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## The earls of Dunbar and the church in Lothian and the Merse

The Church in twelfth- and thirteenth-century Scotland, as elsewhere in western Europe, was in a process of reform, focusing 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 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 in the Dunbar collection, relating to the foundation or re-foundation of the church of St Nicholas, Hume, records that Earl Gospatric endowed the church with one ploughgate, presumably for the glebe, and identified the town of Hume and half of Gordon as its parish.<sup>1</sup> It was a solemn affair, the earl's son, Gospatric, who was to succeed him as earl, and his two other sons, Edward and Edgar, together with his wife giving their consent in the presence of Robert, bishop of St Andrews, Thor, the dean, Deldred or Aelred the priest and others.<sup>2</sup> We can speculate only on the circumstances of the benefaction. The earl may have recently acquired Hume and may consequently have wished to demonstrate the power and prestige of his lordship. Alternatively, he may have been using the occasion to reinforce his existing lordship through the forging or re-

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<sup>1</sup> On the use of the term 'parish' in the particular sense of an area within the jurisdiction of a baptismal church in the twelfth century, see I. B. Cowan, *The Medieval Church in Scotland* (Edinburgh, 1995), 1-2.

<sup>2</sup> Edinburgh, National Library of Scotland [NLS], Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.112r; printed as *Liber S. Marie de Calchou*, Bannatyne Club, 2 vols (Edinburgh, 1846) [hereafter *Kelso Liber*], i, 234, no.288. Thor is probably Thor, later archdeacon of Lothian, occurring 1144-63: *Fasti Ecclesiae Scoticanæ Medii Aevi Ad Annum 1638*, ed. D. E. R. Watt and A. L. Murray, rev. edn, Scottish Record Society [SRS] (Edinburgh, 2003), 399.

forging of local links. Doubtless there were promptings of genuine piety, or of thanksgiving, or of preparation for a battle or for death.<sup>3</sup> The reference to half of Gordon and the presence of the bishop hints at a dispute between churches over boundaries or teinds – certainly the issue of the church and parish of Gordon was to re-surface as part of the tussle between Durham priory and Kelso abbey over Earlston chapel.<sup>4</sup> And within some thirty years Hume church itself was to be given to Kelso abbey by the earl's son, Gospatric, who was present on this occasion.<sup>5</sup> Perhaps this was intended from the first, much as Ednam church was founded and then conferred on the monks of St Cuthbert by Thor *Longus*.<sup>6</sup>

There is more plentiful evidence of the foundation of churches by lesser lords, 'pious laymen of the richer sort', who held of the earls, founded churches, and built and endowed chapels on their lands.<sup>7</sup> 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 or earlier thirteenth century.<sup>8</sup> There is some doubt over its status at this time. In the charters of the de Maille family granting lands in Bassendean to Coldstream in the late twelfth and early thirteenth centuries, 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, probably 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.<sup>9</sup> Bassendean does not appear as a parish church on Bagimond's

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<sup>3</sup> Perhaps in connection with the earl's departure south with the king in the summer of 1138 prior to the Battle of the Standard.

<sup>4</sup> See below, 14-15. Gordon church, a chapel of Hume church, was given to, or claimed by, Durham, prior to 1171: J. Raine, *The History and Antiquities of North Durham* (London, 1852), Appendix [hereafter *ND*], 111, no.643. 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. The toun may already have been split into East and West Gordon, with the portion of Gordon containing the church in the possession of Durham at the time of the Hume grant. There were certainly two Gordons by the 1170s: *Kelso Liber*, ii, 323, no.420.

<sup>5</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 112r and 29r (*Kelso Liber*, i, 233, no.287; 53, no.71).

<sup>6</sup> *ND*, 38, no.161.

<sup>7</sup> C. R. Cheney, *From Becket to Langton* (Manchester, 1965), 166; NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.29r (*Kelso Liber*, i, 53, no.71); *Kelso Liber*, i, 222, no.268; i, 240-1, no.299; ii, 327, no.426.

<sup>8</sup> *Chartulary of the Cistercian Priory of Coldstream*, ed. Charles Rogers, Grampian Club (London, 1879) [hereafter *Cold. Cart.*], 32, no.43.

<sup>9</sup> *Ibid.*, 33-4, nos 45-6.

Roll.<sup>10</sup> The 1457–8 instrument of Prioress Margaret describes it as a chapel.<sup>11</sup> 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.<sup>12</sup>

Though the earl's involvement was at one remove, Bassendean church, through the relationship of the de Mailles to the earl, is to be seen as part of the network of Dunbar patronage in the Merse. So also in Greenlaw, where lands were held of the earl possibly as early as the 1160s by the junior Dunbar line. Some years after the foundation and endowment of Hume church, Bishop Robert gave Walter of Stirling permission to build a chapel at Lambden within Greenlaw. 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.<sup>13</sup> David son of Truite built a church also within Greenlaw, at Halliburton, probably in the 1160s.<sup>14</sup> Wedderlie, a pendicle of Hume, was founded by the family of Haldane of Hume.<sup>15</sup> These churches or chapels built by lords on their estates seem more to resemble mini-proprietorial churches serving an area within the parish of the mother church, and are perhaps 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.<sup>16</sup> Some chapels are hard to categorise. Drem, given by David I to Gospatric, just possibly – though not certainly – Earl Gospatric brother of Dolfin or his son, was held by the Fraser family, who built a chapel there in the early thirteenth

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<sup>10</sup> 'Bagimond's Roll', ed. A. I. Dunlop, in *The Miscellany of the Scottish History Society* [hereafter *SHS Misc.*], vi, (Edinburgh, 1939), 24–77.

<sup>11</sup> Edinburgh, National Archives of Scotland [NAS], RH 6/359.

<sup>12</sup> *Cold. Cart.*, 32, no.43. The two acres in Bassendean formerly held by Adam the poor clerk may have been a glebe.

<sup>13</sup> *Kelso Liber*, ii, 327, no.426 (x 1159). The charter refers to Walter of Stirling holding the toun of Lambden 'in feu and heritage' from the earl. The phrase is almost certainly a scribal insertion. Thor here is described as archdeacon (as in no.287), though in no.288 he is 'dean'. This suggests that the chapel at Lambden was given the go-ahead on a later episcopal visit.

<sup>14</sup> He gave the chapel to Kelso abbey, for the soul of his lord Earl Gospatric (d.1166), probably in 1172 or shortly thereafter: *Kelso Liber*, i, 222, no.268.

<sup>15</sup> It was gifted to Kelso abbey in the late twelfth century by Gilbert, son of Haldane of Hume, who is probably to be distinguished from Haldane of Edington, the earl's steward: *Kelso Liber*, i, 240–1, no.299. The church was confirmed to Kelso *in proprios usus* by Bishop David in the mid-thirteenth century: *Kelso Liber*, ii, 347, no.455.

<sup>16</sup> *Kelso Liber*, i, 56, no.75; *ibid.*, 245–6, no.305. William, the earl's son, 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.*, 194, no.239.

century.<sup>17</sup> 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, or perhaps because, a charter of protection given to St Andrews suggests that the chapel was not purely for private use by the Frasers.<sup>18</sup> 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 ecclesiastical lordship exercised by the earl, his control operating directly and indirectly within the comital lands. 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 clearly used as placements for younger sons and brothers, much as nunneries became retirement homes for widows or establishments for unmarried daughters or sisters.<sup>19</sup> The church of Dunbar is first alluded to by the Melrose chronicle, which records the death of Adam, parson of Dunbar, in 1179.<sup>20</sup> Adam was the younger son of Gospatric brother of Dolfin

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<sup>17</sup> According to his charter to Alexander of St Martin, part of Drem was given by David I to Gospatric: *The Charters of King David I. The Written Acts of David I King of Scots, 1124–53 and of his son Henry Earl of Northumberland, 1139–52*, ed. G. W. S. Barrow (Woodbridge, 1999), 148–9, no.194 (1139 x 1153, probably 1150 x 1153). If it were Earl Gospatric, however, we would expect him to be styled earl. A Gospatric of Drem appears in a charter of Simon Fraser later in the century (*Kelso Liber*, i, 62–3, no.85), again not styled earl, suggesting that the recipient of Drem was someone other than the earl. The Frasers were tenants and dependants of the Dunbar earls. 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 remains uncertain.

<sup>18</sup> *Liber Cartarum Prioratus Sancti Andree in Scotia*, Bannatyne Club (Edinburgh, 1841) [hereafter *St Andrews Liber*], 322 (1212 x 1225). It was agreed between Bernard Fraser and his heirs on the one hand and the prior and convent on the other that the Frasers were to have their chapel at Drem and were to give the canons half a ploughgate in Harcarse (Berwickshire), by way of compensation. The teinds, offerings and other revenues of Haddington parish church were reserved to it.

<sup>19</sup> D. E. Easson, 'The Nunneries of Medieval Scotland', *Transactions of the Scottish Ecclesiological Society* 13 (1940–1), 22–38, at 33, for evidence of this particular 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: *The Heads of Religious Houses in Scotland from the Twelfth to Sixteenth Centuries*, ed. D. E. R. Watt and N. F. Shead, SRS (Edinburgh, 2001), 73, 192; *Calendar of Documents Relating to Scotland*, ed. J. Bain *et al.*, 5 vols (Edinburgh, 1881–1986) [hereafter *Cal. Docs. Scot.*], ii, 206, 196.

<sup>20</sup> *The Chronicle of Melrose* (Facsimile Edition), ed. A. O. Anderson, M. O. Anderson and W. C. Dickinson (London, 1936) [hereafter *Chron. Melrose*], 42, s.a. 1179.

and was active as a churchman in the 1160s.<sup>21</sup> In the mid-thirteenth century another Waldeve, rector of Dunbar, witnessed a charter of Patrick II confirming Manderston to Thomas Papedy, a charter of Alexander Seton to Melrose concerning Edmonstone, and the charter of Countess Christina founding the house of the Trinitarians in Dunbar (1240 x 1248).<sup>22</sup> This 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 in February 1245.<sup>23</sup> This may not be the first example of pluralism among the clergymen of the churches in the earls' patronage. When, in 1209, in the earldom of Patrick I, Ralph, priest of Dunbar, accepted the cure of Eccles, the church almost certainly had already been given to Eccles priory, founded or re-founded in the 1140s or 1150s.<sup>24</sup> If appropriated, it would have been served by a vicar by 1209; indeed Ralph's appointment in that year may signal the point at which the church's 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 master of Eccles and of a rector of the nuns of Eccles.<sup>25</sup> In 1273, and again in 1296, there is reference to the master of Coldstream priory.<sup>26</sup> We know also of a master of St Bothans nunnery.<sup>27</sup> Whatever the explanation of Ralph's appointment in 1209, there is a clear indication of a close connection between the parish church of Dunbar and the convent of Eccles, and the dependence of both on the patronage of the earl who was proprietor of the church and

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<sup>21</sup> Adam witnessed Earl Gospatric's charter to Durham as the earl's brother: Durham, Dean and Chapter Muniments, Miscellaneous Charters [hereafter DCM MC.] 779 (ND, 26, no.113).

<sup>22</sup> *Registrum Magni Sigilli Regum Scotorum*, ed. J. M. Thomson *et al.*, 11 vols (Edinburgh, 1882–1914) [hereafter RMS], i, no.251; *Liber Sancte Marie de Melros*, ed. Cosmo Innes, Bannatyne Club, 2 vols (Edinburgh, 1837) [hereafter *Melrose Liber*], i, 199–200, no.223; *Calendar of Writs preserved at Yester House 1166–1503*, ed. C. C. H. Harvey and J. Macleod, SRS (Edinburgh, 1930), 8, no.14.

<sup>23</sup> *Calendar of Entries in the Papal Registers Relating to Great Britain and Ireland: Papal Letters*, ed. W. H. Bliss *et al.* (London and Dublin, 1893–) [hereafter CPL], i, 214, where Waldeve is named as rector of Dunbar and son of the earl.

<sup>24</sup> *Chron. Melrose*, 54, s.a. 1209; I. B. Cowan, *The Parishes of Medieval Scotland*, SRS (Edinburgh, 1967), 58.

<sup>25</sup> *Liber S. Marie de Dryburgh*, Bannatyne Club (Edinburgh, 1847), 138–9, no.193; *ibid.*, 158–9, no.220 (early thirteenth century). Such positions were often filled by parochial clergy (Easson, 'Nunneries', 23–4), though in no.220 the rector is Henry, abbot of Kelso.

<sup>26</sup> *Cold.Cart.*, 8–9, no.12; *ibid.*, 77; *Cal. Docs. Scot.*, ii, 212.

<sup>27</sup> Easson, 'Nunneries', 23; ND, 52, no.244.

the grandson of the earl who is usually seen as the founder of the priory.<sup>28</sup>

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.<sup>29</sup> Gilbert and Waldeve, parsons of Whittingehame, Waldeve's brother Nigel, and Adam, parson of Hirsell, were witnesses to Patrick I's charters to Durham, Melrose and Coldstream.<sup>30</sup> The parsons of Linton, Chirnside, Duns and Dunbar, the four parish churches later erected into the collegiate church of Dunbar, witnessed charters of the earls to Coldstream and Durham, and to Thomas Papedy.<sup>31</sup> John, parson or rector of Oldhamstocks church, appears four times as a witness to charters of Patrick III, twice to Coldstream and twice to Durham.<sup>32</sup> These clergymen clearly formed part of the earls' circle, attending on them and witnessing their charters at some distance from their parishes.<sup>33</sup> Two prominent clerics in the group had Northumbrian connections – Patrick and Henry of Lemmington, near Alnwick. Patrick, who became Patrick III's steward, was rector or parson of Dunbar and Chirnside, while Henry was rector or parson of Duns.<sup>34</sup> Adam, parson of Hirsell 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, Ranulf (or Radulf) Hutton,

<sup>28</sup> See below, 11.

<sup>29</sup> NAS, GD55/6 (*Melrose Liber*, i, 8, no.6); NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.112r (*Kelso Liber*, i, 233, no.287).

<sup>30</sup> Durham, DCM, MC. 764 (*ND*, 26, no.116) [Gilbert of Whittingehame]; London, British Library [BL], MS. Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7); NAS, GD55/48 (*Melrose Liber*, i, 39-40, no.48).

<sup>31</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 2v-3v; 6v-7v (*Cold. Cart.*, 3, no.3; 7, no.9); NAS, GD212/2/1/1-2 (*Cold. Cart.*, 1-3, nos 1-2); NAS, GD212/2/1/9 (*Cold. Cart.*, 10, no.14); Durham, DCM, MC. 763 (*ND*, 27, no.120); Durham, DCM, MC. 775 (*ND*, 31, no.136); *RMS*, i, no.251.

<sup>32</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 6v-7v (*Cold. Cart.*, 7, no.9); NAS, GD212/2/1/1 (*Cold. Cart.*, 1-2, no.1); Durham, DCM, MC. 775-6 (*ND*, 31, nos 136-7).

<sup>33</sup> Patrick III's charter of 1261 to Durham (Durham, DCM, MC. 776, [*ND*, 31, no.137]) was given at Chirnside and witnessed by the rector of Oldhamstocks. Coldstream charters of the earls and their heirs were witnessed by parsons or rectors of Whittingehame, Chirnside, Oldhamstocks, Duns and Dunbar: BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 5v, 6v-7v (*Cold. Cart.*, 5-7, nos 7 and 9); NAS, GD212/2/1/1 and 9 (*Cold. Cart.*, 1-2, no.1; 10, no.14).

<sup>34</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 6v-7v (*Cold. Cart.*, 7, no.9); NAS, GD212/2/1/1 and 9 (*Cold. Cart.*, 1-2, nos 1 and 14). The Church would be an obvious channel of talent from the earls' lands in Northumberland – thus the Northumbrian chaplains witnessing Patrick II's charter: NAS, GD212/2/1/30 (*Cold. Cart.*, 41-2, no.57).

Richard son of Norman of Lennel, and William son of Patrick, the earl's cousin and heir (through his father and grandmother) of Hirsle.<sup>35</sup> In Eccles, as in Hirsle, the connection with the Dunbar family continued, with Alexander, parson of Leitholm, a church usually designated as a chapel of Eccles, witnessing charters of Richard, son of Norman of Lennel, and of the earl's cousin, William son of Patrick.<sup>36</sup>

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.<sup>37</sup> 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 an eight-mile radius, and Penshiel, on the Lammermuir Hills near the Whiteadder. 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.<sup>38</sup> In the late twelfth and early thirteenth centuries Whittingehame had a parson, Gilbert, but by 1342 it may already have had a vicar.<sup>39</sup> The parish church of Dunbar was well-endowed, drawing teinds from its extensive parish, and holding also considerable lands within the parish,<sup>40</sup> and income from the touns of Pinkerton, Spott, Belton and Pitcox.<sup>41</sup> 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. The foundation charter confirmed his power to appoint the dean, the arch-priest and all of the canons. Three of the canons were to be prebendaries of the churches of Linton, Duns and Chirnside, these

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<sup>35</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7); *ibid.*, 4-5, 7-8, 11, 17, 32-3, 47 (nos 5, 10, 15, 24, 43, 45, Appendix, II). Hirsle church was not fully appropriated in this period but was so by the time of the Reformation: Cowan, *Parishes*, 82.

<sup>36</sup> *Cold. Cart.*, 4-5, no.5; *ibid.*, 11, no.15. Eccles church with its chapels of Birgham, Leitholm and Mersington, was confirmed to Eccles priory by Bishop David in 1250: *St Andrews Liber*, xxix, no.59.

<sup>37</sup> 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. MS 22.1.14, printed in 'Foundation Charter of the Collegiate Church of Dunbar A.D. 1342', ed. D. E. Easson, in *SHS Misc.*, vi, 89-109.

<sup>38</sup> Easson, 'Foundation Charter', 92.

<sup>39</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7).

<sup>40</sup> Easson, 'Foundation Charter', 90.

<sup>41</sup> *Ibid.*, 93.



churches also to be served in future by vicars paid ten merks sterling annually<sup>42</sup> – 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.<sup>43</sup>

*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 which was particularly generous to the new reformed orders. 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.<sup>44</sup>

Even the most detailed analysis of benefaction can fail to capture the essence of decision-making and motivation or to explore and evaluate fully the layers of conscious and subconscious factors at work.<sup>45</sup> 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 kudos 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.<sup>46</sup> Perhaps, most powerfully of all, they were emulating others. The Dunbars, like their contemporaries, would be open to all such influences. Then there were particular motives, special considerations

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<sup>42</sup> Ten merks was the minimum payment to vicars stipulated by the Scottish Church in the mid-thirteenth century: Cowan, *Medieval Church*, 18, 53; D. Patrick, *Statutes of the Scottish Church 1225–1559*, Scottish History Society (Edinburgh, 1907), 11–12.

<sup>43</sup> Easson, ‘Foundation Charter’, 93. On the effects of appropriation, see below, 26–32.

<sup>44</sup> Memorably described as a ‘passion for collecting holiness’. The references here and in the text are from R. H. C. Davis, *A History of Medieval Europe* (London, 1976), 263.

<sup>45</sup> As, for instance, by Stephen White, *Custom, Kinship, and Gifts to Saints: The ‘Laudatio Parentum’ in Western France 1050–1150* (Chapel Hill, NC, 1988), 162–4.

<sup>46</sup> On these and many other related points, see Barbara H. Rosenwein, *To Be The Neighbor of St Peter: The Social Meaning of Cluny’s Property, 909–1049* (Ithaca, New York, 1989), 36–48.

such as the wish to use a religious house as a safe repository for land (especially 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.<sup>47</sup> Perhaps too it was relatively cheap to found a nunnery, since nunneries on the whole were modestly endowed compared to other types of religious houses; and perhaps also a nunnery was easier to control through limiting benefaction to family and dependants of the earls, and appointing a master to oversee affairs.

Coldstream priory is the religious house most closely 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,<sup>48</sup> but the priory owed its existence and its core endowments to the Dunbar family. 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. Significantly, the name 'Coldstream' does not appear in the earliest charters. The church and priory, in all probability, had not yet been built and the description of the nuns in the cartulary copies of Gospatric's charters as the sisters of 'Witehou, Witehoh' (perhaps White Howe) may well corroborate the theory that this was a local place name, soon to be superseded by identification of the site with the priory.<sup>49</sup> By the time of Bishop Richard's charter of confirmation of 1165 x 1166, which confirms in general the grants of land and also the churches of Lennel and Hirsle by name, 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 Virgin. 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 the foundation of Coldstream to the approximate period 1160/1–1166, most probably 1165 x 1166.<sup>50</sup>

<sup>47</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 8r-8v, 6r-6v (*Cold. Cart.*, 8, no.11; 6, no.8); *Cold. Cart.*, 7-8, no.10.

<sup>48</sup> E.g. *ibid.*, 7-8, no.10; 25-31, nos 36-42; 32-4, nos 43-6; 42, no.58.

<sup>49</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 8r-8v, 6r-6v (*Cold. Cart.*, 8, no.11; 6, no.8). The cartulary heading of fos 6r-6v (*Cold. Cart.*, 6, no.8) identifies it as the foundation-charter. There is no record of any other religious house in Scotland or England with which 'Witehou' might be identified.

<sup>50</sup> 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

We know little about the nature of the earls' links with Coldstream, and how these operated. 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.<sup>51</sup> Normally we could assume a close ongoing relationship formed through the rehearsals of gifts and counter-gifts, perhaps even with a writing office producing charters for the earls. The probable family connection of the Dunbars and the prioresses of the religious houses they founded has already been noted.<sup>52</sup> We know that proprietary lords could and did have the right to appoint heads of houses, and we might expect that this would be the case with Coldstream.<sup>53</sup> Nevertheless, evidence of friction in the late thirteenth century over land in Lennel, which occasioned an appeal to the pope by the nuns, suggests that the priory was not entirely or invariably in the pocket of the earl.<sup>54</sup>

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 Castlelaw motte which must have been a major military site of antiquity, and a seat of the earls, once Lennel had been secured.<sup>55</sup> There may have been a further consideration. There has been much controversy over the authenticity of King Edgar's charter of 1095 granting Berwickshire and Coldinghamshire to the bishop and monks of St Cuthbert at Durham.<sup>56</sup> But there is agreement that the confirmation of Edgar's grant by William Rufus is authentic, that Edgar did therefore give Coldinghamshire and Berwickshire to Durham, and that a charter to that effect once existed.<sup>57</sup> It may be that the grant was not effective, or not fully so, or that Edgar subsequently took back

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de Merlay in his castle at Morpeth while the abbey was being built: J. Raine, *The Priory of Hexham*, Surtees Society, 2 vols (Durham, 1864), i, 122-3; J. R. Walbran, *Memorials of the Abbey of St Mary of Fountains*, Surtees Society (Durham, 1862), 58-9.

<sup>51</sup> *Cold. Cart.*, 8-9, no.12; *ibid.*, 77; *Cal. Docs. Scot.*, ii, 212.

<sup>52</sup> See above, 4 n.19.

<sup>53</sup> Walter fitz Alan's charter founding Paisley, for instance, expressly reserved his rights in the appointment and removal of its priors: *Registrum Monasterii de Passelet*, Maitland Club (Edinburgh, 1832), 1, no.1.

<sup>54</sup> Bull of Pope Gregory X, 27 July 1271 or 1272, confirming to the prioress and nuns of Coldstream lands 'formerly belonging to Patrick, earl of Dunbar': NAS, GD212/2/1/33.

<sup>55</sup> *Reports of the Royal Commission on Ancient and Historical Monuments and Constructions of Scotland Berwickshire* (Edinburgh, 1980) [hereafter *Hist. Mon. Comm. (Berwickshire)*], 52, no.459.

<sup>56</sup> Durham, DCM, MC. 559 (ND, 2, no.7). See A. A. M. Duncan, 'The Earliest Scottish Charters', *Scottish Historical Review [SHR]* 37 (1958), 103-35; J. Donnelly, 'The Earliest Scottish Charters?', *SHR* 68 (1989), 1-22; A. A. M. Duncan, 'Yes, The Earliest Scottish Charters', *SHR* 78 (1999), 1-38.

<sup>57</sup> Durham, DCM, MC. 973 (ND, 79, no.435).

Berwickshire, the bishop's portion of the endowment.<sup>58</sup> A series of disputes clearly ensued, with the Durham monks attempting to lay claim to the Berwickshire touns, including Edrom and Nisbet and probably also Lennel; and so here Earl Gospatric built and endowed the priory of Coldstream, perhaps 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.

Birgham, which, like Lennel, had been one of the touns of Berwickshire given once to Durham,<sup>59</sup> may also have been the subject of contention, so that, nearby, the earl buttressed his claim by founding or re-founding a religious community, the priory of Eccles. The Chronicle of Melrose dates this to 1156.<sup>60</sup> Almost certainly its founder was Earl Gospatric, founder of Coldstream.<sup>61</sup> 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 she would not then be styled 'of March'.<sup>62</sup> 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 the family connection.<sup>63</sup>

<sup>58</sup> Duncan, 'Yes, The Earliest Scottish Charters', 19-22.

<sup>59</sup> Durham, DCM, MC. 973 (ND, 79, no.435).

<sup>60</sup> 'In the year 1156 a convent of nuns came for the second time to Eccles': *Chron. Melrose*, 35, s.a. 1156; *Chronica Magistri Rogeri de Houedene*, ed. William Stubbs, Rolls Series, 4 vols (London, 1868-71) [hereafter *Chron. Howden*], i, 215. Professor Duncan has reservations about the interpretation of this passage (pers. comm., January 1999). Clearly Eccles was an ecclesiastical site from an earlier (British) period, whether or not it was a convent. For alternative dates of 1154 or 1155, see J. Spottiswoode, *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), 381-480, at 461. Recent analysis has opted for the 1140s-1150s: Watt and Shead, *Heads of Religious Houses*, 73.

<sup>61</sup> 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. See also R. Andrew McDonald, 'The Foundation and Patronage of Nunneries by Native Elites in Twelfth- and Early Thirteenth-Century Scotland' in *Women in Scotland c.1100-c.1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton, 1999), 3-15, at 6-7.

<sup>62</sup> The various sources concerning its founder are discussed briefly in Easson, 'Nunneries', 35, n.5, for example *Joannis de Fordun Scotichronicon cum Supplementis ac Continuatione Walteri Boweri*, ed. Walter Goodall, 2 vols (Edinburgh, 1759) [hereafter *Chron. Bower (Goodall)*], ii, 541.

<sup>63</sup> *Chron. Melrose*, 82, s.a. 1232. McDonald suggests that Eccles was intended as a family mausoleum: McDonald, 'Nunneries', 6-7. But Patrick II who died in Marseilles was apparently buried at Tynemouth: Matthew Paris, *Chronica Majora*, ed. Henry Richards Luard, Rolls Series, 7 vols (London, 1872-83), v, 41. His son Patrick III was buried in the parish church of Dunbar: *Chronicon de Lanercost. MCCI-MCCCXLVI*, ed. Joseph Stevenson, Bannatyne Club (Edinburgh, 1839), s.a. 1289, 127.

The evidence for St Bothans nunnery having been a Dunbar foundation is largely circumstantial. The date of its foundation is uncertain.<sup>64</sup> It has been claimed as a cell of the Cistercian nunnery of Berwick, but there seems to be no evidence for this theory.<sup>65</sup> It clearly lay in Dunbar land. Spottiswoode claims that the founder was a countess of March, in the reign of William the Lion,<sup>66</sup> and if, as in the case of Eccles, we accept the anachronistic use of the title, the contenders would be Deirdre, wife of Earl Gospatric (1138–66) and co-founder with him of Coldstream priory; Aelina, wife of Earl Waldeve (1166–82); and Ada, illegitimate daughter of William the Lion, who married Patrick I in 1184 and died about 1200.<sup>67</sup> Finally, more improbably, there is Earl Patrick's second wife Christina, to whom he was married by 1214. Euphemia, wife of Patrick II, would not be within the time frame.<sup>68</sup> What makes a connection between the nuns of St Bothans and the Dunbars more credible is that in the sixteenth century the priory's possessions included many Dunbar lands such as Duns, Papple, Billie, Biel, Waughton and, probably, Cockburnspath.<sup>69</sup> 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.

About 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.<sup>70</sup> Possibly for geographical reasons, it has also been linked to an unnamed countess of March, though Spottiswoode names David I as its founder.<sup>71</sup>

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<sup>64</sup> Cowan and Easson, *Medieval Religious Houses*, 148; Watt and Shead, *Heads of Religious Houses*, 192. Easson opts for a date at the end of the twelfth century: Easson, 'Nunneries', 36. There is a tradition that the priory was founded on the site of a seventh-century church dedicated to St Baithéne, the cousin of St Columba: *The New Statistical Account of Scotland*, 15 vols (Edinburgh, 1845), ii, (Berwick), 106-7. See also Simon Taylor, 'Seventh-century Iona abbots in Scottish place-names', *IR* 48 (1997), 45-72, at 50-5.

<sup>65</sup> Spottiswoode, *Account*, 460; George Chalmers, *Caledonia*, 3 vols (London, 1807–10), ii, 344.

<sup>66</sup> Spottiswoode, *Account*, 460.

<sup>67</sup> Ada is suggested in Chalmers, *Caledonia*, ii, 344.

<sup>68</sup> Euphemia, however, is named in *Chron. Bower (Goodall)*, ii, 541.

<sup>69</sup> *The Books of Assumption of the Thirds of Benefices: Scottish Ecclesiastical Rentals at the Reformation*, ed. J. Kirk (Oxford, 1995), 192. One of the fifteenth-century prioresses of St Bothans was Joanne of Cumnock, who was obviously connected with Dunbar lands in Cumnock: Watt and Shead, *Heads of Religious Houses*, 192.

<sup>70</sup> Easson, 'Nunneries', 38; *Chron. Bower (Goodall)*, ii, 542.

<sup>71</sup> Spottiswoode, *Account*, 460.

We are on much surer ground in establishing that Blantyre priory, which stood on the banks of the Clyde opposite Bothwell castle, was a Dunbar foundation. This house of Augustinian canons, for which little documentary evidence survives, was once thought to have been founded by Alexander II; but evidence from the fifteenth-century papal archives shows that Earl Patrick II and his countess, Euphemia, were its co-founders at some date between 1239 and the earl's death abroad in 1248.<sup>72</sup> The priory was founded in honour of the Holy Cross and was placed under the rule of Jedburgh abbey, whose abbot, Philip, and his successors were given the right to appoint the head of the house and the brothers and canons to serve in it. Earl Patrick and Euphemia made an initial endowment adequate for the maintenance of the priory, which was situated within their demesne land in Blantyre.<sup>73</sup> It is an intriguing foundation, situated as it was in lands not otherwise known to have been in the possession of the Dunbar earls, and possibly gained as part of Euphemia's dowry.

#### *Conflict with the church over teinds*

In the detail and principles of its constitution the collegiate church vividly depicts the effects of Dunbar patronage in at least several of the key churches of the earldom in the preceding centuries. The description 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 some indications that the Dunbars held teinds in Earlston and Swinton. About 1189–98, for instance, Patrick I confirmed Edrom church, its

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<sup>72</sup> Blantyre priory is listed in the deanery of Rutherglen in the diocese of Glasgow in the transcript of Bagimond's Roll in the *Glasgow Registrum: Registrum Episcopatus Glasguensis*, ed. Cosmo Innes, Maitland and Bannatyne Clubs, 2 vols (Glasgow and Edinburgh, 1843), vol.i, lxvii. A prior of Blantyre is first recorded in 1289 when he attended the parliament at Birgham: *The Acts of the Parliament of Scotland*, ed. T. Thomson and C. Innes (Edinburgh 1814–75), i, 441:Red). Easson suggested that the priory's founder was Alexander II (D. E. Easson, *Medieval Religious Houses Scotland* (London, 1957), 74; *Origines Parochiales Scotiae*, ed. Cosmo Innes, James B. Brichan *et al.*, Bannatyne Club, 3 vols (Edinburgh 1850–5) [hereafter *OPS*], i, 59), though this was later corrected in Cowan and Easson, *Religious Houses*, 89. The fifteenth-century reference in the papal archives to the foundation of Blantyre by Patrick and Euphemia is printed in *CPL*, xiii, 531–2 (24 May 1476).

<sup>73</sup> *Ibid.* Cowan, following the *Origines*, states that the revenues of Blantyre parish church were given to the priory when it was founded: Cowan, *Parishes*, 19; *OPS*, i, 59–60. Kirk, *Assumptions*, 505, n.48, repeats that the benefice of Blantyre was appropriated to the priory by the sixteenth century.

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 Malveisin, archdeacon of Lothian and William de Bosco, Richard clerk of the provend (*de prebenda*), Hugh *de sigillo*, and including Robert de Burnaville, possibly then sheriff of Berwick. There are witnesses both from the earl's side and on behalf of Durham, including Master Richard, nephew of Prior Simon.<sup>74</sup> Certain features of the charter are unusual.<sup>75</sup> It was the fifth of the surviving charters of the earls granting Edrom church to Durham, but the first to name a chapel. Earlston chapel was over twenty miles from Edrom.<sup>76</sup> It had formerly been granted to Kelso abbey by Walter de Lindsay, probably in the 1150s.<sup>77</sup> Durham's hold on Edrom church itself seems to have remained tenuous, despite confirmations of the earls' grants by Robert, 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.<sup>78</sup> 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, and the abbots of Rievaulx and Melrose heard the case at Berwick about 1170 and awarded Earlston church to Durham.<sup>79</sup> A chirograph dated 1171 was drawn up and in this Durham acquired Earlston chapel while the chapel of Gordon, which had been given to or claimed by Durham, was

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<sup>74</sup> Durham, DCM, MC. 764 (ND, 26, no.116).

<sup>75</sup> Professor Watt, who dated the charter 1189 x 1193, thought it suspect, but gave no explanation of his judgement: D. E. R. Watt, *A Biographical Dictionary of Scottish Graduates to A.D. 1410* (Oxford, 1977), 105.

<sup>76</sup> 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. Edrom may originally have been the minster of the area. If this were so, Edrom would have far-flung connections, perhaps including an historic link with Earlston.

<sup>77</sup> Lindsay's grant of Earlston to Kelso is Durham, DCM, MC. 726 (ND, 38-9, no.164); it is not in the Kelso cartulary, nor does Earlston church figure in the confirmation charters to Kelso of Malcolm IV in 1159 (*Kelso Liber*, vol.i, iii-vii) or of William I in c.1165 or 1166 (*ibid.*, 11-14, no.12).

<sup>78</sup> J. Donnelly, 'Spiritual Estates: the Durham Monks in Scotland, 1094-1293', *Records of the Scottish Church History Society*, 27 (Edinburgh, 1997), 43-67, at 52; ND, 82, no.449. It was settled in Durham's favour (in return for a money payment to Crowland) in the *curia regis* at Stirling, the royal charter announcing the settlement being witnessed by Earl Waldeve: ND, 8, no.40; *Regesta Regum Scottorum* vol. ii, *The Acts of William, King of Scots 1165-1214*, ed. G. W. S. Barrow in collaboration with W. W. Scott (Edinburgh, 1971) [hereafter *RRS*, ii], 192-4, no.105. Professor Barrow suggests (*ibid.*, 193) 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.

<sup>79</sup> ND, 84, no.459.

given to Kelso.<sup>80</sup> Subsequently both Bishop Richard and Walter de Lindsay's son William gave charters confirming Earlston to Durham, William's including the ploughgate gifted by his father.<sup>81</sup> Between 1199 and 1202, with Edrom and six others, Earlston was listed as a church of the Coldingham/Durham estate by Bishop Roger and was confirmed then, or at a future date, to the priory *in usus proprios*.<sup>82</sup>

Patrick I's confirmation of Edrom, its chapel of Earlston, and its other chapels to Durham (1189 x 1199) is probably linked to the circumstances behind Bishop Roger's charter. There may have been an amicable exchange of churches by Kelso and Durham in 1171, but the evidence suggests that on the contrary Kelso had pursued its claim to Earlston doggedly.<sup>83</sup> 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.<sup>84</sup> It was important to Durham that their spiritual estate was publicly and formally acknowledged. Swinton alone remained unsecured.<sup>85</sup> So the bishop recited the names of the churches, including Edrom and Earlston – and in due course, certainly by 1209, Earlston was appropriated. In a charter of this period, Bertram, prior of Durham granted altarage and all the land belonging to Earlston church to William, nephew of Arnald, prior of Coldingham, as vicar of Earlston.<sup>86</sup> This appears to be the point at which Earlston became fully appropriated to Durham and possibly also when it was made into a

<sup>80</sup> *ND*, 111, no.643 (dated 1171); *Kelso Liber*, ii, 323, no.420 (1171 x 1178), where Hume is described as the mother church of at least part of Gordon.

<sup>81</sup> William Lindsay's charter is Durham, DCM, MC. 713, 676 (*ND*, 39, no.165). Bishop Richard's charters are Durham, DCM, MC. 1337 (*ND*, 84, no.460) and 1319 (*ND*, 84-5, no.461).

<sup>82</sup> Durham, DCM, MC. 958 (*ND*, 86, no.469).

<sup>83</sup> The charter announcing the settlement of the dispute at Berwick indicates that Adrian's successor, 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 a degree of royal intervention, as in the later case of Sorrowlessfield: *ND*, 84, no.459.

<sup>84</sup> Dr Donnelly notes that Bishop Roger's charter (*ND*, 86, 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*, 86, no.469) was witnessed by half of the twenty-four 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.

<sup>85</sup> The endorsement of the charter naming the churches reads . *C[arta]* . *R[ogeri]* . *Ep[iscop]i* . *S . Andree de eccl[esi]is d[e] Cold[ing]hamschire preter Swintune.*: Durham, DCM, MC. 958; *ND*, 86, no.469.

<sup>86</sup> *ND*, 95, no.533.



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.<sup>87</sup> 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.<sup>88</sup> Why Earl Patrick's confirmation was obtained in such a high-profile setting remains less clear, but we may deduce that he had 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 estate of Swinton was granted to Durham by Edgar and confirmed to the monks by Alexander I, by David as earl and king, and by Earl Henry.<sup>89</sup> Swinton church was certainly one of the five churches in the hands of the Durham monks by 1146.<sup>90</sup> Yet there seem to have been rival claims on both land and church from the first.<sup>91</sup> About 1200 Earl Patrick I quitclaimed to Durham the land in Swinton which he admitted he had unjustly claimed or taken from them.<sup>92</sup> The causes of the conflict which led to the earl's quitclaim are highly conjectural, but seem to centre on the corn teinds of Lesser Swinton and Threeplands.<sup>93</sup> This is a rare indication that the

<sup>87</sup> On the subdivision of parishes and the erection of chapels into parish churches, see Donnelly, 'Spiritual Estates', 63-4.

<sup>88</sup> Earlston appears in Bagimond's Roll, 1274-5, as a church with a vicar. Gordon, which was allotted a parish by Bishop Richard a century earlier (*Kelso Liber*, ii, 323, no.420) does not appear in the roll. Yet in 1270 Gamelin, bishop of St Andrews, confirmed the churches of Gordon and Hume to Kelso abbey *in proprios usus*, allowing the monks to appoint a chaplain in place of a vicar: *Kelso Liber*, ii, 329-30, no.429.

<sup>89</sup> Durham, DCM, MC. 760, 762, 567-8, 756 (*ND*, nos 100-1, 15-16, 109); printed also in *David I Charters*, 56-7 (nos 9-10); 69-70 (nos 31-2); 84 (no.65). Professor Barrow, it should be noted, questions the authenticity of nos 31 and 32 (Durham, DCM, MC. 567-8; *ND*, nos 15-16). Alexander I's charter is Durham, DCM, MC. 562 (*ND*, no.10; *Early Scottish Charters Prior to 1153*, ed. A. C. Lawrie (Glasgow, 1905) [hereafter *ESC*], no.26).

<sup>90</sup> Donnelly, 'Spiritual estates', 51-2.

<sup>91</sup> Durham, DCM, MC. 562-3, 760, 762 (*ND*, 3, nos 10-11; 23, nos 100-1); *Scotia Pontificia: Papal Letters to Scotland before the Pontificate of Innocent III*, ed. R. Somerville (Oxford, 1982) [hereafter *Scot. Pont.*], 92-3, no.95.

<sup>92</sup> Durham, DCM, MC. 766 (*ND*, 27, no.117).

<sup>93</sup> *ND*, 95, no.525.

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.<sup>94</sup> 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. 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 ecclesiastical 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.

*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 lay in the competing claims of Melrose abbey and the earl of Dunbar on the arable and pastureland between the Gala and Leader waters immediately to the west of Earlston. 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 undoubtedly of greater significance than the details agreed and minuted in the chirograph.<sup>95</sup>

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 in

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<sup>94</sup> Cowan, *Medieval Church*, 11, 15. Cowan questions Cosmo Innes' judgement in the latter's *Sketches of Early Scotch History and Social Progress* (Edinburgh, 1861), 17, that the parochial system was destroyed almost before it had been framed, suggesting that appropriation had been envisaged from the first.

<sup>95</sup> NAS, GD55/102 (*Melrose Liber*, i, 91-3, no.102).

turn have held of the earl.<sup>96</sup> Hill pasture above Sorrowlessfield would be allotted on a proportionate basis, as elsewhere. Conflict over the use of that pastureland, 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.<sup>97</sup> Pope Innocent nominated the bishop and archdeacon of St Andrews and the archdeacon of Lothian as judges-delegate. The earl was cited to appear before the judges but ignored the citation and was declared to be contumacious. Fearing 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, as the earl was a layman, and as any legal action must be heard in the court appropriate to it, the ecclesiastical court 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 this was rejected by the judges, 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. When, eventually, the earl's procurator did appear at a diet there, he persuaded the pope to issue a new papal mandate appointing a second trio of judges-delegate, the abbot of Holyrood, the prior of Inchcolm and the rector of Crichton. Evidence was heard and the case was remitted, without decision, 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

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<sup>96</sup> The Lindsays, who gave Earlston church in the mid-twelfth century to Kelso (*ND*, 38, no.164) may have had Earlston before the Dunbar earls, or they may have held there of the earls. William Sorrowless witnessed a charter of William Lindsay to Melrose: *Melrose Liber*, i, 11, no.12. Barrow describes him as 'evidently a dependant of the Lindsays': G. W. S. Barrow, *The Anglo-Norman Era in Scottish History* (Oxford, 1980), 41.

<sup>97</sup> NAS, GD55/101 (*Melrose Liber*, i, 87-91, no.101) gives Bishop Brice's detailed and vivid account of events, but omits any explanation of how the settlement was eventually achieved. See also H. L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh, 1993), 108.

in the ecclesiastical court, but in the *curia regis*. A chirograph was drawn up detailing the arrangements for the use of the pastureland and the earl agreed to restore Sorrowlessfield to the abbey. King William confirmed the settlement and the restitution of Sorrowlessfield by charter.<sup>98</sup>

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.<sup>99</sup> 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 in a civil court. The outcome was in one sense a victory primarily for the king, but it was achieved by the determination 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.<sup>100</sup> So the process of giving

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<sup>98</sup> The details of the case can be reconstructed from the following charters: NAS, GD55/102 and 104 (*Melrose Liber*, i, 91-3, no.102; 93-4, no.104); *Melrose Liber*, i, 87-91, no.101; 93, no.103; 94-5, no.105.

<sup>99</sup> MacQueen, *Common Law*, 108-9. He argues that the earl's representatives would have used the absence of a *brieve* to strengthen their case, had the use of the *brieve* become invariable by the early thirteenth century.

<sup>100</sup> A similar trend can be found in Galloway where eleven churches were given to Holyrood between c.1160 and 1174: K. J. Stringer, 'Acts of Lordship: The Records of

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.<sup>101</sup> And benefaction involved other things of great importance – the affirmation of local relationships, the re-statement of family solidarity and continuity, the rehearsal of tradition and links with past, present and future.

As lords of the land and proprietors of the churches, the earls and the members of their family could apparently give away churches and church revenues at will, though increasingly there is evidence of episcopal consent and confirmation. The grants of Lennel and Hirsell 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, Hirsell with the whole glebe, and also apparently with its teinds.<sup>102</sup> Nevertheless, Richard, bishop of St Andrews, confirmed the grants and specifically the grants of the churches.<sup>103</sup> 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, at a later date, Greenlaw, with lands and financial rights.<sup>104</sup> The grants in these cases were of churches with lands, rather

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the Lords of Galloway to 1234', in *Freedom and Authority, Scotland c.1050–c.1650*, ed. Terry Brotherstone and David Ditchburn (East Linton, 2000), 203–34, at 206.

<sup>101</sup> 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.

<sup>102</sup> NAS, GD212/2/1/13 and 30 (*Cold. Cart.*, 18–19, no.26; 41–2, no.57); BL, MS. Harley 6670 (Coldstream Priory cartulary) fos 8r–8v, 6r–6v, 5v, 12v–13r (*Cold. Cart.*, 8, no.11; 6, no.8; 5–6, no.7; 12–13, no.17); *Cold. Cart.*, 11, no.15. Richard, bishop of St Andrews, confirmed Lennel and Hirsell churches to Coldstream thereafter: *Cold. Cart.*, 46, Appendix, I. 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 in the Twelfth Century', *Transactions of the Royal Historical Society*, 4<sup>th</sup> series, 29 (1947), 135–49, at 142.

<sup>103</sup> *Cold. Cart.*, 46, Appendix, I.

<sup>104</sup> *Kelso Liber*, i, 57–8, no.77. Confirmation of these churches to Kelso by Patrick IV, perhaps just after the death of his father in 1289 in which he cites and summarises the grant of the three churches, with lands, teinds, offerings, and liberties, by his predecessors Earls Gospatric, Waldeve, Patrick I and Patrick II, his grandfather. Whether the original grants were as comprehensive is another matter.

than of lands with churches. Hume church was founded and endowed in the period 1127 x 1138.<sup>105</sup> 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.<sup>106</sup>

Greenlaw church was in the possession of Kelso by 1162 at the latest, possibly indeed before 1152, though it was not listed as one of Kelso's churches in Adrian IV's bull of 17 September 1155.<sup>107</sup> Nor was it included in Malcolm's confirmation of 1159.<sup>108</sup> Earl Gospatric confirmed it with appurtenances in a separate charter to Kelso.<sup>109</sup> With Hume and Fogo, Greenlaw was confirmed to Kelso with its chapel of Lambden by Bishop Arnald during the period 1160–2 and by the same earl before 1166.<sup>110</sup> In the case of Greenlaw, as when Lennel was gifted to Coldstream, the life tenure of the incumbent was guaranteed. It may be that complications over the terms of this particular grant explains its omission from the bull of 1155 and the royal charter of 1159.<sup>111</sup>

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.<sup>112</sup> The allusion to the terms on which these Bothwell shielings were to be held – 'as fully as deaf Hugh held' – suggests that

<sup>105</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.112r (*Kelso Liber*, i, 234, no.288).

<sup>106</sup> *Ibid.*, fo.112r (*Kelso Liber*, i, 233, no.287). Fogo seems to have been of some significance in the diocese: Watt and Murray, *Fasti*, 416; *Cold. Cart.*, 47, Appendix, II; *Kelso Liber*, i, 244–5, no.303. Watt and Shead follow Cowan and Easson (*Medieval Religious Houses*, 67) in stating that Fogo was a house of the Tironensian order, founded in 1253 x 1297: Watt and Shead, *Heads of Religious Houses*, 83.

<sup>107</sup> *Scot. Pont.*, 42, no.35.

<sup>108</sup> *Kelso Liber*, vol.i, iii–vii.

<sup>109</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 31r–v (*Kelso Liber*, i, 59, no.79), dating probably 1159 x 1162. This charter makes no mention of Lambden, which may not yet have been built. This may date the charter of Bishop Robert (d.1159) allowing Walter of Stirling to build Lambden church (*Kelso Liber*, ii, 327, no.426) to 1159. Alternatively, the earl's charter may simply have omitted the chapel of Lambden in error.

<sup>110</sup> Bishop Arnald's charter of 1160 x 1162 is printed as *Kelso Liber*, ii, 337, no.439. The earl's charter is NLS, Adv. MS 34.5.1. (Kelso Abbey cartulary), fo.29r (*Kelso Liber*, i, 53, no.71).

<sup>111</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 31r–31v (*Kelso Liber*, i, 59, no.79). The clause reads *salua tenura Nigelli clerici . qui de predictis monachis prenominatam ecclesiam libere teneat omnibus diebus vite sue*. These reservations were not uncommon, as has been seen in the case of Lennel (NAS, GD212/2/1/13, printed in *Cold. Cart.*, 18–19, no.26), and would usually be the means of easing the transition from lay to monastic possession.

<sup>112</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.29r (*Kelso Liber*, i, 53, no.71).

this was a new grant to Kelso.<sup>113</sup> 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.<sup>114</sup> Waldeve's brother Patrick who inherited Greenlaw and who was styled lord of Greenlaw, as was his son William, 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. 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 Hirsell church, we find allusion to the exact nature of the appurtenances, for his charter for the first time defined these as tofts, crofts, lands and, most significantly, teinds.<sup>115</sup> William confirmed his father's grants and added two oxgangs of his demesne land in Whiteside and a further toft and croft held by Liulf, the head groom, below the church.<sup>116</sup> A later charter of Patrick's 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.<sup>117</sup>

Lesser figures like Walter of Stirling and David son of 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.<sup>118</sup> 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.<sup>119</sup> To Kelso also, David son of

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<sup>113</sup> 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. Malcolm IV and William I both confirmed Bothwell shielings to Kelso: *Regesta Regum Scottorum* vol. I, *The Acts of Malcolm IV, King of Scots 1153–65*, ed. G. W. S. Barrow (Edinburgh, 1960) [hereafter *RRS*, i], no.217 (1161 x 1164); *RRS*, ii, no.367 (1189 x 1195).

<sup>114</sup> Perhaps again because part of the glebe had been retained temporarily until the death of the parson.

<sup>115</sup> *Kelso Liber*, i, 55, no.74. Adam may be identified with Adam Cassin alluded to in the charter of his son William: *ibid.*, 56-7, no.76.

<sup>116</sup> *Ibid.*, 56-7, 58-9, 60-1 (nos 76, 78, 82).

<sup>117</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 29r-29v (*Kelso Liber*, i, 54, no.72).

<sup>118</sup> The charter of Bishop Arnald of St Andrews confirming Greenlaw and Lambden to Kelso did not include the chapel of Halliburton: *Kelso Liber*, ii, 337, no.439 (1160 x 1162). Nor is Halliburton included among Kelso's possessions in William I's confirmation of 1165 x 1166 (*RRS*, ii, 166-8, no.63; *Kelso Liber*, i, 11-14, no.12) but is alluded to as a pendicle in Kelso's possession in Earl Waldeve's charter of 1166 x 1182: NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.29v (*Kelso Liber*, i, 54-5, no. 73); cf. Cowan, *Parishes*, 80.

<sup>119</sup> *Kelso Liber*, i, 62, no.84; *Kelso Liber*, ii, 350-4, no.460.

Truite personally confirmed Halliburton church, as it is styled in his charter, where he named Earl Gospatric, his lord, in the *pro anima* clause. So too did his son Walter and his great-grandson Philip.<sup>120</sup> 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.<sup>121</sup> 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 Hirsell where lands and churches passed to a junior branch of the family without apparently passing out of the comital estate.<sup>122</sup> In addition, the chapel of Wedderlie, a pendicle of Hume, was gifted late in the twelfth century to Kelso, with arable and pasture land and a toft and croft by Gilbert, son of Aldan of Hume, and was included among the possessions of Kelso in Innocent IV's bull of 1243 x 1254.<sup>123</sup>

The three churches of Hume, Fogo and Greenlaw with the chapels of Lambden and Halliburton, were confirmed to Kelso by Waldeve, Patrick I, Patrick II and by Patrick IV (1289 x 1308).<sup>124</sup> 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, and Nigel of Greenlaw, who was given life tenure in a charter perhaps given to him and surrendered after his death to Kelso. There were others; Orm who had been priest of Hume, and possibly Hugh, who was deaf and who held rights of pasture and cultivation in Bothwell shielings and who may have been priest of Fogo.<sup>125</sup>

The private chapels built exclusively for the personal use of the lord and his household might also be given to religious houses by

<sup>120</sup> *Kelso Liber*, i, 222-4, nos 268 (c.1172 x 1194), 269 (1182 x 1216), 270 (1250s, probably 1251), 271 (1261).

<sup>121</sup> *Ibid.*, 223, no.269.

<sup>122</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 29r-29v (*Kelso Liber*, i, 54, no.72).

<sup>123</sup> *Kelso Liber*, i, 240-1, no.299 (probably 1173 x 2 February 1194); *Kelso Liber*, ii, 351, no.460.

<sup>124</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary) fos 29v, 29r-29v (*Kelso Liber*, i, 54-5, nos 73, 72); *Kelso Liber*, i, 57-8, no.77 (Patrick IV's charter alluding to charters of Waldeve, Patrick I and a lost act of Patrick II). 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: NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary) fo.117v (*Kelso Liber*, i, 245, no.304). William I's confirmation charter of 1165-6 does not include Halliburton: *RRS*, ii, 166-8, no.63.

<sup>125</sup> NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 112r, 31r-31v, 29r (*Kelso Liber*, i, 234, no.288; i, 233, no.287; i, 59, no.79; i, 53, no.71).



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 should suffer no reduction in its income.<sup>126</sup> 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.<sup>127</sup> No remains survive of this chapel called 'the chapel of Sir William, son of the earl', nor of another chapel he had for his court at Makerstoun.<sup>128</sup> 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.<sup>129</sup> 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.<sup>130</sup> Bishop David's dedication of Fogo chapel may therefore signal a new friendliness towards private chapels, but may also have been part of a strategy of the Church hierarchy to control the new foundations through a system of inspections alongside the parish structure. William's son, Patrick Corbet, Patrick I's grandson, who was styled lord of Fogo, gave Fogo chapel to Kelso

<sup>126</sup> *Kelso Liber*, i, 56, no.75 (1180s x 1220s).

<sup>127</sup> Thus Thomas, prior of Durham (1233 x 1244), 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 four bovates and twenty-one acres of land and a half merk in place of the teinds of Kimmerghame mill. The vicar of Edrom was also to have a brewhouse in Kimmerghame. Elaborate precautions were taken to protect the status of the parish church which Herbert and his household were to attend on three named annual feastdays: *ND*, 96, no.543.

<sup>128</sup> *Hist. Mon. Comm. (Berwickshire)*, 48, no.419; *Kelso Liber*, i, 194, 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.

<sup>129</sup> *Pontificale Ecclesiae S. Andreae, The Pontifical Offices used by David de Bernham, Bishop of S. Andrews*, ed. C. Wordsworth (Edinburgh, 1885), xi.

<sup>130</sup> The pope instructed the archbishop of Canterbury and the bishops of London and Ely to have these 'outrages' stopped; see *Selected Letters of Pope Innocent III concerning England (1198-1216)*, ed. C. R. Cheney and W. H. Semple (London, 1953), 25, Letter 9 (6 April 1201).

abbey between 1289 and 1297, with the mill and other appurtenances 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.<sup>131</sup> The gift was confirmed by William Fraser, bishop of St Andrews (1279 x 1297),<sup>132</sup> and by Patrick IV (1289 x 1308),<sup>133</sup> whose charter provides a further interesting reminder that though the lands of Fogo had become the lordship of the earl's father's uncle and cousin, the junior line of the family, they were nevertheless the subject of a charter of confirmation in the name of the earl.

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 the nuns had the church and its chapels from an early date. Certainly the church had been given to the nuns by 1209.<sup>134</sup> 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.<sup>135</sup> 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.<sup>136</sup> The status of Leitholm, like that of Bassendean, is

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<sup>131</sup> *Kelso Liber*, i, 245-6, 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: *The Scots Peerage*, ed. Sir J. Balfour Paul, 9 vols, (Edinburgh, 1904-14) [hereafter *SP*], iii, 254. Patrick describes himself as brother and heir of Nicholas: Edinburgh University Library [EUL], Laing Charters, 2013, Box 52.

<sup>132</sup> *Kelso Liber*, i, 248-9, no.308 (1280 x 1297).

<sup>133</sup> *Kelso Liber*, i, 246-7, no.306 (1289 x probably 1295); *ibid.*, 247, no.307 (21 September 1304).

<sup>134</sup> See above, 5.

<sup>135</sup> *St Andrews Liber*, xxix, no.59 (listed as a lost act). The dedication had been on 4 October 1248: Bernham, *Pontifical Offices*, xix. Though Bishop David dedicated it to St Andrew, the church was apparently originally dedicated to St Cuthbert (*Fasti Ecclesiae Scotticanae*, ed. H. Scott, 10 vols (Edinburgh, 1915-81) [hereafter *FES*], ii, 12) suggesting possible former links with Melrose and with Durham. By the sixteenth century the chapels were dedicated to various saints – Birgham to St Mary Magdalene and Mersington to St John. Chapel Knowe, Leitholm, was dedicated to Our Lady: Kirk, *Assumptions*, 183, nn.2, 5 and 6.

<sup>136</sup> Land in Birgham was granted to Coldstream by Gospatric (see above, 9). Leitholm was held of the earls by Ketel and his family who witnessed their charters and those of their heirs: e.g. NAS, GD212/2/1/1, 3, 15-16, 30; BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 2v-3v, 5v, 6r-7v, 8r-8v (*Cold. Cart.*, 1-7, 20-1, 41-2, nos 1, 2, 3,

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.<sup>137</sup>

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 Bagimond's Roll. Ellem church was dedicated by David de Bernham on 11 March 1244. It is recorded in Bagimond's Roll of 1274–5, assessed with the hospital of Duns, suggesting that it had been annexed to Duns hospital by that date.<sup>138</sup> Cowan suggests that Duns church, which does not appear in the dedication of churches by Bishop David de Bernham nor in Bagimond's 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.<sup>139</sup> Since we know that the earls were lords of lands in Duns and patrons of Duns church, and also probably lords of Ellem, we may deduce that Ellem church was given to the hospital by one of the earls at some date prior to 1274–5.<sup>140</sup>

*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.<sup>141</sup> But these are not the concerns of the

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4, 7, 8, 9, 29, 30, 57); Durham, DCM, MC. 787, 788, 744, 743 (ND, 26, nos 114–15, 122–3).

<sup>137</sup> Alexander, parson of Leitholm, witnessed charters of Richard, son of Norman of Lennel (*Cold. Cart.*, 4–5, no.5 [1208 x 1211 or 1182 x 1200]) and of Patrick I's cousin, William son of Patrick (*Cold. Cart.*, 11, no.15 [1203 x 1209]; 47, Appendix, 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: EUL, Laing Charters, no.81.

<sup>138</sup> Bernham, *Pontifical Offices*, xvii; Dunlop, 'Bagimond's Roll', 33. Apparently the hospital with the annexed church of Ellem still existed in 1394 (*Calendar of Entries in the Papal Registers relating to Great Britain and Ireland: Petitions to the Pope*, ed. W. H. Bliss (London, 1896) [hereafter *Cal. Papal Petitions*], 617) though Duns parish church had by then been incorporated into Dunbar collegiate church.

<sup>139</sup> Cowan, *Parishes*, 55. Patrick, parson of Duns witnessed Durham, DCM, MC. 763 (ND, 27, no.120); *Cold. Cart.*, 11, no.15; Henry, rector of Duns witnessed NAS, GD212/2/1/9 (*Cold. Cart.*, 10, no.14).

<sup>140</sup> *The Exchequer Rolls of Scotland*, ed. J. Stuart *et al.*, 23 vols (Edinburgh, 1878–1908), v, 486–90.

<sup>141</sup> M. Lynch, *Scotland: A New History* (London, 1991), 98; Cowan, *Medieval Church*, 12. James Kirk states that 'parishes . . . as a consequence, suffered financial starvation':

charters to Coldstream and Kelso which simply record the grants of churches with their various endowments of land and revenues.<sup>142</sup>

Were the teinds part of the gift? The earliest charters do not refer to them, but rather use the term '*cum pertinentiis*' or phrases such as '*cum omnibus ei iure appendentibus*' or '*cum omnibus ad eam iuste pertinentibus*'.<sup>143</sup> We may only speculate on whether teinds and altar dues and offerings were included. Even in the case of Greenlaw and Hirsell 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.<sup>144</sup> 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.<sup>145</sup> But Cowan questions whether this definition was consistently or effectively applied, and cites the example of Rossie church (Perthshire) where the patronage alone was held for over seventy years by St Andrews priory.<sup>146</sup> If, as seems likely, the earls had been in the habit of diverting some or all of the teinds of Hume, Earlston and Little 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.<sup>147</sup>

Pope Innocent's view was prefaced by the statement that the right of patronage – of presentation to the benefice – was always given

Kirk, *Assumptions*, xxx. A more equivocal view is offered by A. A. M. Duncan, *Scotland: The Making of the Kingdom* (Edinburgh, 1989), 300-1.

<sup>142</sup> E.g. NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fo.29r (*Kelso Liber*, i, 53, no.71). 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, 'Organisation of the Scottish Church', 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: Durham, DCM, MC. 777-9, 787 (ND, 25-6, nos 111-14).

<sup>143</sup> E.g. NLS, Adv. MS 34.5.1 (Kelso Abbey cartulary), fos 112r, 31r-31v (*Kelso Liber*, i, 233, no.287; 59, no.79).

<sup>144</sup> *Kelso Liber*, i, 55, no.74 (1166 x 1182); *Cold. Cart.*, 11, no.15.

<sup>145</sup> Cheney, *Selected Letters*, 75-6, Letter 22 (19 December 1204).

<sup>146</sup> Cowan, *Medieval Church*, 16.

<sup>147</sup> 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.*, 14. Donnelly 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 judgement generally. R. A. R. Hartridge, *A History of Vicarages in the Middle Ages* (Cambridge, 1930), 4, suggests that gifts of tithes to a monastery by a lay lord do not necessarily prove that the lord had personally held the tithes. These may have been 'very cheap gifts' for the lord to make of part of the priest's income.

because that was what the patron had to give.<sup>148</sup> 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 Hirsle witnessing Dunbar charters after the grant of Hirsle church to the nuns of Coldstream and the link between the parson of Dunbar in the earl's patronage and Eccles priory. 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.<sup>149</sup> It does not quite square with Innocent's ruling that the patronage always accompanied a grant of a church. To the great reforming popes, 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.

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 Hirsle church, which had been given to Coldstream, apparently still had a parson, Adam, who witnessed Patrick I's charter confirming Lennel church to the nuns.<sup>150</sup> By then all or part of the lands of Hirsle 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.<sup>151</sup> William's charter, given between 1203 and 1209, may indeed mark the full appropriation of Hirsle 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 Ranulf, archdeacon of St Andrews.

<sup>148</sup> Cheney, *Selected Letters*, 75-6, Letter 22 (19 December 1204).

<sup>149</sup> Cowan, *Medieval Church*, 15.

<sup>150</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7).

<sup>151</sup> Patrick's charter is lost but William's confirms Hirsle 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.*, 11, no.15, and 47, Appendix, II.

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.<sup>152</sup> Thereafter Hirsell church was presumably included in the possessions of the priory confirmed by Patrick II between 1232 and 1248.<sup>153</sup> Lennel church, like Hirsell, was confirmed to Coldstream by Patrick I and Patrick II.<sup>154</sup> It was one of the 140 churches dedicated by David de Bernham, as part of his visitation programme in the 1240s.<sup>155</sup> 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 Hirsell in the time of Patrick I.<sup>156</sup> Patrick I's confirmation charter may mark the appropriation of Lennel church in the late twelfth or early thirteenth century, though it purports merely to confirm the church and appurtenances as granted by his father and grandfather.<sup>157</sup> All we know with certainty is that at some stage over the next three centuries, as with Hirsell, its parsonage and vicarage teinds were annexed to the priory and the cure was eventually served by a mercenary chaplain.<sup>158</sup> By the sixteenth century, also, the teinds of St Mary's, Bassendean, were in Coldstream's hands.<sup>159</sup>

From the example of these three churches – Hirsell, 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

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<sup>152</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fos 12v-13r (*Cold. Cart.*, 12-13, no.17); *ibid.*, 11, 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, *Medieval Church*, 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 December 1204); but the grant of Lennel and Hirsell churches by the earl had been confirmed by Bishop Richard (*Cold. Cart.*, 46, Appendix, I) and so William's charter would not necessarily require the further consent or confirmation of the bishop of St Andrews.

<sup>153</sup> NAS, GD212/2/1/30 (*Cold. Cart.*, 41-2, no.57).

<sup>154</sup> BL, MS Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7); NAS, GD212/2/1/30 (*Cold. Cart.*, 41-2, no.57).

<sup>155</sup> Duncan, *Kingdom*, 294-5. The dedication was on 31 March 1243: Bernham, *Pontifical Offices*, xiv.

<sup>156</sup> Lennel church does not appear in Bagimond's Roll. Nor does Coldstream priory with which it may have been assessed.

<sup>157</sup> BL, MS. Harley 6670 (Coldstream Priory cartulary), fo.5v (*Cold. Cart.*, 5-6, no.7).

<sup>158</sup> Kirk, *Assumptions*, 186.

<sup>159</sup> *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, the Council of Arles in 1260 and the Council of Salzburg in 1274: Hartridge, *Vicarages*, 75.

to the three churches – Hume, Fogo and Greenlaw – given with land to Kelso abbey by the earls. 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.<sup>160</sup> By 1198–9 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.<sup>161</sup> Nevertheless, both Greenlaw and Fogo churches, whose buildings were consecrated by Bishop David de Bernham in 1242 and 1243 respectively, appear in Bagimond in 1274–5 as vicarages.<sup>162</sup> In the late thirteenth or early fourteenth century, 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 William Lamberton of St Andrews. Thereafter Greenlaw church would be served by a vicar-pensioner who was in effect a mercenary chaplain.<sup>163</sup>

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 all or part of the lands of Hume as a marriage portion and later granted a portion 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 of church and lands and rights in Hume and to the further gift of land in Hume by Ada.<sup>164</sup> He gave an immediate

<sup>160</sup> *Kelso Liber*, i, 61-2, no.83; 62, no.84.

<sup>161</sup> *Kelso Liber*, ii, 326-7, no.425.

<sup>162</sup> Bernham, *Pontifical Offices*, xi, xiv. Here again 'vicarage' may be used merely to describe an arrangement where there was a substitute. 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 Hirsell, was in some respects unsatisfactory or neglected. The Harscar aisle in the present, mainly eighteenth-century, church may have been the chancel of the church dedicated by Bishop David: *Hist. Mon. Comm. (Berwickshire)*, 48, no.418; *FES*, ii, 15.

<sup>163</sup> *Kelso Liber*, i, 249-50, no.309. Neither Greenlaw nor Fogo church appears to have its vicarage teinds annexed in the rental of 1567: 'Rentall of the Abbacie' in *Kelso Liber*, ii, 489-532, at 494.

<sup>164</sup> *Kelso Liber*, i, 100-1, no.132. William describes himself as son of Sir William, knight, former lord of the town 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 1270s Mariota, widow of Patrick Edgar, is also said to be lady of Hume but not apparently through her husband: *Cold. Cart.*, 9-10, no.13. Her relationship to the family of these charters to Kelso is so far unclear.

confirmation to the abbey of the lands and of the church of Hume with the lands and teinds and everything pertaining to it.<sup>165</sup> Almost a year 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.<sup>166</sup> 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 judgement, 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 ecclesiastical 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.<sup>167</sup> 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 the earls who first gave Hume church to Kelso and then by William himself. The process of full appropriation, permitted to Kelso by 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.<sup>168</sup>

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.<sup>169</sup> 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.<sup>170</sup> 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 ten merks at the council of 1242, may have put a brake on subdivision. On

<sup>165</sup> *Kelso Liber*, i, 235-6, no.291.

<sup>166</sup> *Kelso Liber*, i, 235, no.290.

<sup>167</sup> *Kelso Liber*, ii, 329-30, no.429.

<sup>168</sup> 'Rentall of the Abbacie', 494; Cowan, *Parishes*, 83.

<sup>169</sup> Duncan, *Kingdom*, 302. Cf. Donnelly who claims that monks may have preferred to retain private chapels because subdivision involved the danger of losing new parishes and the income from them: Donnelly, 'Spiritual Estates', 63-4.

<sup>170</sup> Dunlop, 'Bagimond's Roll', 33-4.



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, Nenthorn and Newton acquiring their own parish churches while others such as Halliburton and Lambden were dwindling.<sup>171</sup>

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 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 depend ultimately on the goals of those who 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.<sup>172</sup> In the last analysis, churches and chapels and their lands and appurtenances, 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, despite papal and episcopal intervention.<sup>173</sup>

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<sup>171</sup> There are now no remnants of the churches at Halliburton and Lambden (*Hist. Mon. Comm. (Berwickshire)*, 48-9, nos 422 and 433), though in the late nineteenth century 'traces of ancient foundations and graves' were discovered in the garden of Halliburton farmhouse: *ibid.*, 48, no.422.

<sup>172</sup> *CPL*, i, 29.

<sup>173</sup> The papacy was well aware of the complexities of the problem. Bishops were given authority over the granting of churches to religious houses. In 1182 Lucius III told

*Conclusion*

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 drew 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 the separation of 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 papacy determined to free the Church 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 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 by the religious of at least some of their churches. But there was also friction. In other areas the earl might resist any attempt by the Church to exercise jurisdiction over him. The thirteenth-century reduction in benefactions to religious houses, which had been 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 changing perceptions. The building of chapels by lesser lords, including the younger Dunbars, likewise may signify a shift of attitude and a kind of retreat from a Church which would no longer allow their lordship to encroach on spiritual matters. Yet nothing was to underscore the limits of the Church's success more than the foundation in the fourteenth century of the collegiate church of Dunbar, erected by the bishop and under his jurisdiction, but in essence a private chapel writ large, a manifestation of the power and status of the earl. 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. At the heart of all this was a drawing apart of sacred and secular. It was not always to the advantage of the

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Bishop Jocelin that the religious should not delay in filling any vacant parish church, nor install perpetual vicars without episcopal consent. If no-one suitable had been presented to a vacant church within three months, the bishop was entitled to appoint. The incumbent was said to be responsible to the bishop in spiritual matters and to the religious in temporal matters: *Scot. Pont.*, 100-1, no.105 (9 March 1182). What this amounted to in practice is a matter of speculation; certainly the acceptance by bishops of the appointment of mercenary chaplains to churches in the late thirteenth century suggests that these standards were not upheld consistently or in the long term.

Church, but it was, after all, what the reforming Church was trying to achieve. It is difficult to measure how far or how fundamentally this process of disengagement went. Lay patronage, as we have seen, was alive and well in the estates of the Dunbar lordship in the centuries which followed. But there was some acceptance of the idea of spiritual independence and autonomy, or at least of the inevitability that it would prevail.

Nevertheless, in 1394, two petitions were presented at the papal *curia* on behalf of the sons of George, earl of Dunbar and March. One asked for a dispensation to enable Columba, then fourteen years of age, to hold a benefice, without cure of souls. The second petitioned on behalf of Nicholas, the earl's natural son, that he be ordained and permitted to hold one, two, three or more benefices.<sup>174</sup> Nicholas probably never became an ordained cleric,<sup>175</sup> but Columba did, and became dean of Dunbar, drawing also revenues from Ruthven hospital.<sup>176</sup> The incident, albeit from a later period and in the time of a very different kind of papacy, illustrates well the earls' continuing grip on the offices and revenues of the churches within their sphere and the cynicism which pervaded lay attitudes to spiritual matters, and which was to fuel growing discontent and calls for reformation. But it was a cynicism shared at times with the Church, and with the papacy itself. As in earlier centuries there was collision between lay and spiritual authority – and there was also collusion.<sup>177</sup>

DR HAMILTON COMPLETED A DOCTORAL THESIS IN SCOTTISH HISTORY, ENTITLED 'THE ACTS OF THE EARLS OF DUNBAR RELATING TO SCOTLAND, C.1124–1289: A STUDY OF LORDSHIP IN SCOTLAND IN THE TWELFTH AND THIRTEENTH CENTURIES', AT THE UNIVERSITY OF GLASGOW IN 2003.

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<sup>174</sup> *Cal. Papal Petitions*, 614.

<sup>175</sup> *SP*, iii, 276; *Cal. Docs. Scot.*, iv, 906 (30 May 1421).

<sup>176</sup> In later life Columba became archdeacon of Lothian (1419–22) and bishop of Moray (1422–35); see Watt and Murray, *Fasti*, 280, 402, 460.

<sup>177</sup> I am very grateful to Mr Norman Shead who read the draft of this article with his customary careful attention, and pointed out an inaccuracy in my account of the Sorrowlessfield proceedings. Any further errors are entirely my responsibility.