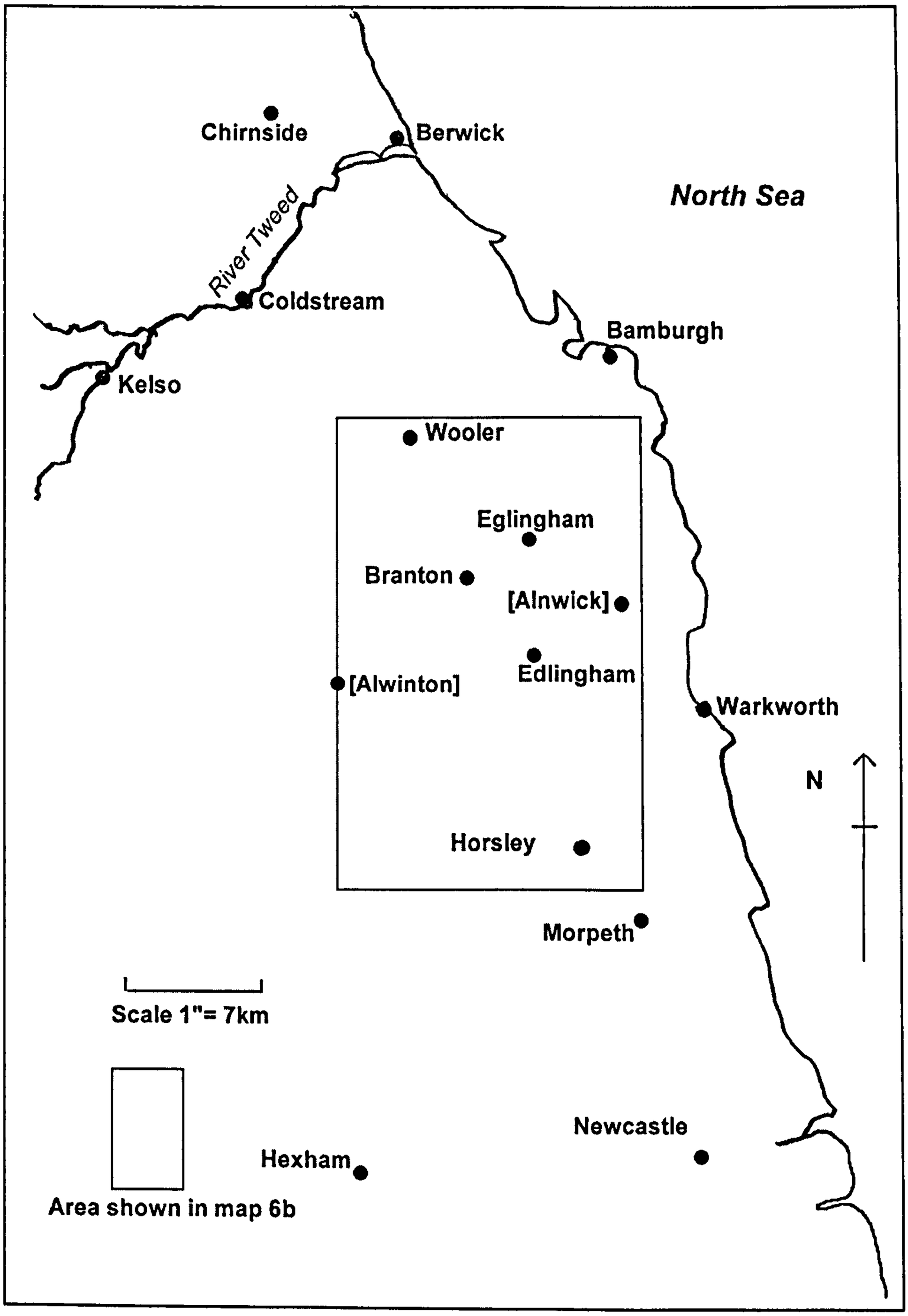
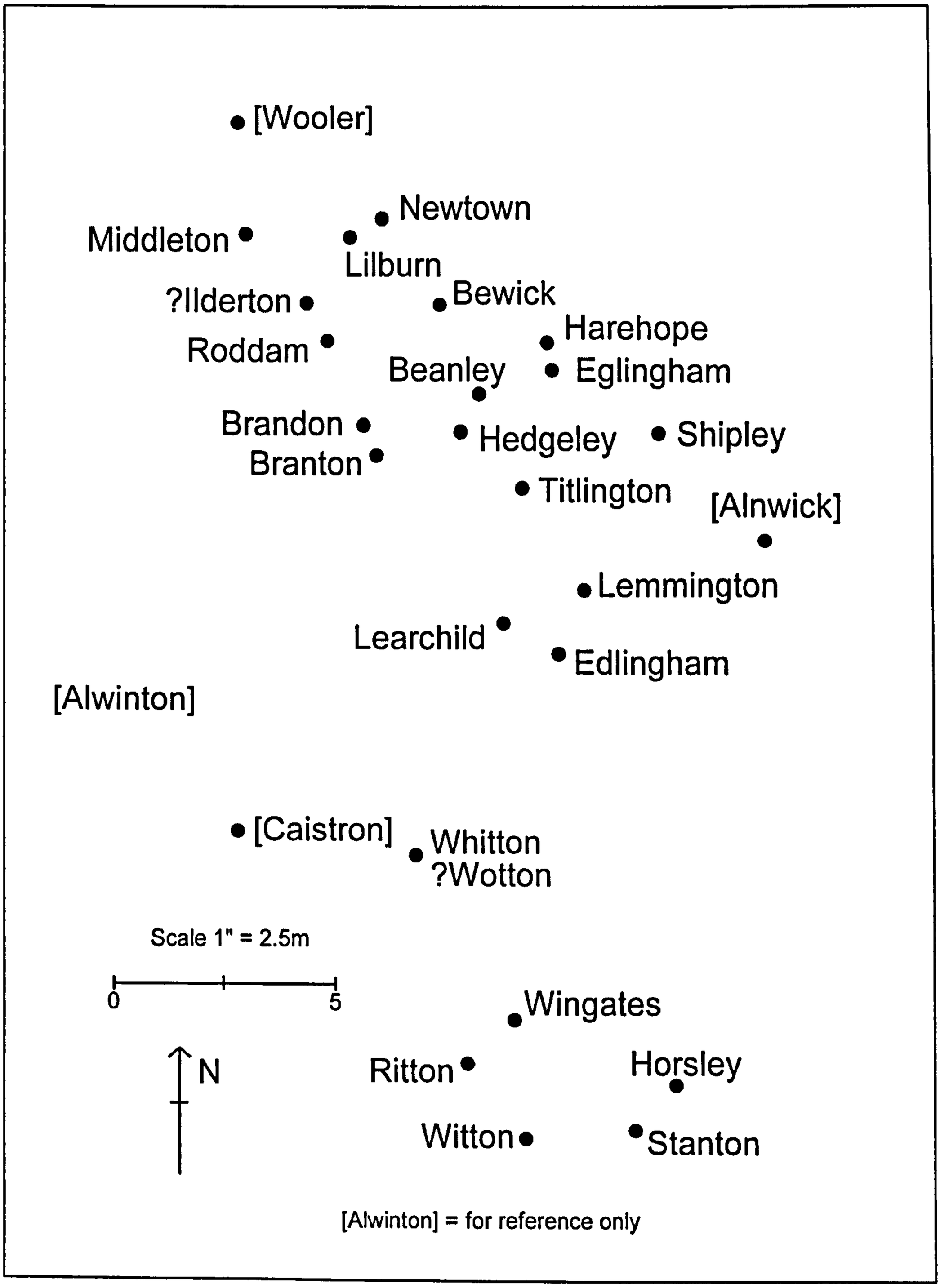
[32] *Melrose Liber*, no 305. This would be the son of Robert Muscamp, who died in 1191 (C.H. Blair, 'Knights of Northumberland', 46) and whose widowed mother, Mathilda, occurs in the charters relating to Hassington (Charters to Melrose, nos 16-17).
[33] *Ibid.*, no 306
[34] *Cal. Docs. Scot.*, i, no 2343
[35] *Knights of Edward I*, ed. C. Moore (Harleian Society, 1929-32), i, 293. I am indebted to Dr Keith Stringer for this information and reference.
[36] *Cal. Docs. Scot.*, i, no 700

disengagement and detachment – until, that is, some threat to their income occurred, or until events such as the death of Alexander III forced them to reassess the position.

Map 6a: Location of the lands of the earls of Dunbar in Northumberland



Map 6b: The lands of the earls of Dunbar in Northumberland



BIBLIOGRAPHY

Primary Sources: manuscripts

All primary sources for the Calendar have been printed in Chapter 2, in the section 'The charters and lost acts'. The following should be added:

National Archives of Scotland

GD212/10/5, GD212/10/6, GDE212/10/10, GD212/10/12, GD212/10/13, GD212/ 10/ 18, GD212/10/24, GD212/10/25, GD212/10/28, GD212/10/31, GD212/10/32, GD212/10/33, GD212/10/48, GD212/10/49, GD212/10/50, GD212/10/51, GD212/10/52, GD212/10/53, GD212/10/54, GD212/10/55

In Box 10 also uncatalogued documents 1-12 (13th- 16th century) which include a bull of Gregory IX of 1239 (no 2) and a bull of Gregory X of 1271 (no 4) relating to the protection and confirmation of the priory's possessions.

RH6/ 359

National Library of Scotland

Adv. MS 9A.1.4, 9A.1.15, 15.1.18, 15.1.23, 20.3.3, 20.3.8, 20.3.9, 22.1.13, 22.2.2, 34.1.10, 34.4.7, 34.6.13, 34.6.24, 35.2.4, 35.3.6, 35.3.8, 35.3.12, 35.3.13, 35.4.16, 37.3.8, 37.3.9, 37.3.13

Edinburgh University Library

Laing's Charters 24 (Box 1), 69 (Box 2), 2012, 2013,2018, 2019 (Box 52), 3159 (Box 83),

Primary Sources: printed works

Acts of the Parliaments of Scotland (12 vols., Record Commission, 1814-75)
Anderson, J., *Selectus Diplomatum et Numismatum Scotiae Thesaurus* (Edinburgh, 1739)
Anderson, A.O, *Early Sources of Scottish History, A.D. 500-1286* (2 vols., Edinburgh, 1922)
Anderson, A.O., *Scottish Annals from English Chroniclers, A.D. 500 to 1286* (London, 1908)
Anglo-Scottish Relations, 1174-1328, Some Selected Documents, ed. E.L.G. Stones (Oxford, 1970)
Arbroath Liber Liber S. Thome de Aberbrothoc, Registrum Vetus *(2 vols., Bannatyne Club, 1848-56)*
Assumptions The Books of Assumption of the Thirds of Benefices, ed. J. Kirk (Oxford, 1995)
'Bagimond's roll: Statement of the Tenths of the Kingdom of Scotland' ed. A. I. Dunlop, in *SHS Miscellany*, vi (Edinburgh, 1939), 3-77
Brinkburn Chartulary The Chartulary of Brinkburn Priory, ed. W. Page (Surtees Society, 1893)
Calendar of Documents relating to Scotland, ed. J. Bain (Edinburgh, 1881-8)

Cal. Papal Letters *Calendar of Entries in the Papal Registers relating to Great Britain and Ireland: Papal Letters*, eds. W.H. Bliss and others (London, 1893-)

Cambuskenneth Registrum *Registrum Monasterii S. Marie de Cambuskenneth* (Grampian Club, 1872)

Chron. Benedict *Gesta Regis Henrici Secundi Benedicti Abbatis*, ed. W. Stubbs (Rolls Series, 1867)

Chron. Bower (Watt) *Scotichronicon by Walter Bower in Latin and English,* ed. D.E.R. Watt and others (9 vols., Aberdeen and Edinburgh, 1987-98)

Chron. Fantosme *Chronique de la guerre entre les Anglois et les Ecossois en 1173 et 1174*, ed. R.C. Johnston (Oxford, 1981)

Chron. Fordun *Johannis de Fordun, Chronica Gentis Scotorum,* ed. W.F. Skene (Edinburgh, 1871-72)

Chron. Holyrood *A Scottish Chronicle known as the Chronicle of Holyrood,* ed. M.O. Anderson (SHS, 1938)

Chron. Howden *Chronica Magistri Rogeri de Hovedene*, ed. W. Stubbs (4 vols., Rolls Series, 1868-71)

Chron. Lanercost *Chronicon de Lanercost, 1201-1346* ed. J. Stevenson (Bannatyne Club, 1839)

Chron. Melrose *The Chronicle of Melrose* (Facsimile edition, eds. A.O. and M.O. Anderson, with index by W.C. Dickinson, London, 1936)

Chron. Stephen *Chronicles of the Reigns of Stephen, Henry II and Richard I*, ed. R. Howlett (4 vols., Rolls Series, 1884-9)

Chron. Wyntoun *The Original Chronicle of Andrew of Wyntoun* (STS, 1903-14). Also Andrew Wyntoun, *Orygynale Cronykil of Scotland*, 3 vols., ed. D. Laing (Edinburgh, 1872-9)

Coldingham Correspondence *The Correspondence, Inventories, Account Rolls and Law Proceedings of the Priory of Coldingham*, ed. J. Raine (Surtees Society, London, 1841)

Coldstream Chartulary *Chartulary of the Cistercian Priory of Coldstream* (Grampian Club, 1879)

Coupar Angus Charters *Charters of the Abbey of Coupar Angus,* ed. D.E. Easson (SHS, 1947)

Dryburgh Liber *Liber S. Marie de Dryburgh* (Bannatyne Club, 1847)

Dunfermline Registrum *Registrum de Dunfermelyn*, ed C. Innes (Bannatyne Club, 1842)

David I Charters *The Charters of David I*, ed. G.W.S. Barrow (Woodbridge, 1999)

The Exchequer Rolls of Scotland, eds. J. Stuart and others (Edinburgh, 1878-1908)

Family of Seton *A History of the Family of Seton during Eight Centuries*, ed. G. Seton (Edinburgh, 1896)

Foedarium Prioratus Dunelmensis, ed. W. Greenwell (Surtees Society, 1872)

Foedera, Conventiones, Litterae et Cuiuscunque Generis Acta Publica ed. T Rymer, Record Commission edition (London, 1816-69)

'Foundation-Charter of the Collegiate Church of Dunbar, A.D. 1342' ed. D.E.Easson in *SHS Miscellany,* vi (Edinburgh, 1939), 89-109,

Fraser, *Lennox* *The Lennox* (Edinburgh, 1874)

Fraser, *Wemyss* *Memorials of the Family of Wemyss of Wemyss* (Edinburgh, 1888)

Glasgow Registrum *Registrum Episcopatus Glasguensis* (Bannatyne and Maitland Clubs, 1843)
Gloucester Charters *The Charters and Scribes of the Earls and Countesses of Gloucester to A.D. 1217*, ed. R.B. Patterson (Oxford, 1973)
Guisborough Cartularium *Cartularium Prioratus de Gyseburne, etc.*, ed. W. Brown (2 vols., Surtees Society, 1889, 1894)
Henry of Huntingdon *Historia Anglorum: the History of the English People, by Henry, Archdeacon of Huntingdon*, ed. D. Greenway (Oxford, 1996)
Hexham Priory *The Priory of Hexham: Its Chronicles, Endowments, and Annals*, ed. J. Raine (Surtees Society, i, 1864)
Holm Cultram Recs. *The register and records of Holm Cultram*, eds. F. Grainger and N.G. Collingwood (Cumberland and Westmorland Antiquarian and Archaeological Society , 1929)
Historiae Dunelmensis Scriptores Tres, ed. J. Raine (Surtees Society, 1839)
Holyrood Liber *Liber Cartarum Sancte Crucis* (Bannatyne Club, 1840)
Inchaffray Charters *Charters, Bulls and other Documents relating to the Abbey of Inchaffray* (SHS, 1908)
Inchaffray Liber *Liber Insule Missarum* (Bannatyne Club, 1847)
Inchcolm Charters *Charters of the Abbey of Inchcolm* eds. D.E. Easson and A. Macdonald (SHS, 1938)
Inquisitionum ad capellam domini regis retornatarum, quae in publicis archivis Scotiae adhuc servantur, abbreviatio, ed. T. Thomson (3 vols., Record Commission, 1811-16)
Keith, *Bishops* *An Historical Catalogue of the Scottish Bishops*, ed. M. Russel (Edinburgh, 1824)
Kelso Liber *Liber S. Marie de Calchou* (2 vols., Bannatyne Club, 1846)
Laing Charters *Calendar of the Laing Charters 854-1837*, ed. J. Anderson (Edinburgh, 1899)
Lawrie, *Annals* *Annals of the Reigns of Malcolm and William, Kings of Scotland*, ed. A.C. Lawrie (Glasgow, 1910)
Lawrie, *Charters* *Early Scottish Charters prior to 1153*, ed. A.C. Lawrie (Glasgow, 1905)
Lennox Cartularium *Cartularium Comitatus de Levenax* (Maitland Club, 1833)
Liber Vitae Ecclesiae Dunelmensis, ed. J. Stevenson (Surtees Society, 1841)
Lindores Chartulary *Chartulary of the Abbey of Lindores*, ed. J. Dowden (SHS, 1903)
Lindores Liber *Liber Sancte Marie de Lundoris* (Abbotsford Club, 1841)
May Recs *Records of the Priory of the Isle of May*, ed. J. Stuart (Society of Antiquaries of Scotland, Edinburgh, 1868)
Melrose Liber *Liber S. Marie de Melros* (2 vols., Bannatyne Club, 1837)
Midlothian Charters *Charters of the Hospital of Soltre, of Trinity College, Edinburgh, and other Collegiate Churches in Midlothian* (Bannatyne Club, 1861)
Moray Registrum : *Registrum Episcopatus Moraviensis*, ed. C. Innes (Bannatyne Club, 1837)
Nat. MSS. Scot. *Facsimiles of the National Manuscripts of Scotland* (3 vols., 1867-71)
Newbattle Registrum *Registrum S. Marie de Neubotle* (Bannatyne Club, 1849)
Newminster Chartularium *Chartularium abbathiae Novi Monasterii, etc.*, ed. J.T. Fowler (Surtees Society, 1878)

Ordericus Vitalis *The Ecclesiastical History of Ordericus Vitalis* ed. M. Chibnall (6 vols., Oxford, 1969-80)
Paisley Registrum *Registrum Monasterii de Passelet* (Maitland Club, 1832)
Papsturkunden in England, ed. W. Holtzmann (Berlin and Gottingen, 1930-52)
Paris, *Chronica* *Matthaei Parisiensis Monachi Sancti Albani, Chronica Majora*, ed. H. Luard (Rolls Series, 1872-83)
Paris, *Historia* *Historia Anglorum sive Historia Minor*, ed. F. Madden (Rolls Series, 1866-69)
The Percy Chartulary (Surtees, 1911)
Raine, *North Durham* Appendix to J. Raine, *The History and Antiquities of North Durham* (London, 1852)
Reading Abbey *Reading Abbey Cartularies*, ed. B.R. Kemp (2 vols, RHS, Camden 4th series, 1986-87)
Regesta Regum Anglo-Normannorum, ed. H.W.C. Davis, C. Johnson, H.A. Cronne and R.H.C. Davis (4 vols., Oxford, 1913-69)
Regesta Regum Scottorum, eds. G.W.S. Barrow and others (Edinburgh, 1960-)
Regesta Regum Scottorum, Handlist of the Acts of Alexander II, 1214-49, compiled by J.M. Scoular (Edinburgh, 1959)
Regesta Regum Scottorum, Handlist of the Acts of Alexander III, the Guardians, John, 1249-96, compiled by G.G. Simpson (Edinburgh, 1960)
Reginald of Durham *Reginaldi Monachi Dunelmensis Libellus de admirandis beati Cuthberti virtutibus quae novellis patratae sunt temporibus* (Surtees Society, 1835)
Registrum Magni Sigilli Regum Scotorum, eds. J.M. Thomson and others (Edinburgh, 1882-1914)
Robertson, *Concilia* *Concilia Scotiae: Statuta Ecclesiae Scoticanae*, ed. J. Robertson (Bannatyne Club, 1866)
St Albans *Gesta Abbatum Monasterii Sancti Albani*, ed. H.T. Riley (3 vols., London, 1867-9)
St Bees Register *The Register of the Priory of St Bees*, ed. J. Wilson (Surtees Society, 1915)
St Andrews Liber *Liber Cartarum Prioratus S. Andree in Scotia,* ed. T. Thompson (Bannatyne Club, 1841)
Scone Liber *Liber Ecclesie de Scon* (Bannatyne Club, 1843)
Scotia Pontificia *Papal Letters to Scotland before the Pontificate of Innocent III*, ed. R. Somerville (Oxford, 1982)
Scriptores Tres *Historiae Dunelmensis Scriptores Tres*, ed. J. Raine (Surtees Society, 1839)
Stevenson, *Documents* *Documents Illustrative of the History of Scotland, 1286-1306*, ed. J. Stevenson (Edinburgh, 1870)
Symeonis Monachi Opera Omnia, ed. T. Arnold, (2 vols., Rolls Series,1882-5)
Wetheral Priory *Register of the Priory of Wetheral*, ed. J.E. Prescott (Cumberland and Westmorland Antiquarian and Archaeological Society, 1897)
St Wilfrid *Vita Sancti Wilfrithi: The Life of Bishop Wilfrid by Eddius Stephanus*, ed. Bertram Colgrave (Cambridge, 1927)
Yester Writs *Calendar of Writs preserved at Yester House 1166-1503*, eds. C.C.C. Harvey and J. Macleod (SRS, 1930)
Yorkshire Charters *Early Yorkshire Charters*, ed. W. Farrer (3 vols., Yorkshire Archaeological Society, 1914-16)

Secondary Sources: printed works

Adams, I.H., 'The Division of Dunbar Common', *Transactions of the East Lothian Antiquarian and Field Naturalists Society*, xv (1976)

Anderson, M.O., 'Lothian and the early Scottish kings', *SHR*, xxxix (1960), 98-112

Ash, M., Cunningham, I.C., and Scott, W.W., *Syllabus of Scottish Cartularies: St Andrews* (Scottish Medievalists, 1999)

Baker, A.R.H. and Butlin, R.A. (eds), *Sudies of Field Systems in the British Isles* (Cambridge, 1973)

Bannerman, J., 'The King's Poet and the Inauguration of Alexander III', *SHR*, lxviii (1989), 120-49

Bannerman, J., 'Macduff of Fife', *Medieval Scotland, Crown, Lordship and Community,* ed. A.Grant,and K.J. Stringer (Edinburgh, 1993), 20-38

Barbour, J., *The Bruce*, ed. A.A.M. Duncan (Edinburgh, 1997)

Barlow, F., *William Rufus*, 2nd edn. (London, 2000)

Barrow, G.W.S., 'The Aftermath of War', *TRHS,* 5th series, xxviii (1978), 103-25

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

Barrow, G.W.S., 'Companions of the Atheling', *Anglo-Norman Studies*, xxv (Woodbridge, 2003)

Barrow, G.W.S., *The Kingdom of the Scots* (Edinburgh, 2003)

Barrow, G.W.S., 'The Kings of Scotland and Durham', in *Anglo-Norman Durham* (Woodbridge, 1994), 311-23

Barrow, G.W.S., *Kingship and Unity: Scotland 1000-1306* (Edinburgh, 1989)

Barrow, G.W.S., 'The reign of William the Lion, King of Scotland', *Scotland and Its Neighbours in the Middle Ages* (London, 1992), 67-90

Barrow, G.W.S., *Robert Bruce and the Community of the Realm of Scotland*, 3rd edn. (Edinburgh, 1988)

Barrow, G.W.S., 'Rural Settlement in Central and Eastern Scotland: the medieval evidence', *Scottish Studies*, vi (1962), 123-44; also in his *The Kingdom of the Scots*, chapter 9

Barrow, G.W.S., 'The Scots Charter', in *Scotland and Its Neighbours* (London, 1992), 91-104

Barrow, G.W.S., 'Some Problems in Twelfth- and Thirteenth- Century Scottish History: a Genealogical Approach', *Scottish Genealogist*, xxv (1978), 97-112

Barrow, G.W.S., 'Observations on the Coronation Stone of Scotland', *SHR*, lxxvi (April 1997), 115-21

Bartlett, R. and MacKay, A.(eds.), *Medieval Frontier Societies* (Oxford, 1989)

Bates, D., 'The Prosopographical Study of Anglo-Norman Royal Charters', in K.S.D. Keets-Rohen, *The Roots and Branches of Power* (Woodbridge, 1997)

Bedos-Rezak, B., 'The King enthroned, a new theme in Anglo-Saxon royal iconography: the seal of Edward the Confessor and its political implications', *Form and Order in Medieval Francei* (Aldershot, 1993)

Birch, W. de G., *Catalogue of Seals in the Department of Manuscripts in the British Museum*, (6 vols., London, 1887-1900)

Birch, W.de G., *History of Scottish Seals* (Stirling , 1905-7)

Bjorn, C., Grant, A. and Stringer, K.J. (eds.), *Nations, Nationalism and Patriotism in the European Past* (Copenhagen, 1994)
Bjorn, C., Grant, A., and Stringer, K.J. (eds.), *Social and Political Identities in Western History* (Copenhagen, 1994)
Black, G.F., *The Surnames of Scotland* (New York, 1946)
Blair, C. H. Hunter, 'Baronys and Knights of Northumberland A.D. 1166-c.A.D. 1266, *Arch. Ael.*, 4th series, xxx (1952)
Broun, D., *The charters of Gaelic Scotland and Ireland* (Cambridge, 1995)
Broun, D., 'The Church and the origins of Scottish Independence in the Twelfth Century, *Records of the Scottish Church History Society*, xxi (2001)
Broun, D., 'The Origin of Scottish Identity', *Nations, Nationalism and Patriotism in the European Past*, eds. Bjorn, C., Grant, A. and Stringer, K.J. (Copenhagen, 1994), 35-55
Brooke, C. N. L., *The Monastic World 1100-1300* (London, 1974)
Broun, D., 'A New Look at *Gesta Annalia* attributed to John of Fordun', *Church, Chronicle and Learning in Medieval and Early Renaissance Scotland*, ed. B.E. Crawford (Edinburgh, 1999), 9-30
Brown, E.A.R. , 'The Tyranny of a Construct: Feudalism and Historians of Medieval Europe', *American Historical Review*, lxxix (1974), 1063-88
Bulloch, J., Adam of Dryburgh (London, 1958)
Burton, J.E., *Kirkham Priory from Foundation to Dissolution* (York, 1995)
Cameron, K., *Eccles in English Place-Names* in M.W. Barcley and R.P.C. Hanson (eds.), *Christianity in Britain, 300-700* (Leicester, 1968), 87-92
Chalmers, G., *Caledonia* (7 vols., Paisley, 1887-94)
Cheney, C.R., A *Handbook of Dates for Students of British History* (Cambridge, 2000)
Cheney, C.R., *From Becket to Langton*, (Manchester, 1956)
Cheney, C.R. and Semple. W.H. (eds.), *Selected Letters of Pope Innocent III concerning England (1198-1216)* (Nelson's Medieval Texts, 1953)
Chibnall, M., *The World of Ordericus Vitalis* (Oxford, 1984)
Clanchy, M., *From Memory to Written Record*, 2nd edn. (Oxford, 1993)
Cokayne, G.E. (ed.), rev. V. Gibbs, H.A. Doubleday, *et al.*, *The Complete Peerage* (12 vols. in 13; London, 1910-59; vol xiii, 1940)
Cooper, (Lord) T.M. (ed.), *Select Scottish Cases of the XIII Century* (Edinburgh and London, 1944)
Coppack, G., *The White Monks* (Stroud, 1998)
Coss, P., *The Knight in Medieval England 1000-1400* (Stroud, 1993)
Cowan, I.B., *The Parishes of Medieval Scotland* (SRS, 1967)
Cowan, I. B., 'The religious and the cure of souls in medieval Scotland', *Records of the Scottish Church History Society*, xiv (1963), 215-230
Cowan, I.B., 'Some aspects of the appropriation of parish churches in medieval Scotland', *Records of the Scottish Church History Society*, xiii (1959), 203-22
Cowan, I.B., 'Vicarages and the cure of souls in medieval Scotland', *Records of the Scottish Church History Society*, xvi, 1969, 111-27
Cowan, I. B., and Easson, D. E., *Medieval Religious Houses: Scotland*, 2nd edn. (London, 1976)
Craster, H.H.E., *A History of Northumberland*, viii, (Newcastle, 1907)
Crawford, B., 'The earldom of Caithness and the kingdom of Scotland, 1150-1266', *Northern Scotland*, ii (1974-7), 97-117

Crouch, D., 'The Administration of the Norman Earldom', in A.T. Thacker (ed.), *The Earldom of Chester and Its Charters* (Journal of the Chester Arch,. Soc. 71; 1991), 69-95
Crouch, D., *The Image of Aristocracy in Britain, 1000-1300* (London, 1992)
Dalton, P., 'Scottish Influence on Durham 1066-1214' in *Anglo-Norman Durham*, eds. D. Rollason, M. Harvey, M. Prestwich (Woodbridge, 1994), 339-52
Davies, R.H.C., *A History of Medieval Europe* (London, 1976)
Davis, G.R.C., *Medieval Cartularies of Great Britain, a short catalogue* (London, 1958)
Dickinson, W.C., rev. A.A.M. Duncan, *Scotland from the earliest times to 1603* vol. 1 (Edinburgh, 1965)
Dobson, R.B., *Durham Priory 1400-1450* (Cambridge, 1973)
Dodgshon, R.A., *Land and Society in Early Scotland* (Oxford, 1981)
Dodgshon, R.A., 'Medieval Rural Scotland', in *A Historical Geography of Scotland*, eds. G.Whittington and I.D. Whyte (London, 1983), 47-71
Dodgshon, R.A.,'Medieval Settlement and Colonisation', in *The Making of the Scottish Countryside,* eds. M. L. Parry and T.R. Slater (London and Montreal, 1980), 45-68
Dodgshon, R.A., *The Origin of British Field Systems: An Interpretation* (London and New York, 1980)
Donaldson, G., *Aspects of Early Scottish Conveyancing* (Stair Society, vol 36) in *Formulary of Old Scots Legal Dcuments* ed. P. Gouldesbrough (Edinburgh, 1985)
Donnelly, J., 'The Earliest Scottish Charters?' *SHR*, lxviii (1989), 1-22
Donnelly, J., 'Spiritual Estates : the Durham monks in Scotland, 1094 –1293, *Records of the Scottish Church History Society*, xxvii (Edinburgh, 1997), 43-67
Douglas, R., The Peerage of Scotland, 2nd edn. (Edinburgh, 1813)
Dowden, J., *The Bishops of Scotland* (Glasgow, 1912)
Dugdale, W., *Monasticon Anglicanum etc.*, new edn, ed. J. Caley, H. Ellis, and B. Bandinel (6 vols. in 8, 1817-30)
Dunbar, A.H., *Scottish Kings: a Revised Chronology of Scottish History, 1005-1625*; 2nd edn. (Edinburgh, 1906)
Duncan, A.A.M., 'Documents Relating to the Priory of the Isle of May, c.1140-1313', *PSAS*, xc, (1956), 52-80
Duncan, A.A.M., 'The Earldom of Atholl in the Thirteenth Century', *Scottish Genealogist*, vii (1960), 2-10
Duncan, A.A.M., 'The earliest Scottish Charters', *SHR*, xxxviii (1958), 103-35
Duncan, A.A.M., The *Kingship of the Scots* (Edinburgh, 2002)
Duncan, A.A.M., *Scotland: The Making of the Kingdom*, (Edinburgh, 1975)
Duncan, A.A.M., 'Roger of Howden and Scotland', *Church, Chronicle and Learning in Medieval and Early Renaissance Scotland*, ed. B.E. Crawford (Edinburgh, 1999), 9-30
Duncan, A.A.M., 'Yes, the Earliest Scottish Charters', *SHR*, lxxviii, i (April 1999), 1-38
Easson, D.E., 'The Nunneries of Medieval Scotland', *Transactions of the Scottish Ecclesiological Society*, xiii/2 (1940-1)
Fish, T., 'Some Notes on Old Dunbar', *TELAS*, iii (1938)
Duncan, A.A.M., 'Yes, the Earliest Scottish Charters', *SHR*, lxxviii (1999), 1-35

Ferguson, J., 'Notes of Remains of pre-Reformation Churches in Berwickshire', *History of the Berwickshire Naturalists Club*, (1890-1)
Gibson, W.S., *The History of the Monastery of Tynemouth* (2 vols., 1846-47)
Gilbert, J., *Hunting and Hunting Reserves in Medieval Scotland* (Edinburgh, 1979)
Goodman, A. and Tuck. A., *War And Border Societies In The Middle Ages* (London, 1992)
Graham, A., 'The Old Harbours of Dunbar', *PSAS*, xcix, (1966-7), 173-90
Gransden, A., *Historical Writing in England c.550 to c. 1307* (London, 1974)
Grant, A., 'Thanes and Thanages in Medieval Scotland, 11th- 14th century' in *Medieval Scotland*, ed. A. Grant and K.J. Stringer (Edinburgh, 1994), 39-81
Grant, I.F., *The Social and Economic Development of Scotland before 1603* (Edinburgh, 1930)
Green, J., 'David I and Henry I', *SHR*, lxxv, (1996), 1-19
Greenwell, W., 'The House of Gospatric', in J.C. Hodgson, *A History of Northumberland,* vii, 14-106
Greenwell, W. and Hunter-Blair, C.H., *Durham Seals*, from *Archaeologia Aeliana*, 3rd series, xii(1915), 287-332; xiii (1916),149-55; xvi(1919),155-83
Grooome, F.H., *Ordnance Gazetteer of Scotland* , (Edinburgh 1881-5)
James, H., *The Isle of May Excavations,* (Glasgow, GUARD publication, 1994)
Hardie, R.P., *The Roads of Medieval Lauderdale* (Edinburgh and London, 1942)
Hardy, J., 'On the Border Family of Papedy', *HBNC*, 1867-8
Hartridge, R.A.R., *A History of Vicarages in the Middle Ages* (Cambridge, 1930)
Hedley, W.P., *Northumberland Families* (2 vols., Newcastle, 1968-70)
Heslop, T. A., 'The Seals of the Twelfth-Century Earls of Chester' in A.T. Thacker (ed.), *The Earldom of Chester and Its Charters* (*Journal of the Chester Archaeological Society*, 71, 1991)
Hodgson, J., *A History of Northumberland*, (3 vols., Newcastle, 1820-58)
Hodgson, J.C., *A History of Northumberland*, N.C.H, vii (Newcastle, 1904)
Hodgson, J.C., 'The Hospital of St. Lazarus and the Manor of Harehope', *Arch. Ael.*, 3rd series, xix, 76-82
Hodgson, J.C., 'The Lordship, the Manor and the Township of Beanley', *Arch. Ael.*, 3rd series, xix, 58-75
Holt, J.C., *The Northemers: A Study in the Reign of King John,* (2nd edn., Oxford, 1992)
Hudson, J., *Land, Law and Lordship in Anglo-Norman England* (Oxford, 1994)
Hudson, J., 'Diplomatic and Legal Aspects of the Charters', in A.T. Thacker (ed.), *The Earldom of Chester and Its Charters* (*Journal of the Chester Archaeolgical Society*, 71; 1991), 153-78
Hudson, J., 'Legal Aspects of Scottish Charter Diplomatic in the Twelfth Century: A Comparative Approach', *Anglo-Norman Studies XXV* (Woodbridge, 2003)
Kapelle, W.E., *The Norman Conquest of the North* (Chapel Hill, NC, 1979)
Knowles, M.D. and Hancock, R.N., *Medieval Religious Houses: England and Wales* (rev. edn., London, 1971)
Laing, H., *Descriptive Catalogue of Impressions of Ancient Scottish Seals* (Bannatyne, 1850)
Laing, H., *Supplemental Descriptive Catalogue of Ancient Scottish Seals* (Edinburgh, 1866)

Lewis, C.P., 'The Early Earls of Anglo-Norman England', *Anglo-Norman Studies*, XIII (1991)
Lloyd, T.H., 'The movement of wool prices in medieval England', *Economic History Review,* Supplement no 6, Cambridge, 1973
McDonald, A., 'The foundation and Patronage of Nunneries by Native Elites' in *Women in Scotland,* ed. M. Meikle, *Women in Scotland*, (East Linton, 1999), 3-15
MacDonald, W.R., Scottish Armorial Seals (Edinburgh, 1904)
MacGibbon, D. and Ross, T., *Ecclesiastical Architecture of Scotland*, (1896-7)
Macquarrie, A., *Scotland and the Crusades, 1095-1560* (pbk. edn. Edinburgh, 1997)
MacQueen, H.L., *Common Law and Feudal Society in Medieval Scotland* (Edinburgh, 1993)
MacQueen H. and McNeill, P.G. B. (eds.), *An Atlas of Scottish History to 1707* (Edinburgh, 1996)
Miller, J., *History of Dunbar* (Dunbar, 1830)
Millman, R.N., *The Making of the Scottish Landscape* (London, 1975)
Milsom, S.F.C., *The Legal Framework of English Feudalism* (Cambridge, 1976)
Moor, C. (ed.) *Knights of Edward I* (Harleian Society, 1929-32)
Morgan, M., 'The Organisation of the Scottish Church In the Twelfth Century', *TRHS*, 4th series, xxix, 135-49
Mortimer, R., 'Land and Service: The Tenants of the Honour of Clare', *Anglo-Norman Studies*, viii, (1986), 177-97
Neilson, G., 'The March Laws', *Stair Society, Miscellany, i*, (Edinburgh, 1971), 11-77
Neville, C., 'A Celtic Enclave in Norman Scotland: Earl Gilbert and the Earldom of Strathearn, 1171-1223', in *Freedom and Authority* (East Linton, 2000), 75-92
Nicolaisen, W. F. H., *Scottish Place-Names* (rev. edn., 2001)
Nicholson, R.G., *Scotland: The Later Middle Ages* (Edinburgh, 1974)
Nisbet, A., *A System of Heraldry*, (Edinburgh, 1722-42)
Owen, D.D.R., *William the Lion, 1143-1214: Kingship and Culture* (East Linton, 1997)
Parry, M.L. and Slater, *The Making of the Scottish Countryside*, (London, 1980)
Paul, J.B. (ed.), *The Scots Peerage* (Edinburgh, 1904-14)
Phythian-Adams, C., *Land of the Cumbrians* (Aldershot, 1996)
Piper, A., 'The Durham Cantor's Book' in *Anglo-Norman Durham*, eds. D. Rollason, M. Harvey, M. Prestwich (Woodbridge, 1994), 79-92
Platt, C., *The Monastic Grange in Medieval England* (1969)
Powicke, F.M., *The Thirteenth Century, 1216-1307*, 2nd edn. (Oxford, 1962)
Ragg, F.W., 'Five Strathclyde and Galloway Charters', *PSAS*, 3rd series, v, (1917-18)...
Reid, N. H., 'Alexander III:The Historiography of a Myth' in *Scotland in the Reign of Alexander III*, ed. N. Reid (Edinburgh, 1990), 181-213
Reid, N.H. (ed.), *Scotland in the Reign of Alexander III 1249-1286* (Edinburgh, 1990)
Reid, N.H. and Barrow, G.W.S. (eds.), *The Sheriffs of Scotland: An Interim List to c.1306* (St Andrews, 2002)

Reynolds, S.M.G., *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994)
Ritchie, R.L.G., *The Normans in Scotland* (Edinburgh, 1954)
Rosenwein, B.H., *To Be The Neighbor of Saint Peter: The Social Meaning of Cluny's Property, 909-1049* (Ithaca, New York, 1989)
Ross, D., *Scottish Place-Names* (Edinburgh, 2001)
Sanders, I.J., *English Baronies: A Study of their Origin and Descent, 1086-1327* (Oxford, 1960)
Scott, W. W., 'Fordun's description of the inauguration of Alexander II', *SHR*, I, (1971), 198-200
Scott, W.W., 'The March Laws Reconsidered', *Medieval Scotland, Crown, Lordship and Community,* eds. A.Grant,and K.J. Stringer (Edinburgh, 1993), 114-39
Scott, W.W., *Syllabus of Scottish Cartularies: Coldstream* (Scottish Medievalists, 2000)
Shead, N., *Syllabus of Scottish Cartularies: Kelso* (Scottish Medievalists, 2003)
Simpson, G.G., 'The *Familia* of Roger de Quincy, Earl of Winchester and Constable of Scotland', *Essays on the Nobility of Medieval Scotland*, ed. K.J. Stringer (Edinburgh, 1985), 102-29
Simpson, G.G., *Scottish Handwriting 1150-1650* (Edinburgh, 1973)
Skene, W. F., *Celtic Scotland*, 2nd edn. (Edinburgh, 1886-90)
Smyth, A.P., *Warlords and Holy Men* (London, 1984)
Stevenson, J.H. and Wood, M., *Scottish Heraldic Seals* (Glasgow, 1940)
Stringer, K.J., 'Acts of Lordship: The Records of the Lords of Galloway to 1234', in *Freedom and Authority* (East Linton, 2000), 202-34
Stringer, K.J., 'The Charters of David, Earl of Huntingdon and Lord of Garioch: A Study in Anglo-Scottish Diplomatic' in *Essays on the Nobility of Medieval Scotland*, ed. K. J. Stringer (Edinburgh, 1985), 72-101
Stringer, K.J., *Earl David of Huntingdon, 1152-1219* (Edinburgh, 1985)
Stringer, 'The Early Lords of Lauderdale, Dryburgh Abbey and St Andrews Priory at Northampton' in *Essays on the Nobility of Medieval Scotland*, ed. K. J. Stringer (Edinburgh, 1985), 44-71
Stringer, K.J., 'Identities in Thirteenth-Century England: Frontier Society in the Far North', *Social and Political Identities in Western History* (Copenhagen, 1994), 28-66
Stringer, K.J., 'Periphery and Core in Thirteenth-Century Scotland: Alan, son of Roland, Lord of Galloway and Constable of Scotland', *Medieval Scotland: Crown, Lordship and Community*, eds. A. Grant and K. J. Stringer (Edinburgh, 1993), 82-113
Stringer, K.J., *The Reign of Stephen* (London, 1993)
Wall, V., 'Malcolm III and the Foundation of Durham Cathedral', in *Anglo-Norman Durham*, eds. D. Rollason, M. Harvey, M. Prestwich (Woodbridge, 1994)
Ward, J.C., 'Fashions in Monastic Endowment', *Journal of Ecclesiastical History,* 1981, 427 ff
Watt, D.E.R., *A Biographical Dictionary of Scottish Graduates to A.D. 1410* (Oxford, 1977)
Watt, D.E.R., 'The Provincial Council of the Scottish Church 1215-1472', *Medieval Scotland, Crown, Lordship and Community*, eds. A. Grant and K.J. Stringer (Edinburgh, 1993), 140-55

Watt, D.E.R., 'The Minority of Alexander III of Scotland', *TRHS*, 5th series, xxi, (1971), 1-23
Watt, D.E.R., *Medieval Church Councils in Scotland* (Edinburgh, 2000)
Watt, D.E.R. and Murray, A.L. (eds.), *Fasti Ecclesiae Scoticanae Medii Aevi Ad Annum 1638* (rev. edn., Edinburgh, 2003)
Watt, D.E.R. and Shead, N.F. (eds.), *The Heads of Religious Houses in Scotland from Twelfth to Sixteenth Centuries* (Edinburgh, 2001)
Webber, M.T., 'The Scribes and Handwriting of the Original Charters', in A.T. Thacker (ed.), *The Earldom of Chester and Its Charters* (*Journal of the Chester Archaeological Society*, 71; 1991), 137-151
Webster, A.B., *Scotland from the Eleventh Century to 1603* (London, 1975)
White, S., *Custom, Kinship, and Gifts to Saints: The* Laudatio Parentum *in Western France 1050-1150* (Chapel Hill, NC, 1988)
Whittington, G., *A Historical Geography of Scotland* (London and New York, 1983)
Williams, D.H., *The Cistercians in the Early Middle Ages* (Leominster, 1998)
Wilson, Rev. J., 'Waldeve brother of Dolfin and the Abbey of Croyland', *SHR*, ii, (1904-5), 331-4
Wordsworth, J., 'Friarscroft and the Trinitarians in Dunbar', *PSAS*, cxiii, (1983), 478-89
Young, A., 'Noble families and Political Factions in the Reign of Alexander III'. in *Scotland in the Reign of Alexander III* ed. N. Reid (Edinburgh, 1990), 1-30
Young, A., 'The Political Role of Walter Comyn, Earl of Menteith, during the Minority of Alexander III of Scotland' in *Essays on the Nobility of Medieval Scotland*, ed. K. J. Stringer (Edinburgh, 1985), 131-49
Young, A., *Robert the Bruce's Rivals: The Comyns, 1212-1314* (East Linton, 1997)

Secondary Sources: unpublished works

M. Ash, The Administration of the Diocese of St Andrews, 1202-1328 (unpublished Ph.D. thesis, University of Newcastle, 1972)
J. Donnelly, The Lands of Coldingham Priory, 1100-1300 (unpublished Ph.D. thesis, University of Cambridge, 1989)
I. Milne, Land Tenures in Scotland in the XII and XIII Centuries (unpublished PhD thesis, University of Edinburgh, 1953)
G.G. Simpson, An Anglo-Scottish Baron of the thirteenth century: Roger de Quincy, Earl of Winchester and Constable of Scotland (unpublished Ph.D. thesis, University of Edinburgh, 1966)

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