Discipline, Reformation and Community in Perth, 1577-1600

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Abstract

This thesis explores the development of ecclesiastical discipline administered by the kirk session of Perth between 1577 and 1600. Using the archival records of Perth's kirk session, as well as other local sources such as burgh court and guild records, it analyses the impact of the local networks of session members on the implementation of discipline, and examines the complex relationship between Perth's kirk session and its congregation, evaluating how discipline developed over the first few decades of the Scottish Reformation.

The first two chapters of this thesis focus on the proceedings of the kirk session and those who administered discipline. The first chapter addresses the elections, turnover and roles of the session members, and the second chapter demonstrates how the occupations and personal relationships of the town's eldership significantly influenced the exercise of discipline in Perth. The third chapter leads on from this by evaluating the offences pursued and prioritised by Perth's kirk session, and by considering how this changed over time. It also analyses the level of cooperation between the kirk session and local burgh court, and how this connection influenced what types of offence were more commonly pursued.

The fourth and fifth chapters shift in focus to evaluate the relationships of Perth's parishioners with the kirk session. Chapter 4 considers how a person's experience of discipline could be affected by their gender and social status, and whether the session consciously treated parishioners differently according to individual circumstances. Chapter 5 explores the levels of negotiation between the kirk session and the congregation, focusing particularly on interactions involving suspects who denied the charge, reoffenders and those who disobeyed the session.

The thesis concludes that Perth's kirk session was significantly influenced by its local community and by the relationships of its constantly rotating membership, and that the exercise of discipline developed as the roles of the eldership became firmly established and as the kirk session's authority strengthened.

List of Abbreviations

BUK	Peterkin, Alexander (ed.), *The Booke of the Universall Kirk of Scotland* (W. Blackwood: Edinburgh, 1839).
B59/12	Perth and Kinross Council Archives, Perth Burgh Records, B59/12
CH2/521	National Records of Scotland, Perth Kirk Session Minutes, CH2/521
Fasti	Scott, Hew (ed), *Fasti Ecclesiae Scoticanae: The Succession of Ministers in the Church of Scotland from the Reformation*, 10 vols (Oliver & Boyd: Edinburgh, 1915–1928).
PKCA	Perth and Kinross Council Archives, Perth
PKSB	Todd, Margo (ed.), *The Perth Kirk Session Books, 1577–1590* (Boydell Press: Woodbridge, 2012).
NLS	National Library of Scotland, Edinburgh
NRS	National Records of Scotland, Edinburgh
RPS	'Records of the Parliaments of Scotland to 1707', (https://www.rps.ac.uk)

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Introduction

The kirk session was an institution central to community life in early modern Scotland. Established after the Scottish Reformation, kirk sessions were tasked with ensuring conformity of the community with the tenets of the Reformation, primarily by disciplining parishioners who committed moral offences and bringing offenders to make repentance. Kirk sessions were also responsible for a number of other duties, such as organising examinations, visitations and communion, raising and distributing alms for the poor, and managing reconciliation between parishioners. While the aims of the kirk session were clearly set out, by John Knox and in the *Books of Discipline*, recent studies of urban and rural parishes have shown that local variations emerged in the exercise of discipline.[1] These included variations in the level of support from local communities, the composition of the session membership, as well as the frequency and types of offences prosecuted from one parish to another. Despite this important work, there is much to be gained from further and more detailed local studies which consider the context of individual communities, and there are still shortcomings in our understanding of the relationships and interactions between session members themselves, and between the session and those they disciplined.

This thesis considers the nature of kirk session discipline in the parish of Perth from 1577 to 1600. Despite being one of the four 'great burghs' of Scotland during the sixteenth century, and the town's importance to the history of the Scottish Reformation, there has been relatively little research into Perth's kirk session itself, or into the burgh's experience of reformation after 1560. This is with the exception of Margo Todd's edition of *The Perth Kirk Session Books*, which provides a

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[1] George W. Sprott and Thomas Leishman (eds), *The Book of Common Order of the Church of Scotland, commonly known as Knox's Liturgy and the Directory for the Public Worship of God Agreed upon by the Assembly of Divines at Westminster* (W. Blackwood & Sons: Edinburgh, 1868); James K. Cameron (ed.), *The First Book of Discipline* (Covenanters Press: Edinburgh, 2005); James Kirk (ed.), *The Second Book of Discipline* (Covenanters Press: Glasgow, 2005); Michael Graham, *The Uses of Reform: "Godly Discipline" and Popular Behavior in Scotland and Beyond, 1560–1610* (Brill: Leiden, 1996); John McCallum, *Reforming the Scottish Parish: The Reformation in Fife, 1560–1640* (Ashgate: Farnham, 2010); Allan White, 'Religion, Politics and Society in Aberdeen, 1543–1593' (Unpublished PhD Thesis: University of Edinburgh, 1985).

thematic overview of the records.[2] The period covered by Mary Verschuur's key study of Perth's reformation ends in 1570, before surviving kirk session minutes begin, and there has been very little study of Perth's development as a Reformed burgh. The fact that Perth was, as Verschuur has shown, a 'craftsman's town', sets it apart from some other previously studied parishes, particularly as craftsmen made up around half of the session's elders – an unusual structure which has not been found elsewhere in Scotland.[3] Not only are minutes of the kirk session of Perth some of the earliest surviving kirk session records, but also the survival of some other contemporary sources, such as guild and burgh council records, provide rich opportunities to identify background information on the individuals who appear in the minutes. This makes Perth's records an important case study for understanding the implementation of moral discipline in a local context following the Scottish Reformation.

This thesis aims to develop our understanding of how moral discipline was enforced locally after the Scottish Reformation by using Perth as a case study. It will examine not only what was judged by the kirk session, but who was involved, and how far the nature of discipline was a product of local circumstances and the composition of the session itself. It will consider the level of consistency demonstrated by the session in its proceedings, and how key aspects of Reformed discipline changed over the first few decades of its implementation. Using a particularly wide range of sources, including marriage banns, guild and burgh records, this thesis will investigate the significance of the kirk session's relationships with local secular institutions to how the session functioned. It will trace the backgrounds and social connections of Perth's elders, evaluating the effect that these factors had on the nature of discipline. It will analyse the offences that were prosecuted and how these were prioritised. This study will then analyse the gender and social composition of offenders. It will also evaluate the various forms of interactions between the kirk session and its congregation that are demonstrated in the kirk's records, and which have previously received little attention from scholars. This includes interactions initiated by the accused – those individuals who were denying charges, disobeying orders, or reoffending, and by the accusers – those who provided evidence in trials or initiated

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[2] Margo Todd, *The Perth Kirk Session Books, 1577-1590* (Boydell Press: Woodbridge, 2012).
[3] Mary Verschuur, *Politics or Religion? The Reformation in Perth, 1540-1570* (Dunedin Academic Press: Edinburgh, 2006), pp. 37-52.

cases. In doing so, this study will offer a new approach to understanding the complex relationships between those involved in disciplinary cases. By considering these aspects of kirk session proceedings, this thesis will address how the tenets of Reformed discipline were interpreted and exercised in reality in a local context. It will analyse how the way the session worked evolved over time in response to changing leadership, and evaluate the multifaceted relationship between the kirk session and the local community. In doing so, this thesis will demonstrate the great significance of the specific composition of the session membership and their relationships with local institutions, as well as the distinctive proceedings of Perth's session to the implementation and development of kirk session discipline.

Secondary literature

Over the past few decades, there has been a wealth of studies that examine various aspects of the Scottish Reformation. These often focus on the events leading up to and shortly after 1559–60.[4] Many of these analyse the Scottish Reformation on a national level, although there have also been some local studies. Mary Verschuur's *Politics or Religion?* is currently the only monograph in which early modern Perth is the sole focus. The book examines the origins of reformation in Perth, arguing that the town was receptive to Reformed ideas because of a combination of political and religious factors, as will be discussed further below.[5] Her study provides essential insight into the social structure, religious culture and conflict which had gradually developed in Perth in the years leading up to the Reformation Parliament. However, her study ends at the year 1570, before the surviving kirk session records begin, and so there is little discussion of the impact of these events and the development of a Reformed church in Perth. Other local studies, such as Michael Lynch's *Edinburgh and the Reformation* and Margaret Sanderson's *Ayrshire and the Reformation,*

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[4] Gordon Donaldson, *The Scottish Reformation* (Cambridge University Press: Cambridge, 2008); Alec Ryrie, *Origins of the Scottish Reformation* (Manchester University Press: Manchester, 2006); David McRoberts (ed.), *Essays on the Scottish Reformation, 1513–1625* (Burns: Glasgow, 1962); James Kirk, *Patterns of Reform: Continuity and Change in the Reformation Kirk* (T& T Clark: Edinburgh, 1989).

[5] Verschuur, *Politics or Religion?;* Mary Verschuur, 'Enforcing the Discipline of the Kirk: Mr Patrick Galloway's Early Years as Minister at Perth', in W. F. Graham (ed.), *Later Calvinism: International Perspectives* (Sixteenth Century Journal Publishers: Kirksville, 1994).

amongst others offer valuable case studies of the nature of reform in specific regions, although these do not address the exercise of ecclesiastical discipline in any detail.[6] Sanderson's work places great emphasis on the importance of Ayrshire's local context to its reformation. She highlights this particularly in the region's history of dissent in the form of Lollardy, and makes an important argument that support for reformation could be found in a wide range of social groups. However, due to a lack of surviving records, her study does not include analysis of the kirk session itself. Timothy Slonosky's study of reformation in Dundee and Haddington also notes the lack of surviving kirk session minutes in those areas, and uses burgh records to argue that the success of reformation there was a result of attitudes of the local magistrates and laypeople, ending his study in 1565.[7] Lynch's study, which primarily focuses on the burgh politics of Edinburgh before and after the Reformation, makes a key argument regarding the significantly intertwined relationship between the burgh council and kirk.[8] The book briefly discusses Edinburgh's kirk session using the surviving minutes of 1574-5, showing that it was primarily comprised of prominent merchants and lawyers – elders who often held their offices for a long time, and concluding that the session there was 'at its happiest and most unanimous' when regulating the moral behaviour of 'its lowliest members'.[9]

Aside from studies which focus on the earlier stages of reformation in Scotland, there has also been some important work which has furthered our understanding of kirk sessions and ecclesiastical discipline. Michael Graham's *Uses of Reform* has tracked the nature of kirk session discipline in several urban parishes. Although there is exhaustive analysis of contemporary records from Edinburgh, Aberdeen, St Andrews and others, the parish of Perth is not included in his study.[10] He argues that

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[6] Michael Lynch, *Edinburgh and the Reformation* (John Donald: Edinburgh, 1981); Margaret H.B. Sanderson, *Ayrshire and the Reformation: people and change, 1490–1600* (Tuckwell Press: East Linton, 1997); Timothy Slonosky, 'Civil Reformations: Religion in Dundee and Haddington, c. 1520–1565', (Unpublished PhD Thesis: University of Pennsylvania, 2014); Frank D. Bardgett, *Scotland Reformed: the Reformation in Angus and the Mearns* (John Donald: Edinburgh, 1989); Jane E.A. Dawson, '"The Face of Ane Perfyt Reformed Kyrk": St Andrews and the Early Scottish Reformation', in J. Kirk (ed), *Humanism and Reform: The Church in Europe, England and Scotland, 1400-1643* (Blackwell: Oxford, 1991), pp. 413-435.
[7] Slonosky, 'Civil Reformations', ch. 7.
[8] Lynch, *Edinburgh and the Reformation*, especially ch. 2.
[9] Lynch, *Edinburgh and the Reformation*, pp. 40–45.
[10] Graham, *The Uses of Reform.* Graham's study includes the urban parishes of St Andrews, Edinburgh, Canongate and Aberdeen, as well as a number of rural parishes.

in parishes such as St Andrews and Edinburgh, the membership of the session was 'highly oligarchic', with limited variance in the occupations of elders.[11] Graham also highlights that many kirk sessions shared a preoccupation with the disciplining of sexual offences. One definitive study of kirk sessions is John McCallum's *Reforming the Scottish Parish,* which focuses on the gradual development and operation of the Reformed kirk in the parishes of Fife.[12] His analysis of Fife's elders suggests that kirk sessions there were dominated by prominent individuals, who generally stayed in their roles for long periods of time, and like Graham, finds that the most common offences pursued were sexual, although arguing that verbal offences were also prevalent, and that interest in Sabbath observance had increased by the seventeenth century. While these studies address the structure of the kirk session and include valuable analysis of the turnover of session members in the widely varying parishes they cover, there has been less evaluation of whether the structure and composition of the kirk session affected the administering of ecclesiastical discipline. Similarly, while studies have discussed the backgrounds and occupations of session members, this study will evaluate how these backgrounds, including guild membership and personal relationships, could have an impact on the nature of discipline. The wealth of surviving kirk session and other local records, which have yet to be studied in any depth, makes Perth an ideal case study to address this potential influence of session members' backgrounds on discipline.

Recent historiography has also put forward the concept of a 'Long Reformation' in Scotland; that the organisation and practice of religion did not change immediately in 1560, but that it developed over a period of time, and at varying rates in different regions of Scotland.[13] John McCallum's *Reforming the Scottish Parish* indicates that the establishment of kirk sessions in Fife could take several decades, and that this varied across parishes.[14] He argues that this was the case for many elements of the kirk session, from the structure and composition of sessions themselves to the scope of discipline exercised by individual sessions, and that the gradual nature of the kirk

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[11] Graham, *Uses of Reform*, pp. 79–81.
[12] McCallum, *Reforming the Scottish Parish*.
[13] John McCallum (ed.), *Scotland's Long Reformation: New Perspectives on Scottish Religion, c. 1500-c. 1600* (Brill: Leiden, 2016).
[14] McCallum, *Reforming the Scottish Parish*.

session's formation was a factor in the relative success of its establishment and functioning by the mid-seventeenth century. Chris Langley has detected changes to the practice of communion, with their origins in reformation debates, as late as the mid-seventeenth century.[15] Referring to the exercise of discipline, Michael Graham has asserted that kirk sessions across Scotland increased their disciplinary activity over time, particularly by beginning to prosecute more types of offences – a pattern which will be investigated in this thesis. This study will further address this concept, by evaluating how the nature of kirk session discipline – including the scope of discipline and prioritisation of particular offences, attitude to gender and social status, as well as levels of flexibility – changed over the first few decades of its implementation. Studies which have addressed change over time tend to focus on general trends, such as the gradual increase in interest in Sabbath observance.[16] This thesis will consider such trends, but will also analyse the level of consistency employed by the kirk session year-by-year, and consider potential causes for some variations in the exercise of discipline.

Some articles have analysed the nature of individual offences in late medieval or early modern Scotland – particularly verbal and physical offences – with evaluation of what these consisted of, and sometimes how the nature of the offence and punishment could differ by gender, usually in a national rather than local context.[17] For instance, Elizabeth Ewan's article on defamation analyses the language used in slander and flyting cases and the public nature of these offences. She also evaluates the gendered nature of flyting and considers why acts of defamation were a concern for late medieval authorities. Leah Leneman's article on Sabbath breach explains in detail the variations in approaches to disciplining Sabbath breach in different

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[15] Chris R. Langley, '"A Sweet Love-Token betwixt Christ and His Church": Kirk, Communion and the Search for Further Reformation, 1646–1658', in John McCallum (ed.), *Scotland's Long Reformation: New Perspectives on Scottish Religion, c. 1500-c. 1600* (Brill : Leiden, 2016), pp. 87-111.
[16] Graham, *Uses of Reform*, pp. 204–220; McCallum, *Reforming the Scottish Parish*, ch.2.
[17] Elizabeth Ewan, 'Many Injurious Words: Defamation and Gender in Late Medieval Scotland', in R. Andrew McDonald (ed.), *History, Literature and Music in Scotland, 700 – 1560* (University of Toronto Press: Toronto, 2002), pp. 163–186; Leah Leneman, '"Prophaning" the Lord's Day: Sabbath breach in Early Modern Scotland', *History* 74: 241 (1989), pp. 217–231; Andrea Knox, '"Barbarous and Pestiferous Women": Female Criminality, Violence and Aggression in Sixteenth – and Seventeenth-Century Scotland and Ireland', in Y.G. Brown and R. Ferguson (eds), *Twisted Sisters: Women, Crime and Deviance in Scotland since 1400* (Tuckwell Press: East Linton, 2001), pp. 13–31.

parishes, arguing that a gradual fall in cases in the seventeenth century was caused by a shift in the attitudes of parishioners. This thesis will build on this analysis by investigating several different types of offence, considering how certain offences were prioritised, and how far this was consistent across the period studied.

There is some debate over the extent to which parishioners across Scotland supported kirk session discipline.[18] While it is a widely held view that there was significant, if gradual, support for kirk session discipline in various regions of Scotland, Jenny Wormald has argued that kirk session records actually reveal that many people 'refused to be driven into welcome or unwelcome godliness by the discipline of the Kirk', and that their distaste for discipline is evidenced by the cases dealt with by kirk sessions.[19] T.C. Smout has similarly doubted that enthusiasm was present across all branches of society, while others have considered regional variations in support.[20] One pivotal work which considers the congregation's experience of religion is Margo Todd's *The Culture of Protestantism*, which offers detailed discussion of parishioners' knowledge and practice of Reformed religion, and the ways in which kirk sessions adapted to accommodate themselves within local communities.[21] Todd's work provides the fullest analysis of Protestant culture in Scotland by far, and uses an impressively wide range of kirk session minutes to evaluate the dynamics of lay belief and religious change. In this work, Todd has used examples of cases from Perth's kirk session, as she also does in her article 'Profane Pastimes and the Reformed Community', where she uses Perth as an example of a more quickly reformed town in comparison to others, describing it as 'vigorously

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[18] Bruce Lenman, 'The Limits of Godly Discipline', in K. von Greyerz (ed.), *Religion and Society in Early Modern Europe, 1500–1800* (Allen & Unwin: London, 1984), pp. 124–145.

[19] Margo Todd, *The Culture of Protestantism in early modern Scotland* (Yale University Press: New Haven, 2002)*, ch. 3; McCallum, *Reforming the Scottish Parish*, pp.226-228; Harriet Cornell, 'Gender, Sex and Social Control: East Lothian, 1610-1640', (Unpublished PhD Thesis: University of Edinburgh, 2012), pp. 109-119; Jenny Wormald, 'Reformed and Godly Scotland?', in T.M. Devine and J. Wormald (eds), *The Oxford Handbook of Modern Scottish History* (Oxford University Press: Oxford, 2012), p. 207.

[20] T.C. Smout, *A History of the Scottish People: 1560–1830* (Fontana: London, 1985), pp. 79–81; Jane Dawson, 'Calvinism and the Gaidhealtachd in Scotland', in A. Pettegree, A. Duke and G. Lewis (eds), *Calvinism in Europe, 1540-1620* (Cambridge University Press: Cambridge, 1996), pp. 231-253.

[21] Todd, *The Culture of Protestantism.*

Protestant from the start'.[22] However, Todd's analysis is purely qualitative, with no quantitative analysis to demonstrate the incidence of certain aspects of discipline and actions of the session – or how these changed over time. It has also been noted by scholars that her book makes little reference to the local context of individual parishes, for example by using direct comparisons of urban and rural parishes, and using evidence from different parishes collectively without focusing on any one in detail for any great length of time.[23]

More recently, there has been a slight shift in focus from whether people were 'for' or 'against' the exercise of moral discipline, to ways in which people's relationships with the kirk were multi-layered. In her article 'Women and Kirk Discipline: Prosecution, Negotiation and the Limits of Control', Alice Glaze has argued that the relationship between the kirk and women was not 'monolithic or even binary' – an important argument which can be applied to the kirk and its parishioners as a whole.[24] Focusing on seventeenth-century parishes, Chris Langley's *Worship, Civil War and Community* shows how kirk sessions adapted over the course of the civil wars, arguing that sessions entered in active discussions with their parishioners and that the cooperation of local communities continued to be an important element of the kirk's operation during a period of instability.[25] In his article 'In the Execution of his Office: Lay Officials and the Exercise of Ecclesiastical Discipline in Scotland, c. 1600-1660', Langley looks closely at the relationships between elders and their parishioners, arguing that while elders' familiarity with their congregation was beneficial to the exercise of discipline, their personal connections also influenced how they carried out their duties and brought them under increased scrutiny.[26] This study's investigation into Perth's records, particularly into acts of disobedience, denying accusations and rates of recidivism, will provide further insight into these interactions between the kirk session and parishioners, with care taken to consider

[22] Todd, *The Culture of Protestantism*, especially pp. 197-224, 277-278; Margo Todd, 'Profane Pastimes and the Reformed Community: The Persistence of Popular Festivities in Early Modern Scotland', *Journal of British Studies* 39: 2 (2000), p. 135.
[23] Julian Goodare, 'Review of Margo Todd's *Culture of Protestantism in Early Modern Scotland*', *Albion* 36 (2004), p. 376; McCallum, *Reforming the Scottish Parish*, p.4.
[24] Alice Glaze, 'Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control', *Journal of Scottish Historical Studies* 36:2 (2016), p. 128.
[25] Chris R. Langley, *Worship, Civil War and Community, 1638–1660* (Taylor & Francis: London, 2015).
[26] Chris R. Langley, 'In the Execution of His Office: lay officials and the exercise of ecclesiastical discipline in Scotland, c. 1600-1660', *The Seventeenth Century* 33:5 (2018), pp. 497-512.

that non-compliance was not necessarily an outright rejection of the Reformed kirk's principles, but a consequence of a range of factors. This thesis will also explore the levels of flexibility the kirk session could employ in its judgements, and how much scope it had to modify its interactions with those who appeared at the session, whether as suspects, witnesses or accusers.

As well as studies that have considered the kirk's relationships with congregations as a whole, there has been some analysis of relationships with specific social groups, and the bearing that social status could have on parishioners' experience of discipline. Michael Graham has argued that the kirk session did aim to administer discipline equally but had limited ability to do so, and that this was a consequence of the greater level of authority often held by wealthier social groups.[27] Keith Brown has noted a similar challenge faced by the session in disciplining elites, who were often unwilling to accept the punishments that were imposed for moral offences.[28] Studies are however often limited to discussion of the wealthiest or poorest offenders rather than the overall social composition of offenders. This is likely to be as a result of limited detail in the records of many parishes, where there was a tendency not to state an offender's occupation.[29] Given the wealth of additional records available in Perth, alongside the kirk records, this study will be able to offer fresh insights by examining the social status of both session members and offenders. This thesis will identify a significant number of offenders' occupations and consider the extent to which disciplinary proceedings and outcomes were influenced by the social standing of the accused.

A number of articles and edited collections have made considerable contributions to the understanding of ecclesiastical discipline in relation to gender in late medieval and early modern Scotland, often with a focus on comparisons between men and women's sexual offences.[30] Michael Graham has focused on the difference in types

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[27] Graham, *The Uses of Reform*, pp. 259-279.
[28] Keith Brown, 'In Search of the Godly Magistrate in Reformation Scotland', *Journal of Ecclesiastical History* 40: 4 (1989), pp. 566-567.
[29] Brown, 'In Search of the Godly Magistrate', pp. 553–581; Graham, *The Uses of Reform*, pp. 259–279; McCallum, *Reforming the Scottish Parish*, pp. 217–220.
[30] Glaze, 'Women and Kirk Discipline', pp. 125–142; Gordon DesBrisay, 'Twisted by Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns', in Y.G. Brown and R.

of offence committed by men and women, suggesting that a similar number of men and women appeared for sexual offences, and that men were summoned for a wider range of offences, emphasising that there was not necessarily a 'double standard' when it came to disciplining sexual offences.[31] Gordon DesBrisay has challenged this view, arguing that there were several aspects of kirk session discipline which were uneven, such as 'differential penalties' for men and women convicted of sexual offences, and the fact that fines had a more detrimental impact on women, who were less likely to be able to afford them.[32] Alice Glaze has provided a more nuanced understanding of women's relationships with the kirk using records of sexual offences in the parish of Canongate.[33] While there has been some comparison of men and women's agency in secular Scottish courts, there is less discussion of this in relation to kirk sessions.[34] This study will compare not only the offences and punishments of male and female parishioners, but will consider elements which have received less study, such as men and women's actions in denying charges, the values of their oaths, rates of reoffending and other actions of disobedience to the session, offering a much fuller analysis of the experience of discipline as it related to gender.

The Burgh of Perth and the Reformation

The burgh of Perth was an important urban centre in sixteenth-century Scotland. During that time, Perth was the fourth largest town in Scotland, after Edinburgh, Aberdeen and Dundee – known together as the 'four great burghs', with a sixteenth-

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Ferguson (eds), *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400* (Tuckwell Press: East Linton, 2001), pp. 137-155; Michael F. Graham, 'Women and the Church Courts in Reformation-Era Scotland', in E. Ewan and M. Meikle (eds), *Women in Scotland, c. 1100–c. 1750* (Tuckwell Press: East Linton, 1999), pp. 187-198.

[31] Graham, 'Women and the Church Courts', pp. 187-198.

[32] DesBrisay, 'Twisted By Definition', pp. 137-155.

[33] Glaze, 'Women and Kirk Discipline', pp. 125-142.

[34] Margaret H.B. Sanderson, *A Kindly Place?: Living in Sixteenth-Century Scotland* (Tuckwell Press: East Linton, 2002), ch.8; John Finlay, 'Women and Legal Representation in Early Sixteenth-Century Scotland', in E. Ewan and M. Meikle (eds), *Women in Scotland, c. 1100–c. 1750* (Tuckwell Press: East Linton, 1999), pp. 165-175; Cathryn R. Spence, 'Negotiating the Economy: Gender, Status and Debt Litigation in the Burgh Courts of Early Modern Scotland', in S.M. Butler and K.J. Kesselring (eds), *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain: essays in honour of Cynthia J. Neville* (Brill: Leiden, 2018), pp. 174-194; Rebecca Mason, 'Women, Marital Status, and the Law: the Marital Spectrum in Seventeenth-Century Glasgow', *Journal of British Studies* 58:4 (2019), pp. 787-804.

century population of around 5,000–6,000.[35] Perth was densely populated; within the town walls, dwellings were packed tightly into a relatively small area, with continual construction of buildings within this confined space over the sixteenth century.[36] The town is situated inland, but set upon the River Tay, which was an important route for merchants travelling inland and between the coastal burghs and the north of Scotland, and this was potentially important for the dissemination of new ideas coming from continental Europe.[37] In addition, Perth was notable for the prominence of its craftsmen, whose authority within local institutions was growing in the sixteenth century. Perth has been described as a 'craftsmen's town', having a social hierarchy somewhat different from other large Scottish towns where craftsmen did not hold a similar level of authority.[38] As will be demonstrated within this study, this social structure was reflected in the membership of the kirk session. Perth has been described as having had a vibrant religious culture.[39] Situated very centrally within the town is the Kirk of St John the Baptist, the parish kirk. The kirk was named after Perth's patron saint: indeed, the town had been known as St Johnstone during the medieval period. Prior to the Reformation, Perth was also the site of several monastic houses – those of the Greyfriars, Carthusians, Whitefriars and Blackfriars – all established outside the town walls.[40] There were also numerous chapels, a few of which were still standing following 1560.[41]

Perth is important to the history of the Scottish Reformation for several reasons. This is despite the fact that the burgh was not situated on the east coast, which would have brought it into more direct contact with overseas traders, and that there was no university, where theology and the reformation were sometimes discussed early on, as was the case in St Andrews. Instead, Perth's significance was a result of its status

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[35] *PKSB,* pp. 9, 54. This population figure did dip dramatically within the period of this study in 1584-5, when it was reported that 1,427 inhabitants of the town perished in a plague.

[36] R.M. Spearman, 'The Medieval Townscape of Perth', in M. Lynch, M. Spearman and G. Stell (eds.), *The Scottish Medieval Town* (John Donald: Edinburgh, 1988), pp. 42-59.

[37] Michael Lynch, 'The Social and Economic Structure of the Larger Towns, 1450-1600', in M. Lynch, M. Spearman and G. Stell (eds), *The Scottish Medieval Town* (John Donald: Edinburgh, 1988), pp. 270-272.

[38] Mary Verschuur, 'Merchants and Craftsmen in Sixteenth-Century Perth', in Michael Lynch (ed.), *The Early Modern Town in Scotland* (Croom Helm: London, 1987), pp. 36-54.

[39] Verschuur, *Politics or Religion?,* pp.18-22.

[40] Mary B. Verschuur, 'Perth Charterhouse in the sixteenth century', *Innes Review* 39:1 (1988), pp. 1-11.

[41] *PKSB*, pp. 10-11.

as a major town and area for trade. Perth had a relatively early history of opposition to some Catholic teachings, and a background of social conflict. As some historians have argued, Reformed ideas were taken up relatively early by some of the inhabitants of Perth.[42] Perth's records themselves claim that the town was 'the congregation quhere the treuth first began in this kingdome to be publised'.[43] Mary Verschuur has stated that the first layperson was accused of (Protestant) heresy in Perth in 1539, suggesting that there was support for Reformed religion relatively early on from some of the inhabitants of Perth.[44] The burgh's first Protestant martyrs were executed in 1544.[45] This was a group of five craftspeople who had committed a variety of acts. One, the craftsman Robert Lamb, is recorded as having interrupted a friar's sermon in the autumn of 1543, demanding that the friar 'speak the truth', and then attempting to pull him from the pulpit.[46] Another, Helen Stark, had refused to call upon the Virgin Mary during her childbirth.[47] A decade later, it appears that support for reformation had spread to a significant portion of the local community. By 1558, a burgh court record states that 'all and sindry' of Perth's parishioners had refused to pay their teinds to the church, even facing excommunication, an instance which Alec Ryrie has deemed 'a large-scale withdrawal from the life of the Old Church'.[48] This support differs significantly from the views of parishioners in some other burghs, where it has been suggested that there was more support for Catholic teachings and practices, or at least little active support of Reformed ideas.[49] As will be touched upon in this thesis, some of those Perth residents who committed acts of rebellion against the Catholic church in the 1530s and 1540s, as well as their close relatives, were later elected as elders of Perth's kirk session. In May 1559, John Knox arrived in Perth and preached in St John's Kirk, causing a riot during which citizens attacked and destroyed local chapels and the Charterhouse, an event which has led Margo Todd to state, 'that the burgh was protestant before the nation was

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[42] Mary Verschuur, *Politics or Religion?,* pp. 72-73.
[43] *PKSB*, p. 383.
[44] Verschuur, *Politics or Religion?*, p. 72.
[45] Todd, *PKSB*, p. 19.
[46] Ryrie, *The Origins of the Scottish Reformation*, pp. 123-124.
[47] Todd, *PKSB*, p. 19.
[48] Ryrie, *Origins of the Scottish Reformation*, p. 131.
[49] Graham, *Uses of Reform,* pp. 114 – 124; Timothy Slonosky, 'Burgh Government and Reformation: Stirling, c. 1530-1565', in J. McCallum, (ed.), *Scotland's Long Reformation: new perspectives on Scottish religion, c. 1500-c. 1660* (Brill: Leiden, 2016), pp. 49-68

seems beyond dispute', and that Perth's leaders had 'arguably begun the urban Reformation'.[50]

The factors behind Perth's reformation were not, however, solely religious. In addition to individual acts of protest against the Catholic church, Verschuur has also shown how the town had a broader history of social conflict, with the local craftsmen arguing throughout the 1530s and 1540s for their representation on the burgh council, which until then had historically been dominated by merchants.[51] She goes on to argue that this background of conflict and attempts to change the structure of the burgh council meant that Perth's craftsmen in particular were already experienced in achieving their demands for change, and this made them more receptive to some Reformed ideas of spiritual equality.[52] Combined with the fact that the craftsmen had been supported in their claims by the Protestant leaning Lord Ruthven, who was provost of Perth for much of the 1540s and 1550s, including during 1559-60, shows that reformation had been brought about in Perth as a result of a combination of religious and political factors.[53] As a result of this history, Perth has been considered by some as particularly receptive to the Reformation, with little opposition to the changes brought to the kirk.[54] As will be seen in this study, the kirk session dealt with very few cases of recusancy or opposition to the kirk's teachings, and there was fairly solid support for the exercise of discipline there. Despite this context, and the burgh's significance to the study of the Scottish Reformation, there has been little study of Perth's kirk in the later sixteenth century. The fact that the social structure of Perth, which was quite different to other burghs which have been the focus of local studies, was significant to the origins of reformation there suggests that this social structure could be an important element of its kirk session and discipline. The importance of this local social structure to the establishment of the Reformed kirk makes the burgh a significant case study of the local context of kirk sessions.

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[50] *PKSB*, p. 22.

[51] Mary Verschuur, 'Merchants and Craftsmen in Sixteenth-Century Perth', pp. 36-54.

[52] Verschuur, *Politics or Religion?,* ch .4.

[53] Mary Black Verschuur, 'Patrick Ruthven, Third Lord Ruthven, (c. 1520-1566)', *Oxford Dictionary of National Biography*, at https://www.oxforddnb.com/abstract/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-24372?rskey=06C1U7 [accessed 3 July 2019].

[54] Todd, *The Culture of Protestantism,* p. 197; Verschuur, *Politics or Religion?*, pp. 129-131.

Perth's Kirk Session

This study focuses on the parish and kirk session of the Kirk of St John the Baptist, Perth, with particular focus on the exercise of moral discipline. In the sixteenth century, the parish included the entire town of Perth, as well as several landward areas outside the town walls. The urban part of the parish was divided into quarters – the north and south side of the Highgait, the Watergait or 'Beneath the Cross' and the Southgait – for administrative purposes, but dealt with by the single kirk session, with elders and deacons assigned to each quarter. Several landward areas are mentioned in the records as falling under the jurisdiction of Perth's kirk session and from 1592 onwards, landward elders were assigned to these areas – grouped as the south and north/west landward of the parish.[55] Following this, another addition was made in 1598, when an elder was assigned to 'Above the Turret Brig port', an expanding suburb of the parish.[56] A second ministerial charge was installed in St John's Kirk in 1595, with the arrival of the minister William Cowper; however the records show that the kirk session continued to operate as a single authority, with both ministers generally attending meetings together.[57] Session meetings took place within the vestry of St John's Kirk, while announcements concerning discipline were made from both the pulpit of the kirk and the market cross of the town.[58] Where the session judged that a case should be referred to a higher authority, some cases could be referred to the presbytery, which was officially formed in 1581 by the General Assembly.[59] Perth's kirk session was one of many under the jurisdiction of Perth presbytery, which usually held meetings weekly, on a Wednesday.[60] Alternatively,

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[55] CH2/521/2, ff. 64v, 66v, 85v, 87v, 133v. This includes landward areas such as Muirton, Balhousie and Friarton, which were sometimes named as places where a suspect was from. While the landward areas were part of the parish before this, elders were only assigned to urban quarters up until 1592. No record states specific boundaries for these quarters. 'North' and 'west' landward appear to have been interchangeable.

[56] CH2/521/3, pp. 48-49.

[57] *Fasti,* iv, pp. 226-227, 233; CH2/521/2, f. 125v.

[58] *PKSB*, pp. 158, 225; CH2/521/2, ff. 59v, 65v, 80r. The latter entry refers to their meeting place as 'the sessione hows utherwayis callit the revestrie'.

[59] Alan R. MacDonald, *The Jacobean Kirk, 1567-1625: sovereignty, polity and liturgy* (Ashgate: Aldershot, 1998), p. 21.

[60] CH2/521/3, p. 108 for one example of many of referred offenders being told to appear at the presbytery on the next Wednesday.

cases could be referred to the secular burgh court, which was situated in the town's tolbooth and a very short distance from St John's Kirk. The burgh council had a significant overlap of personnel with the session, as will be explored in the third chapter.

The kirk session comprised a group of session members, including the minister(s) and twelve or more elders, who were laymen elected annually to the office. In addition, there were several other officers on the session, such as deacons, kirk officers and masters of hospital, who were not directly involved in disciplinary business. Over the period covered in this study, five ministers and 101 elders were appointed as members of the kirk session, not including the other officers. The elections of these session members will be investigated in detail in this thesis, addressing whether turnover in Perth was especially high. John Row, the first Reformed minister of Perth, was an important figure, having contributed to the *Books of Discipline*, which set out how kirk sessions were to be run.[61] The ministers who followed him – Patrick Galloway, John Howieson, John Malcolm and William Cowper – were all educated after 1560, and the first three have been noted for their Presbyterian activism.[62] Patrick Galloway has been noted for his effect on the administering of discipline at Perth, and William Cowper has been described as a particularly effective preacher and strict disciplinarian.[63] The roles and relationships of the session members, as well as the differing approaches of these ministers are discussed in the first chapter of this thesis, while the second chapter further investigates the social backgrounds of elders and how this impacted on the nature of discipline.

The kirk session was responsible for carrying out a range of duties, including the organisation of parish poor relief, reconciling disputes within the community, the

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[61] *Fasti,* iv, p. 229; Cameron (ed.), *The First Book of Discipline*; Kirk (ed.), *The Second Book of Discipline.*
[62] MacDonald, *The Jacobean* Kirk, pp. 22, 24, 27; *Fasti*, iv, pp. 229-230; Todd (ed.) *PKSB*, p. 25.
[63] Verschuur, 'Enforcing the Discipline of the Kirk', pp. 215-236; Margo Todd, 'Bishops in the Kirk: William Cowper of Galloway and the puritan episcopacy of Scotland', *Scottish Journal of Theology* 57: 3 (2004), pp. 300-312. While Todd's study focuses primarily on Cowper's later career as bishop, some references are made to his time in Perth.

administration of marriage contracts and management of hospital business. The kirk session was also responsible for visiting and examining members of the congregation, in order to ensure that they were knowledgeable of their faith and were conforming to the standards upheld by the session. This study focuses on the session's implementation of ecclesiastical discipline – one of the most common types of entry in the session minutes, and a clear priority of the session. It utilises the records of 1,146 cases that appeared before Perth's kirk session between 1577 and 1600, involving a total of 1,567 suspects.[64] These involved the prosecution of a wide variety of moral offences including sexual offences such as fornication and adultery; Sabbath breach (involving acts of absence from Sunday sermon, working or inappropriate behaviour on the Sabbath day); and verbal and physical offences, as well as many other less common offences, which are discussed in the third chapter. Being convicted of an offence generally led to a punishment, which usually involved either performing an act of public repentance, paying a fine, or both. Other punishments included various methods of corporal punishment, as well as the most severe penalties of banishment or excommunication. While most offences had a standard punishment which is sometimes noted in the records, in many cases, the specific punishment is not recorded, and so the extent to which punishments can be analysed is limited. However, using available evidence about cases where punishments have been recorded, this study will consider whether the session was flexible in its administration of discipline. Aside from the examples discussed above, Perth's kirk session has received little attention in comparison to some other kirk sessions, despite the wealth of information in its records which give important insight into the nature of discipline and the relationship between session members and parishioners. This study will utilise the richness of these records to provide a considerably fuller analysis of how and why certain offences were prioritised by the kirk session, and how far these priorities were a local initiative of Perth's session, rather than a reflection of the broader interests of higher authorities.

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[64] As will be addressed, this number is slightly less when taking into account reoffenders.

Primary Sources and Methodology

In order to fully understand the functioning of the kirk session, this thesis will draw
upon a particularly wide source base of local religious and secular records, including
records that have scarcely been used previously in studies of kirk sessions. The use
of these records, especially those relating to local secular authorities and institutions,
enables a much richer and more contextual interpretation of the kirk session than is
possible in studies using session minutes alone. The main source base utilised within
this study is the records of Perth's kirk session, from 1577 to 1600. These records are
in the form of minutes, taken by the session's clerk, which summarise the business
overseen by the session. This business includes disciplinary cases, organisation of
poor relief, administrative business, marriage banns and elections of session
members, and so provides invaluable evidence about the running of the kirk session,
as well as the relationships and interactions between the kirk and its congregation.
The records of 1577 to 1590 are available as a comprehensive published edition,
transcribed by Margo Todd and published by the Scottish History Society.[65] As
mentioned above, 1577 is the year in which surviving minutes begin. While it has
been argued that Perth's session was established in 1560, the exact date is
unknown.[66] An appendix of the published minutes lists fragments of disciplinary
cases from 1568, probably erroneously written into Perth's marriage register, and the
records for 1577 refer to earlier cases. Perth's first Protestant minister was appointed
by the town council in 1560, when it is believed the kirk session was established.
After 1590, the records are unpublished, and are held and digitised at the National
Records of Scotland in Edinburgh.[67] These records are in Scots and written in
secretary hand, and so it has been necessary to transcribe these in full. There are
some short gaps in the records, caused by a combination of damage to records or
missing pages. The records of 1577 survive from May onwards, and there is a gap in
the minutes between July and September 1586, as well as from the October 1586

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[65] Todd (ed.), *PKSB.*

[66] Todd, 'Profane Pastimes and the Reformed Community', p. 135; J.P Lawson (ed.), *The Book of
Perth: an illustration of the moral and ecclesiastical state of Scotland before and after the
Reformation* (T. G. Stevenson: Edinburgh, 1847), p. 84; *PKSB*, Appendix III.

[67] The volumes CH2/521/2-3, held at the National Records of Scotland, are used in this study.

election up to January 1587, where a number of pages are missing (rather than damaged). There is also a gap in records from May to October 1597, which is partly caused by damage to the records, rendering some pages recording May 1597 impossible to transcribe fully, but primarily caused by a significant number of missing pages between June and October 1597.[68] In addition to a decline in the volume of minutes recorded during a plague which struck Perth in late 1584 to early 1585, these gaps have been taken into account when analysing the information in the records, particularly where aspects have been compared over time.

This thesis analyses the proceedings of Perth's kirk session from 1577 to 1600. This period was chosen partially due to surviving records – Perth's survive from May 1577 onwards, and so this is the earliest possible date from which to study Perth's kirk session. The decision was made to include records up to 1600 following initial analysis of the published minutes, which suggested a changing session membership and approach to discipline by the end of the 1580s. By including minutes up to 1600 this study also aims to provide a fuller consideration of the longer-term development of Perth's kirk session. Several historians have noted the significance of the 1590s to the development of the Reformed kirk. Alan MacDonald has argued that the late 1580s to mid-1590s in particular was a turbulent period for the kirk, during which there were conflicting views between the kirk, crown and government over the structure and functioning of the kirk.[69] Referring more specifically to the exercise of discipline, Michael Graham has identified marked changes to various aspects of the kirk during this time.[70] More specifically to the parish of Perth itself, this period includes the ministries of several different men. As is noted above, this included John Row – who had previously acted as a procurator for John Hamilton, archbishop of St Andrews, and later as a nuncio of Paul IV before his conversion – as well as ministers born and educated after 1560, and therefore the period covered includes different phases of the kirk session's development, potentially offering insight into

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[68] *PKSB*, pp. 69-70, 353-354 n. 1; CH2/521/2, ff. 172v-176r have been only partially transcribed because of damage to the pages, and so a few cases have not been counted because insufficient information is legible to include them. The records begin again in the new volume, CH2/521/3.
[69] MacDonald, *The Jacobean Kirk*, ch.3.
[70] Graham, *The Uses of Reform*, ch. 6.

the change in proceedings over time.[71] As will be shown in this study, the period covered also includes changes in the personnel of the session, which may offer valuable insight into potential changing approaches or views of the kirk. The chapters of this thesis are arranged thematically rather than chronologically, with each chapter including evidence from 1577 to 1600. However, each chapter will consider the extent to which various aspects of the kirk session changed or continued over this period.

Regarding the disciplinary cases recorded in the minutes, most entries contain the name of the offender, the offence they committed and the outcome of the case, which usually states that the offender had submitted themselves to the kirk for their punishment. The recording of specific punishments, however, is less consistent, with many entries simply stating that the offender had submitted to the kirk, or that they were to be punished according to an act that is not fully specified. Another limitation of the records is that usually, only the name of the suspect is given, with no indication of their occupation or status. It is also fairly uncommon for entries to record detail about the suspect's response to their charge, or generally how the case was carried out. A further consideration when examining the kirk session records is that they are not a word-for-word account of the kirk session's proceedings, but a series of summaries made by the clerk. Despite this, the records provide plentiful evidence regarding the nature of cases and offences, the identities of the session members and those who appeared before them. It should also be considered that the records do not necessarily document the most common offences of the parishioners. Rather, they are a reflection of the types of offences that came to the attention of session members and were considered serious enough to carry a penalty. Therefore the records cannot be used to quantify directly the actions and behaviour of the laity, but with the appropriate level of circumspection, may be used to analyse the practices of the kirk session and their impact. Graham has made a similar argument in his study, where he states that his quantification of offences demonstrates what forms of offending the session was most interested in, and what offences were easier

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[71] Richard L. Greaves, 'John Row, c. 1526-1580', *Oxford Dictionary of National Biography* (2004), at https://doi.org/10.1093/ref:odnb/24185 [accessed 14 July 2019].

to detect.[72] Another point of note is that clerks did not necessarily record all disciplinary business pursued by the session, a finding which has led Judith Pollmann's study of Utrecht to argue that it is not possible to use church records for quantitative analysis.[73] While it is unclear whether the records are rough or a clean copy of the minutes, this does not affect the arguments of the thesis. This study does not assume that there were no off-the-record activities undertaken by the session, and examines the records of cases that were actually prosecuted qualitatively alongside statistical analysis.[74] Over the period covered, there were at least six different clerks known to have served the session, five of whom were identified by Margo Todd for the published minutes, with the remaining clerk identified by the research for this thesis.[75] These clerks may have had different priorities in level of detail and topics to record, and this has been considered in the analysis of the records. However, the kirk session records are generally formulaic, and there are only a few minor differences which are noticeable between scribes, such as spelling, word choice and their systems of marginal notations. These minor differences are unlikely to have been linked with any changes to the nature of the kirk session or discipline which have been observed in this study. Moreover, the changes to discipline demonstrated in this study do not coincide with the approximate dates the clerks changed over. This excludes one gap in the minutes mentioned above which may have been related to a clerk's dispute with the session over payment, although this can not be confirmed as the cause.[76] It is therefore likely that the replacement of clerks did not substantially affect the aspects of discipline analysed in the study.

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[72] Graham, *The Uses of Reform*, pp. 85-87.

[73] Judith Pollmann, 'Off the Record: Problems in the Quantification of Calvinist Church Discipline', *The Sixteenth Century Journal* 33:2 (2002), pp. 423–438.

[74] Graham, *The Uses of Reform*, pp. 2-3; McCallum, *Reforming the Scottish Parish*, pp. 38-40 also combine quantitative analysis with qualitative analysis to evaluate many aspects of kirk session discipline.

[75] *PKSB*, pp. 30-31; CH2/521/2, ff. 74r, 91v; CH2/521/3, pp. 1-3. These were Jhon Swenton (beginning of records-1578), Walter Cully (1578-1579), James Smyth (1580-1581), William Cok (1581-c. 1589), William Balnavis (c. 1589-c. 1593), and Alexander Balnavis. (c. 1593-at least 1600). Alexander Balnavis was identified from a combination of a change in handwriting in the records, and an entry recording his stipend from 1593. Three pages of the 1597 records appear to be in a different hand, although it has not been possible to identify the scribe.

[76] *PKSB*, pp. 337, 341, 353. William Cok was asked several times to return the session book, eventually being deposed from his office as reader.

The information recorded within disciplinary cases in the kirk session minutes has been entered into a spreadsheet of cases for this thesis, making it possible to sort cases by the date, names and occupations of the offenders, their offences and punishments, and whether this was their first offence. The way in which offences have been inputted also differentiates between those found guilty on that date and those referred to further trial or found innocent after denying the charge, an important element of proceedings which has yet to be studied in the context of Scottish church courts. The spreadsheet was also formatted to recognise names which appear more than once, highlighting potential reoffenders, an aspect of offending not covered in any detail in previous works on kirk sessions.[77] A similar, but separate spreadsheet of offenders was also created. A 'case' has been considered as an occurrence where a person or group of people appeared at the session for an illicit action which the session considered worthy of punishment. It includes entries where a person was found innocent or referred elsewhere, but multiple appearances for the same action have been counted as a single case.[78] It does not include entries of conflict resolution between families or similar where no conviction was made – these have been considered as part of the broader role played by the kirk session in reconciliation. Entries of summons, where the summoned individual never appeared at the session, have also not been counted as cases, as these rarely ever mention why a person had been summoned, and no disciplinary action was recorded. While this thesis will usually refer to numbers of cases, in some areas it has been pertinent to specify the separate number of offenders as well – such as when discussing offences normally perpetrated by groups, comparing numbers of male and female offenders, or analysing recidivism. Using this spreadsheet, the recorded cases and offenders have been analysed by a number of factors, such as the frequency of offences and punishments, the nature of discipline by gender and social status, rates of reoffending, change to discipline over time, as well as others discussed in this study. Unlike previous studies of kirk sessions, this study has also used marriage banns in the records to identify relationships between session members, as well as connections between some of those involved in cases, adding further depth to the analysis of who was involved in, and affected by moral discipline in Perth.

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[77] McCallum, *Reforming the Scottish Parish*; Graham, *The Uses of Reform*; Todd, *The Culture of Protestantism.*

[78] Further detail about the categorisation of cases is given in Chapter 3.

A number of other primary sources have been used in this study, including the records of various local institutions which interacted with the kirk session. It should be noted that this excludes Perth presbytery records. While the presbytery associated with Perth's kirk session was in operation for most of the period covered in this study, the surviving records of Perth presbytery begin in 1618, and so it has not been possible to cross-reference cases referred there, or to include in-depth analysis of the role of Perth's session members at this level.[79] Records which have survived include guild and burgh council records from sixteenth-century Perth, which have been used to provide essential and distinctive evidence for this study. Several of these – the guild records of the skinners (glovers), baxters, and fleshers' crafts, are held at Perth and Kinross Council Archives in Perth.[80] As with the kirk session minutes, these records were all written in secretary hand, but none have been digitised. While the merchants', baxters' and fleshers' records are fragmentary, the skinners' book is particularly detailed, as it includes the names of members, elections of deacons of crafts, the admission of apprentices to masters, as well as useful entries of disciplinary measures taken against guild brothers. Also held at Perth and Kinross Council Archives are various burgh court records, including the burgh court election records, burgh court minute books and registers of acts and obligations.[81] These records contain a wealth of information such as the names and occupations of bailies and council members elected to the burgh council, and financial and property transactions between the inhabitants of Perth. Along with the guild records, they have been used to add important and substantial evidence of the session's relationship with the burgh court, some of their personal relationships, and to identify the backgrounds of those mentioned in the kirk session minutes. By using these additional sources, this research includes a much fuller analysis of contextual records and how this impacted kirk session discipline than has been made in other studies which have touched upon backgrounds of elders. However, one limitation of the surviving burgh records is that they do not include records of criminal cases,

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[79] NRS, CH2/299 for Perth presbytery records; *Fasti* iv, p. 193, states that Perth presbytery had been proposed by the General Assembly as early as 1581. It was within the Synod of Perth and Stirling.
[80] PKCA MS 67/1 (Glovers' book); MS 92 (Baxters' records); MS 122 (Fleshers' documents). While referenced as the glovers' book in archival catalogues, the source itself and kirk session records almost exclusively refer to 'skinners', and so I have chosen to use this terminology in this study.
[81] PKCA, B59/12/2; B59/12/9-10; B59/8/3-11.

meaning that this thesis does not directly quantify similarities and differences between the nature of ecclesiastical and secular discipline.[82] Nevertheless, this thesis will demonstrate the significant level to which the kirk session was intertwined with other local institutions, and the importance of this context to our understanding of the session's processes.

Records of the hammermen's and wrights' guilds, held at the National Library of Scotland in Edinburgh, have also been used in this study.[83] As with the skinners' book, these records are valuable in their detail of the crafts' administrative business. Additional supporting evidence has been drawn from a published edition of *The Perth Guildry Book*, a record of those entered to the merchant guild in the sixteenth century, and the *Rental Books of King James VI Hospital, Perth*, which provide information of property held by inhabitants of the town.[84] *The Chronicle of Perth*, which summarises notable events that took place in medieval and early modern Perth, has been consulted in relation to some cases.[85] It has been taken into account that this latter source was written by several authors, some of whom contributed to the document during the seventeenth rather than sixteenth century, and therefore that some entries are unlikely to be a completely accurate representation of events.[86] Using a combination of kirk, guild and burgh records, this study will provide an in-depth analysis of an important kirk session, which has yet to be studied in its own right, by using a novel approach to address the social backgrounds and relationships of the kirk session and its parishioners.

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[82] J.R.D. Falconer, *Crime and Community in Reformation Scotland: negotiating power in a burgh society* (Pickering & Chatto: London, 2013) compares the processes of regulating behaviour in Aberdeen.

[83] Colin A. Hunt (ed.), *The Perth Hammermen Book, 1518 to 1568* (J. H. Jackson: Perth, 1889); NLS MS 19239; MS 19288. I would like to thank Dr Michael Pearce for sharing with me his transcriptions of some excerpts of the wrights' book. This study has utilised Hunt's edition of the hammermen's book, rather than the original document.

[84] Marion L. Stavert (ed.), *The Perth Guildry Book, 1452-1601* (Scottish Record Society: Edinburgh, 1993); R. Milne (ed.), *Rental Books of King James VI Hospital, Perth* (Wood & Son: Perth, 1891).

[85] James Maidment (ed.), *The Chronicle of Perth: a register of remarkable occurrences, chiefly connected with that city, from the year 1210 to 1668* (Maitland Club: Glasgow, 1831).

[86] Jonathan L. M. Eagles, 'The "Chronicle of Perth": An Historical and Archaeological Study, Volume II', (Unpublished PhD Thesis: University of St Andrews, 1995), pp. 10-35, 71-88. Eagles states that while there are some inaccuracies in the chronicle, these are 'relatively innocuous', and the document makes a useful contribution to historical record.

This study has been arranged thematically into five chapters. The thesis begins in the first two chapters with a close investigation into those individuals who administered discipline as session members, considering their roles on the kirk session, as well as their personal backgrounds and relationships with one another. This will then lead onto analysis of what was disciplined and how, with particular consideration of how the composition of the session played a role in the prioritisation of particular offences. This will be followed by detailed analysis of those who were on the receiving end of discipline, by considering the gender and social composition of the accused, and examining to what extent offenders' experiences varied. Finally, parishioners' interactions with the kirk session and responses to proceedings will be examined, with the aim of evaluating how ecclesiastical discipline in Perth developed over the first few decades of its implementation, and how far the composition and membership of the session affected the exercise of discipline in a local context.

The first chapter will consider the nature of the kirk session, by looking at the structure and proceedings of Perth's kirk session, analysing aspects such as responsibilities, turnover and attendance of session members. It will offer new insight into the internal relationships and interactions of session members by using a wide range of local sources and will consider how judgements were reached. The second chapter will analyse the significance of the social backgrounds and occupations of session members to the nature of kirk discipline. It will begin by identifying the guild membership and other occupations of the session's elders, and discussing the roles held by merchant and craft elders within their respective guilds, leading to discussion of how the strategic election of guild members had a considerable impact on the kirk's session's functioning, particularly through its disciplining of fellow merchants and craftsmen. The second chapter will also modify the approach of analysing kirk sessions from the works of Margo Todd and Michael Graham by considering separately the backgrounds and activities of the landward elders, and their importance to the expanding reach of the session. The third chapter

will evaluate the types of offence pursued by Perth's kirk session, and will consider how and why certain offences were prioritised. It will also discuss how the nature of discipline changed over time, and the reasons certain offences increased or decreased in frequency by the end of the sixteenth century. This chapter will also further our understanding of kirk session proceedings by considering the extent of overlap in membership and jurisdictions of the kirk session and burgh court, with particular focus on how the session decided what fell under its jurisdiction. The fourth chapter will discuss who was disciplined by the kirk session, identifying the composition of offenders by gender and social status, and evaluating how the experience of discipline could differ according to these factors, taking into account the frequency of offences, severity of punishments and attitudes of the session. The fourth chapter will also consider the gendered experiences of others involved in cases, such as witnesses and accusers, before evaluating how far the differences in treatment discussed were a result of conscious decisions taken by the session, or were an indirect result of other circumstances, as some studies have previously suggested. The final chapter will discuss how parishioners interacted with the session, including the ways in which parishioners were able to engage with or undermine kirk session discipline, including in their actions as offenders, witnesses and accusers. This chapter will focus especially on cases in which parishioners denied the charge they had been accused of, an aspect of discipline which has received little attention in historiography, but which provides substantial insight into how the session viewed and interacted with suspects. Each chapter will also evaluate the extent to which the aspects of discipline discussed changed over time, while considering the potential reasons behind each of these changes. In doing so, it will examine not only gradual shifts in discipline, as scholars such as McCallum and Graham have discussed, but will also consider how many aspects of kirk session discipline could fluctuate notably following elections of session members, and that individual cases could be affected by the relationships of session members.[87] The thesis will conclude with a discussion of the overarching questions posed in this study: firstly, to what extent did the nature of ecclesiastical discipline vary in Perth; and secondly, how far these variations were a product of local context and changes to the membership of the session; and finally, the nature of the relationship between the kirk session and the

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[87] McCallum, *Reforming the Scottish Parish*, ch.2; Graham, *The Uses of Reform*, pp. 204-220.

local community. The aim will be to demonstrate that the local context and composition of the session membership, as well as the specific manner of the session's proceedings, and the significant level of negotiation with many groups of the local community, was intrinsic to the style of discipline administered in Perth, leading to considerable development of discipline over the first few decades of its implementation.

Chapter 1

<u>The Nature of the Kirk Session</u>

Following the Reformation Parliament of 1560, Perth's kirk session was established with the intention of ensuring conformity with the Reformation within the local community. This chapter will evaluate the nature of Perth's kirk session – in terms of its structure, the composition of the session membership and the proceedings of its meetings. It will focus particularly on how far these elements could differ – not only from the guidelines of the *Books of Discipline*, but also from other Scottish parishes. Some differences have been identified between Perth's session and those of other Scottish parishes, where it has been suggested that kirk sessions were often composed of a small, exclusive group which rarely changed in elections.[1] This chapter will examine the roles and responsibilities of session members and the extent of their mobility between roles. The chapter will also use records of elections and registers to measure the turnover and attendance of Perth's session members and it will draw on elders' marriage banns to identify how closely session members were interconnected. Although kirk session records generally lack detail about the procedures followed and the way in which judgements were arrived at, some entries concerning discipline in Perth's records contain important evidence relating to how decisions were reached. Using this evidence, it is possible to gain some useful insights into the relationships between the session members and how they worked together. By combining evidence relating to these many elements of the kirk session, this chapter will evaluate not only how closely the nature of Perth's session aligned with instructive texts, but also the specific values of the session itself and the extent to which various aspects of the kirk session could deviate over time.

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[1] McCallum, *Reforming the Scottish Parish,* p. 154; Graham, *The Uses of Reform,* pp. 78–79.

The Roles of Session Members

The structure of Perth's kirk session is set out clearly in the session minutes. By 1577 – the beginning of surviving minutes – members of the session included a minister, twelve elders and twelve deacons, who were supported by two masters of hospital, a kirk officer, a reader, a clerk and a bell ringer.[2] Perth's first Reformed minister, John Row, was a contributor to the *Books of Discipline*, and therefore ideally placed to ensure that the session had a clear idea about how ecclesiastical discipline should be administered. The minutes of the kirk session show that several aspects of the session's structure and procedures adhered to the tenets of these texts, and the extent of this will be addressed. The supporting roles could sometimes overlap, for example the reader would often also act as the clerk.[3] As mentioned in the Introduction, the parish was divided into four quarters, with three elders and three deacons assigned to each quarter – a system observed in many parishes across Scotland and Reformed Europe.[4] By 1595, the membership had increased to two ministers and 14 elders, rising to 19 elders in 1598.[5] This increase was partially in order to begin covering the rural areas of the parish – the north landward and the south landward were appointed one elder each – but later on, more elders were also assigned to the already established quarters of the parish. In order to fully understand how important each session member was to the exercise of discipline, and the levels of authority they held in relation to one another, their roles and responsibilities will be examined in this chapter. Using records of disciplinary cases, as well as contextual sources relating to session members, this chapter will consider how distinct the roles of ministers, elders, and deacons were, and how the roles they played compared not only with the roles described in the *Books of Discipline*, but also the practice identified in studies of other parishes.

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[2] *PKSB*, pp. 26-30.
[3] *PKSB*, pp. 30–31.
[4] Todd, *The Culture of Protestantism,* p. 10; Scott M. Manetsch, 'Pastoral Care East of Eden: The Consistory of Geneva, 1568-82', *Church History* 75:2 (2006), p. 277.
[5] CH2/521/2, ff. 125v, 133v; CH2/521/3, pp. 48–49.

The role of the minister was central to the operation of kirk discipline. His responsibilities relating to the exercise of discipline included leading kirk session meetings and pronouncing sentences, announcing information from the pulpit, and contributing to the exercise of discipline at presbyteries. As the person whose 'chief office' it was to preach and administer the sacraments, the minister was uniquely placed to guide his parishioners and enforce good conduct in the congregation.[6] It is not surprising, therefore, that the direction of kirk sessions could be heavily influenced by the aims and beliefs of individual ministers, as has been argued in some recent studies.[7] Michael Graham has suggested that in the parish of St Andrews, there was a transformation of discipline in the late sixteenth century, which significantly expanded the scope of the session's efforts.[8] He argues that this mainly occurred under the ministers Robert Wallace and David Black, who he suggests were 'the leading agents in the effort', thus highlighting the impact on discipline that individual ministers could have. Between 1577 and 1600, Perth had five ministers. The first was John Row, who as mentioned above had contributed to the *Books of Discipline* and 1560 Confession of Faith.[9] In addition to his position as minister of Perth, Row had numerous other responsibilities to the Kirk, as commissioner of Galloway and frequent moderator of the General Assembly. These responsibilities involved travelling to meetings and visitations on what was intended to be a weekly basis, outside of Perth, and consequently Row was not always present at the session's meetings in Perth.[10] Row's contribution to the *Second Book of Discipline* had involved regular meetings and discussions over discipline and church polity in the few years preceding its completion in 1578, which again is likely to have drawn his attention away from Perth for significant periods of time.[11] According to Spottiswoode, Row was well respected in his life as a minister, and

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[6] Sprott and Leishman (eds.), *The Book of Common Order*, p. 11.
[7] Graham, *The Uses of Reform*, Verschuur, 'Enforcing the Discipline of the Kirk'.
[8] Graham, *The Uses of Reform*, p. 220.
[9] *Fasti*, p. 229.
[10] David Calderwood, *History of the Kirk of Scotland*, iii (T. Thomson: Edinburgh, 1842), p. 36; Graham, *The Uses of Reform,* p. 69; MacDonald, *The Jacobean Kirk*, p. 12. From surviving sources it is not possible to tell exactly how often Row performed these other duties.
[11] Richard L. Greaves, 'John Row, c. 1526–1580', *Oxford Dictionary of National Biography* (2004), at https://doi.org/10.1093/ref:odnb/24185 [accessed 14 July 2019].

'much lamented at his death by the people whom he served'.[12] This could be taken as an endorsement by Perth's congregation of Row's introduction of the kirk session and style of discipline. However, it should be kept in mind that Spottiswoode wrote his history decades after Row's ministry, and was influenced by his position in the Scottish Kirk and as the son of John Spottiswoode senior, Row's colleague in writing the *First Book of Discipline*. Mary Verschuur's study of the second minister, Patrick Galloway, establishes that his arrival in Perth corresponded with a changing attitude and 'renewed commitment' to kirk discipline there, observing an increase in the volume of session records, particularly concerning doctrinal matters.[13] Galloway appears to have been present at meetings much more frequently than Row, as will be demonstrated below, and implemented new acts regarding Sabbath observance. Between May 1584 and November 1585, he was forced to leave Perth as he was suspected of being complicit in a conspiracy against the king.[14] For a short time, Perth's session was left without a minister, before a substitute, John Howieson, arrived.[15] This period where elders alone oversaw discipline is further discussed below. Galloway returned to Perth in November 1585 and remained there until his appointment as the king's minister.[16]

In 1591, Galloway was succeeded by John Malcolm, who, like Galloway, would later be noted for his Presbyterian activism, having gathered a number of ministers at his home for the signing of a declaration protesting the introduction of episcopacy in 1606.[17] Following his arrival, Malcolm introduced some new measures. For example, a few months after his appointment, having seen 'greit and mony enormeteis [wrong-doings] off dyvers fameleis and particular howsis, besyds ther greit ongodlines', he ordered a visitation of all the families in the parish.[18] While this was not a new phenomenon, from then on, visitations were organised and recorded every week without fail, suggesting that visitations had become more organised and

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[12] John Spottiswoode, *The History of the Church of Scotland*, vol. 2 (Oliver and Boyd: Edinburgh, 1851), p. 274.
[13] Verschuur, 'Enforcing the Discipline of the Kirk', pp. 215-236.
[14] *PKSB*, p. 283, *Fasti*, p. 229; MacDonald, *The Jacobean Kirk*, pp. 25–26.
[15] *PKSB*, p. 291; *Fasti*, iii, pp. 234–235; MacDonald, *The Jacobean Kirk*, p. 27. Howieson has also been noted for his protests against the Black Acts of 1584 and the imposition of bishops in general.
[16] *Fasti, iv,* p. 229; *PKSB*, p. 327.
[17] *Fasti*, iv, p. 230.
[18] CH2/521/2, f. 58v.

more rigorously enforced. Malcolm also ordained that there was to be a visitation of the poor and sick every Tuesday, again implying more stringent organisation.[19] Unlike the previous ministers, Malcolm specified that he himself would visit along with the elders. As will be seen in later chapters, his arrival also coincided with a changing focus in the offences pursued by the session. Change was seen again when William Cowper joined Malcolm as a second minister in 1595. The session began to have two disciplinary meetings a week in 1597, as a result of the increasing business it dealt with.[20] The two ministers were usually both present at session meetings together, rather than taking turns. Margo Todd has described Cowper as a 'zealous puritan' and 'demanding disciplinarian' for his devotion to his roles, both as minister in Perth and later as the Bishop of Galloway, and this is reflected by the increasing activity of Perth's session.[21] What can be seen from this is that each minister brought new elements to discipline in Perth which built on the work of his predecessor and added to the range of the kirk session's agenda.

The minister's authority over kirk discipline was expressed and emphasised in announcements from the pulpit. For example, in September 1598, it was noted that there had recently been many incidents of neighbours slandering each other, and so it was ordered that the 'act maid for the repressing of publick flyteris & sklanderereis to be intimat publickly out off pulpit the nixt Sabboth'.[22] The minister would sometimes summon suspects by announcement from the pulpit, encouraging other parishioners to report their whereabouts if they had failed to turn up, and summoning anyone who could act as a witness in particular trials. For example, in 1598, it was declared that 'intimatione to be maid out of the pulpit the nixt Sabboth give [if] any hes to object or knowis any thing to be sklanderous in the persone of Cristen Fargusone that thay com and declair it befoir the sessione on Mononday nixt'.[23] On other occasions, the minister announced from the pulpit the names of those that the congregation was not to interact with. For example, when Gabriel Merser was convicted for hosting the papist laird of Innernytie for three days, it was noted he had

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[19] CH2/521/2, f. 69v.
[20] CH2/521/3, p. 3.
[21] Todd, 'Bishops in the Kirk', p. 302.
[22] CH2/521/3, p. 46. There was indeed an increase in recorded convictions that year.
[23] CH2/521/3, p. 18.

done this 'nochwithstanding that intimatione was maid out of pulpit that nane suld receive him in ludging'.[24] By combining religious observance with the exercise of discipline at Sunday services, the minister was able to exert strong influence over parishioners, making clear to them what was unacceptable behaviour and encouraging the congregation to cooperate with the disciplinary process.

While the minister was an important figure of authority through his role in the pulpit, there has been some debate over his importance to discipline in contrast to that of the elders. Margo Todd has placed less importance on the minister's role within discipline, stating that the elders took on the majority of tasks required of the session, including the sentencing of offenders.[25] John McCallum has given much more weight to the authority of the minister, arguing that it was the minister's duty to admonish offenders, and to receive penitents, to the degree that to the elders, 'the process of penitence was only complete if a minister received the sinner back', rather than just the congregation.[26] In addition to these responsibilities, the minister had other powers which were not available to elders, including the power to pronounce the sentence of excommunication. Perth's elders were involved in the decision to excommunicate a convicted parishioner, and had to approve of the punishment, but the minister made the final judgement and so was arguably central to the punishing of the most serious offenders.[27] However, the wording of excommunications shows that elders were instrumental in this judgement. For instance, in March 1585, it was recorded that 'the assemblie ordanit the minister to excommunicat Margret Watson'.[28] Similarly, in another case, signed by the minister himself, stated that 'I Mr Jhon Huison minister...did at the command of the session excommunicat Margret Oliphant', again placing the elders as active enforcers of the judgement.[29] Aside from parish business, much of the kirk's business above parish-level was undertaken by ministers. This included disciplinary roles outside the parish, such as acting as moderator at the General Assembly.[30] While in theory, both ministers and elders

[24] CH2/521/2, f. 138v.
[25] Todd, *The Culture of Protestantism*, p. 369.
[26] McCallum, *Reforming the Scottish Parish*, p. 169.
[27] *PKSB*, pp. 86, 122, 269.
[28] *PKSB*, p. 304.
[29] *PKSB*, p. 317.
[30] CH2/521/2, f. 97r.

were responsible for attending and exercising discipline at presbytery meetings, Perth's records suggest that in reality, only the minister attended these meetings.[31] In some of the earlier records, before presbyteries had been formally recognised by the General Assembly, some cases were referred 'the nixt Wednesday befoir the assembly of the exercies of the ministeris', suggesting that elders were not present at these.[32] In a case from 1598, where a couple was convicted for their fourth fault of fornication, it was decided that 'the ministeris to be advysit with the presbiterie quhat forme of satisfactione thay sall mak', indicating it was their responsibility to correspond with the presbytery over this matter.[33] Therefore, it appears that the minister was at the forefront of the exercise of discipline. It is important to note that while Perth's session reflected general ideals set forward in this regard, there was evidently variation in the specific approaches of individual ministers within this framework. Moreover, as will be shown below, ministers were not the only important figure in kirk session proceedings.

The Role of the Elders

The elders of the session had a number of responsibilities, which they generally undertook alongside their own occupation, as they were not paid for their service. They were expected to 'assist the ministers in all publike affaires of the kirk'.[34] This included attending session meetings and judging the matters dealt with there, as well as visiting and examining the parishioners in the quarter of the parish that they represented and ensuring that the congregation was not ignorant of their faith. As well as assisting the minister, elders were expected to ensure that he accomplished his duties to a satisfactory standard. As was professed in the *First Book of Discipline*, 'if he [the minister] be worthy of admonition, they must admonish him; of correction, they must correct him'.[35] James Kirk has shown examples from the

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[31] *PKSB*, p. 32, Kirk, *The Second Book of Discipline*, pp. 111-112 for elders in presbyteries; CH2/521/2, f. 114r; CH2/521/3, pp. 2, 15, 77 for examples where ministers were asked to seek advice from the presbytery on behalf of the session, or when they had reported back from a presbytery.
[32] *PKSB*, p. 122.
[33] CH2/521/3, p. 15.
[34] Cameron (ed.), *First Book of Discipline*, p. 175.
[35] Cameron (ed), *First Book of Discipline*, p. 176.

visitations of some parishes by superintendents that elders were expected to make a report 'anent the doctrine and lyfe of thair minister', which in some cases resulted in criticisms of the minister by elders.[36] This indicates that elders were required to be well versed in the doctrine and all responsibilities of the minister, and to hold him accountable for any actions which did not meet the kirk's standards. Records of Perth's presbytery have not survived for this period, but it is likely that the same accountabilities applied. Margo Todd has demonstrated how elders also had the authority to make judgement on the minister's actions within the parish, for instance by presiding over cases where a parishioner had complained about the content of a minister's sermon, or his conduct in general, and has suggested that elders 'occupied an at least semi-clerical status', with significant authority.[37] Some studies of kirk sessions have considered the part played by elders in ecclesiastical discipline. Walter Makey has stated that the ideal of an elder was to have a strong sense of morals and understanding of Reformed doctrine, and that elders were often devoted to their role.[38] Perth's records themselves identify the qualities that were required of their elders. The entry of the 1587 election stated that those to be elected should be 'endowit with gud qualities, fering god, hating vyce in all estait of men', asserting that the elders chosen in Perth were to have a good reputation within the local community.[39] Not only did the session members themselves expect certain standards of the elders, but it has been suggested that parishioners valued certain qualities as well. Referring to seventeenth-century Scotland as a whole, Chris Langley has argued that congregations held high expectations of their elders, and criticised those who did not meet these.[40] As will be shown in Chapter 3, many elders faced criticism from parishioners in the form of slander. In Perth, these forms of criticism were more common against elders than the ministers, which is not surprising given that elders had a very active role in the community, and considering their roles as visitors, would have been a closer point of connection for parishioners than the minister.

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[36] Kirk (ed.), *Second Book of Discipline*, pp. 95-96.
[37] Todd, *The Culture of Protestantism*, pp. 368-369.
[38] Walter Makey, *The Church of the Covenant, 1637-1651: Revolution and Social Change in Scotland* (John Donald: Edinburgh, 1979), pp. 122-128.
[39] *PKSB*, p. 378.
[40] Langley, 'In the Execution of His Office', pp. 506-508.

Unlike the ministers, very few elders had received a university education or training in relation to their roles, with most being local merchants or craftsmen. Of the 101 elders elected during this time, four are recorded as 'Mr', which denoted holding a university degree. An entry following an election from October 1583 stated that 'the minister suld publictly teache on the office of eldarschip on Sonday nixt', suggesting that to some extent, he was responsible for providing an understanding of the role to the congregation.[41] Unlike the ministers, who arrived in Perth following their appointment, most elders were originally from the town, as can be seen from various burgh council records.[42] *The Perth Guildry Book* includes entries of roughly three-quarters of the elders entering the guildry as apprentices, where their fathers were usually described as 'burgess of Perth'.[43] This will have given them a familiarity with the burgh that the minister lacked on arrival. Studies of consistories in Reformed parishes elsewhere in Europe have considered the difference in the roles of minister and elders. In his discussion of Reformed parishes in Southern France, Raymond Mentzer has stated that ministers relied heavily on elders for the organisation of church affairs, and that elders were just as, if not more important than the minister to the organisation of discipline.[44] Philippe Chareyre has similarly argued that in sixteenth-century Nimes, while the minister presided over consistory meetings, 'it fell to the elders to direct the church and advance substantively the reform of morals and religion'.[45] As mentioned above, one role of the elders was in acting as visitors – a responsibility which often fell on them without the minister.[46] Visitors' reports indicate that bailies (local burgh magistrates) were also sometimes involved in visitations during the 1570s and 80s, and that this became standard practice by the 1590s. This is likely to have been partly for practical reasons, as there was only one minister compared to a dozen or more elders, and many of these visitations took place during the church service. Elders took it in turns to go through the town during preaching, to find anyone who had failed to attend the services, and charge them to appear at the session. In 1595, it was announced that elders were to

[41] *PKSB*, p. 269.
[42] PKCA B59/8/3-11 contains numerous records where elders were described as burgess of Perth.
[43] Stavert (ed.), *The Perth Guildry Book*.
[44] Raymond A. Mentzer Jr, 'Ecclesiastical Discipline and Communal Reorganisation among the Protestants of Southern France', *European History Quarterly* 21 (1991), pp. 163-165.
[45] Philippe Chareyre, '"The Great Difficulties One Must Bear to Follow Jesus Christ": Morality at Sixteenth-Century Nimes', in Raymond A. Mentzer (ed.), *Sin and the Calvinists: Morals, Control and the Consistory in Reformed Tradition* (Truman State University Press: Kirksville, 2002), p. 65.
[46] *PKSB*, p. 249; CH2/521/2, ff. 59r, 61v, 71r, 74v.

carry out visitations on Thursdays as well, to make sure the Thursday sermon would be equally attended.[47] Between 1593, when visitations began to be recorded consistently, and 1600, at least 11% of visitations resulted in parishioners being found absent from the sermon or committing another offence, and so visitations played a limited but important role in bringing cases to the session's attention.[48] While visitors were a deterrent to those tempted to commit Sabbath breach, the large number of Sabbath breach cases in the records raises questions over how effective visitations were. Indeed, the majority of Sabbath breach cases were not recorded as having been initiated by visitors.[49] Nevertheless, the frequency of visitations suggests that they were a valued element of discipline to the session.

The significance of elders' visitations becomes more apparent when taking into account the connection many had to their respective quarters of the town. Firstly, it should be noted that elders elected more than once almost always remained assigned to the same quarter of the parish. It has been possible to find only five elders who served in different quarters, and so each elder was usually permanently associated with a single quarter of the parish.[50] Investigation into records relating to elders, as well as information in Margo Todd's appendices to the *Perth Kirk Session Books,* suggests that elders generally resided in or very close to the quarter they were responsible for. Elders would therefore be familiar with the families in their quarter, and were particularly able to keep an eye on their behaviour, highlighting their important contribution to the process of discipline.[51] This study has identified property records of 74 of the 96 urban elders in Perth up to 1600 – however, only a small number specifically state where an elder actually resided. For example, the hospital rental books note the elder 'Oliver Peblis land, occupied by himself, on the north side of the Northgate'.[52] Of 11 of the 96 urban elders whose residences can be

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[47] CH2/521/2, f. 114v.

[48] 42 out of 375 recorded visitations involve visitors reporting a person or group of people, usually for breaking the Sabbath.

[49] For example, there were 41 people convicted of Sabbath breach in 1593, at least 10 had been summoned by visitors.

[50] These five are Robert Anderson, Thomas Gall, Andro Jhonston, Alexander Maxton and Andro Moncreif.

[51] *PKSB*, pp. 461-483; Milne (ed.), *Rental Books* indicate property owned by elders, situated in the quarters they were responsible for.

[52] Milne (ed.), *Rental Books*, p. 47.

confirmed in this way; these show that nine lived in the quarter they were assigned to, and that the other two lived very close to their quarter.[53] Considering the records of property without this specification – for example – 'the land of John Pitcairn', elder, being on 'the south side the Southgate', it can be shown that of the 74 elders found in surviving records of property, 81% held property within their quarter, and many are likely to have inhabited them, particularly as the majority are only recorded as holding property in a single location.[54] Regardless, this evidence shows that the majority of elders had a connection with their quarter. Other records also show that landward elders followed a similar pattern to this. Registers of deeds within the burgh council records include references to all seven of the sixteenth century landward elders. Of these, all seven are described as living in the area they were responsible for as elders.[55] It is therefore apparent that a considerable proportion of Perth's elders were not only originally from the burgh, but they also resided in the areas for which they were responsible.

The importance of elders' familiarity with their quarters becomes clear in their responsibility of 'travailing' with parishioners. 'Travailing' referred to entering discussions with parishioners with the aim of reconciling them – either to the community, or the kirk. This included encouraging certain parishioners to conduct themselves in a more appropriate manner, as well as persuading suspects to confess to an offence, and to make repentance for their actions. Travailing was also used to mediate disputes between family members and neighbours, with the aim of resolving their disagreements. It was the responsibility of elders alone, rather than the minister or other session members, to travail with parishioners in almost all recorded instances, apparently regardless of the circumstances.[56] In August 1577, the elder Jhon Peblis was sent to speak to the laird of Balhousie 'desyring him to us[e] the

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[53] Milne (ed.), *Rental Books,* pp. 47, 48, 70, 81, 151, 157 160; *PKSB*, p. 468 for these 11 elders' records.

[54] Milne (ed.), *Rental Books,* pp. 102, 129-30, 148, 149 [Pitcairn's land], 151, 158, 159, 176, 184, 26 for examples of property records of these elders.

[55] PKCA, B59/8/3, ff. 235r, 264 v; B59/8/5, ff. 32r, 42r, 86r; B59/8/7, f. 161r; B59/8/8, f. 28r; B59/8/10, f. 107r; CH2/521/2, f. 85v show that the north/west landward elders lived in Muirton and Balhousie (both just north of Perth), while the south landward elders lived in 'Magdelandis', Friarton, Leitchhill and Tarsappie (all south of Perth).

[56] *PKSB*, pp. 75, 88, 89, 140-141, 168, 175, 185, 253; CH2/521/2, f. 147v; CH2/521/3, pp. 32, 61, 89-90 for some examples of travailing.

exerceis of religion and to report his answer on Thursday nixt', and a year later another elder was appointed to travail with a prominent bailie over his suspected fornication.[57] Margo Todd has shown that elders could be very persistent in dealing with parishioners, sometimes negotiating for months on end to bring a suspect to confess.[58] However, other records suggest they were not always successful. For instance, in April 1596, the elder James Drummond, along with the master of hospital, reported that they had attempted to elicit a confession from the relapsed adulterer Jhone Cudbert, but he had insisted on swearing his innocence.[59] In other cases, elders travailed with parishioners in an effort to reconcile neighbours or relatives. For example, when Androw Allane was questioned by the session over why he would not live with his wife and keep to his duty as a husband, he replied that he could not do so, as both she and her sons had acted violently towards him. As a result, the session instructed 'Androw Arnet Georg Macgregour and Wiliame Robertsone elderis to travell for reconciliatione of thir persones'.[60] No reason was given why these three elders in particular were chosen – Georg Macgregour and Androw Arnot were both elders of the southside of the Highgate quarter, and so it is possible they were chosen for geographical reasons, although it is not stated where in the town Allane resided.[61] Guild records indicate that Androw Allane was a skinner, as were some of his wife's family members, and therefore it is probable that Georg Macgregour, a skinner elder, was familiar with the family, and hence chosen to assist in reconciling them.[62] This aligns with the *First Book of Discipline's* suggestion that those close to an unrepentant offender should travail with them, again showing that certain elements of Perth's session closely followed the instructions set out in this text.[63] Evidently, the especially close familiarity of elders with the local community was an important aspect of their role, and their responsibility of travailing with parishioners was a significant element of discipline.

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[57] *PKSB*, pp. 75, 88-89.
[58] *PKSB*, pp. 39-40.
[59] CH2/521/2, f. 147v.
[60] CH2/521/3, pp. 89-90.
[61] CH2/521/3, p. 48.
[62] PKCA MS 67/1, ff. 1, 12, 19; CH2/521/2, f. 46v. Allan's marriage banns indicate that his wife was related to Patrick Niving, some time deacon of the skinners.
[63] Cameron (ed), *First Book of Discipline*, p. 169.

While it was generally Perth's minister who was involved in disciplinary business outside the bounds of the parish, elders were often involved in day-to-day disciplinary business which involved local institutions within the burgh. For example, elders were usually responsible for informing the town's bailies of cases that concerned the burgh court – such as those where a sentence of corporal punishment had been given. As is discussed in following chapters, a significant proportion of elders were members of guilds, and many also sat on the burgh council at some time, and so were likely to be the appropriate individuals to engage in certain negotiations. Some other studies have shown that there was often an overlap between elders and council members, which Margo Todd has suggested was practical for the facilitation of corporal punishment.[64] Elders were also occasionally sent to speak to members of the burgh council over certain matters relating to discipline or other business of the session. This included relaying the session's concerns over immoral behaviour, such as in August 1599, when several elders were directed to inform the council of the session's concern over sermon attendance, with the intent that the dean of guild and craft deacons, who evidently attended council meetings, would further encourage Sabbath observance amongst their guild brothers.[65] Outside matters of discipline, on several occasions, elders were sent to enquire over payment of the minister's stipend, or to complain about the incompetence of certain burgh officers.[66] In 1598, it was reported that William Kynloch, the porter of the bridge over the Tay, had continuously broken the Sabbath by letting strangers in on preaching days. Consequently, two elders were sent to the burgh council 'to complane upon the said Wiliame unto the counsell that he may be removit and ane uther mor faithfull may be put in his rowme'.[67] While it does not appear that the council took any action against Kynloch, this shows the variety of ways in which elders strove to discourage immoral behaviour.[68] Elders were also sent by the session to discuss matters such as hospital business, such as when two particularly prominent elders were sent to speak to the hospital administrator, with

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[64] Todd, *The Culture of Protestantism*, p. 12; J.R.D. Falconer, *Crime and Community in Reformation Scotland: negotiating power in a burgh society* (Pickering & Chatto: London, 2013), ch. 2; W.R. Foster, *The Church Before the Covenants: The Church of Scotland, 1596–1638* (Scottish Academic Press: Edinburgh, 1975), pp. 70-71.
[65] CH2/521/3, p. 100.
[66] CH2/521/2, ff. 53v, 87r, 104r; CH2/521/3, pp. 28-29.
[67] CH2/521/3, p. 15.
[68] CH2/521/3, p. 103 shows that Kynloch was still in his role as a porter over a year after this case took place.

whom the session often had a fractious relationship.[69] The two elders sent, Henry Adamson and George Johnston, were the soon to be dean of guild and current deacon of the skinners respectively, and had both previously served as bailies. Considering these entries, elders evidently played a significant role in negotiating matters with other institutions, and their connections to these institutions were likely to have been important to this. These efforts in negotiating with parishioners as well as local institutions show the wide scope of elders' responsibilities, which went far beyond their central role of judging disciplinary cases at session meetings themselves. While records provide little information about how the minister and elders interacted in session meetings, it is clear that in certain aspects of discipline, the minister and elders had quite distinct responsibilities.

Deacons and other session members

Alongside the ministers and elders there were other session members who could also hold disciplinary roles, although to varying degrees. Like the elders, deacons were laymen elected annually to the session and assigned to a quarter of the parish. However, the two *Books of Discipline* contain different definitions of their responsibilities to the session. The *First Book of Discipline* states that deacons could assist the minister and elders in the exercise of discipline, 'if they be required and able therto'.[70] In contrast, the *Second Book of Discipline* simply specifies that deacons were 'not of the presbitrie or sessione', and that their role was purely in the collection and distribution of alms.[71] Perth's kirk session adhered more closely to the *Second Book of Discipline's* definition – its records suggest that it was uncommon for deacons to assist in disciplinary proceedings, and they did not usually attend session meetings, as registers of attendance only record names of ministers and elders.[72] Some entries note that a deacon had appeared at the session to report a matter, or that the deacons were to be informed of a decision made, implying that they were not regularly present. An entry from October 1589 detailed an incident

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[69] *PKSB*, p. 185.
[70] Cameron (ed), *First Book of Discipline*, pp. 178-179.
[71] Kirk (ed), *Second Book of Discipline*, pp. 207-208.
[72] *PKSB*, pp. 169, 264, 364; CH2/521/2, ff. 118v, 119r.

where two deacons had failed to collect alms that week.[73] It shows that prior to that meeting, the session had sent the bailies to fine them, and the kirk officer to warn them to fulfil their duty. On the date of the entry, it was stated that the two deacons appeared specifically to answer for themselves, all of which implies that they would not normally be present at session meetings. Another entry from October 1590 suggests that deacons sometimes took part in the weekly visitations, stating that 'thes that ar visitores on the saboth day ather bailye, elder or deacon for the tyme' were to note those absent from sermon.[74] However, no individual deacons were ever named as visitors. Therefore, it is apparent that in Perth, deacons were not significantly involved in the exercise of discipline, and that their focus was almost solely on the collection and disbursement of alms. The deacons' authority was even limited in this regard. Some entries stated that their role 'only appertenit to the distribution of almis, and thairfoir it was ordanit...they distributit nathing [but] by the consent and advyse of the eldaris', suggesting that they were less involved in decision-making.[75] In other Scottish parishes, deacons could play a more extensive role than in Perth. John McCallum has argued that in the parishes of Fife, less of a distinction was made between the roles of elder and deacon, with deacons sometimes playing an active role in disciplining suspects, and election lists not separating the two offices in some parishes.[76] In his recent study of Scottish poor relief, McCallum also highlighted the crossing over of elders' and deacons' roles in managing poor relief, noting that deacons' authority varied across parishes, although he similarly states that deacons were not necessarily in charge of dispensing alms.[77] Perth's kirk session may therefore have been unusual in the absence of deacons from the weekly meetings.

The role of the kirk officer included the duty of searching for and apprehending suspects.[78] He was responsible for warning suspects to appear at the session.[79] Unlike the elders, kirk officers were paid a small stipend, and could also be given a portion of the fines of those fornicators they had apprehended, which may have

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[73] *PKSB*, pp. 430-431.
[74] *PKSB*, p. 452.
[75] *PKSB*, pp. 290, 364-365.
[76] McCallum, *Reforming the Scottish Parish*, pp. 158-160.
[77] John McCallum, *Poor Relief and the Church in Scotland, 1560-1650* (Edinburgh University Press: Edinburgh, 2018), pp. 144-146.
[78] *PKSB*, pp. 76, 77, 299-300.
[79] *PKSB*, pp. 199, 380, 452.

motivated their efforts.[80] With these responsibilities in mind, while kirk officers had an important role in the initiation of certain cases by summoning and apprehending suspects, the records do not suggest they were involved in making judgements over cases, or any other decisions relating to the exercise of discipline. As for the other members of the session, such as the masters of hospital, there is no evidence within session records to suggest that they held any responsibilities in relation to the exercise of discipline. These other members played supporting roles that allowed the session to function. All decision-making power rested with the minister and elders, from which it follows that any rulings causing change to the exercise of discipline were decisions of the minister and elders alone.

Mobility between roles

Although the roles of the different types of session member were distinct, they were not necessarily different groups of people. Overlap of elders and deacons has been considered by Michael Lynch who has asserted that in Edinburgh, although most deacons there were merchants, they were of a lower rank than the elders, and that unlike elders, 'none of them had previously sat on the council and most never would', indicating that there was a strong distinction between the men who served as elders and those who served as deacons.[81] There are, however, some variances from this pattern in Perth which suggest that there was more scope in the parish for individuals to move to a higher office. It was not unheard of in Perth for a deacon to later be elected as an elder – at least 15 deacons (around 11%) did so between 1577 and 1600.[82] Indeed, around 15% of all elders up to 1600 in Perth had previously been elected as deacons. This indicates that men who were elected as deacons were not necessarily considered to be in a separate social class altogether from elders, and that there was scope for them to be elected as elders later. This probably occurred as their own social status rose, as by comparison, no men who had already served as elders

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[80] *PKSB*, pp. 219, 289, 333, 453.
[81] Lynch, *Edinburgh and the Reformation*, pp. 40-41.
[82] This comprises 9 craftsmen, 4 merchants and 2 unknown men.

were later elected as deacons. Chapter 2 considers the social backgrounds of elders and deacons in more detail.

A few kirk officers in Perth were elected as deacons in other years, such as John Jak and John Ronaldson, who were both frequent session members.[83] Some men alternated between acting as elders and masters of hospital, deacons and masters of hospital, or both.[84] One entry implies that session members changing from one role to another were not necessarily knowledgeable about their new duties, and could rely on others to train them in the specifics of their new role. Shortly after their election in 1599, the new masters of hospital, both of whom had previously been elders, appear to have admitted to the session their lack of knowledge.[85] As they were 'nocht weill acquant with the effairis of the hospitall', the session requested that the previous master of hospital, who had become an elder that year, meet with them to assist in understanding the current rents owed and paid, highlighting the close cooperation between different offices of the session, as well as the fact that the responsibilities of different roles on the session were kept quite separate. Overall, however, the majority of session members stayed in one role, and it was a minority of deacons who were later elected as elders.

Kirk Session Proceedings

So far, it has been shown that the roles of session members were generally distinct from one another, closely reflecting the ideals set out in instructive texts, and potentially to a greater extent than some other parishes, as far as this can be determined from the evidence provided in other local studies. To understand more fully how far the nature of Perth's session was distinct in this way, and how the session functioned, the form of the session's proceedings will be considered here.

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[83] *PKSB*, pp. 136, 168, 198, 213, 242, 268, 379, 402, 429, 452; CH2/521/2, ff. 66v, 107r; CH2/521/3, p. 49. There is no particular order in which role they served – as some were deacons before being selected as kirk officer, and others vice versa.
[84] CH2/521/2, ff. 53r, 66v; CH2/521/3, p. 110, for example, show some of the elections of James Adamson, who served as master of hospital and elder in different years.
[85] CH2/521/3, p. 113.

Another important element which will be addressed is the extent to which the nature of Perth's session varied itself, for instance by changing over time, and whether its processes of election, attendance and decision-making were consistent.

Elections and Turnover of Members

In Perth, the election of elders as well as deacons was an annual occurrence. This followed John Knox's recommendations that elections should be annual – a guideline that not all parishes adhered to. Session members were chosen by the previous year's session, but the congregation was given the opportunity to object to a person's nomination, as was the standard method of election in Scotland.[86] While Perth was typical in its method of election, some aspects of its elections differed from those of other Scottish parishes. As has been touched upon by Margo Todd, the turnover of elders in Perth was remarkably high in comparison to some other parishes in Scotland.[87] Comparing studies of other parishes, it appears that there was a level of variation in the turnover of elders and deacons. In the parishes of Fife, for instance, John McCallum has found that the session changed little year after year, noting that changes to the membership 'mainly occurred when members died or moved away'.[88] Michael Graham has shown that in the urban parishes of St Andrews and Aberdeen, the eldership did not change frequently, with most elders being continuously re-elected, as well as referring to Edinburgh's eldership as a 'rather select fraternity'.[89] On the other hand, he does note that the parish of Canongate did not share this practice of re-election. Michael Lynch has noted that in 1574 and 1575 the turnover of Edinburgh's session was high, although does not explain whether this was typical for elections there.[90] He contrasts this with the statement that in those years, the session did not reflect 'the council's practice of re-selecting itself year

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[86] Makey, *The Church of the Covenant*, pp. 125-139.
[87] Todd, *PKSB*, p. 27.
[88] McCallum, *Reforming the Scottish Parish*, p. 154.
[89] Graham, *The Uses of Reform*, pp. 78-79, 108, 116.
[90] Graham, *The Uses of Reform*, p. 99; Lynch, *Edinburgh and the Reformation*, p. 40.

after year'.[91] Parallels to this can be found in Slonosky's study of the burgh government in Stirling. He argues that the Reformation had a profound effect on the composition of Stirling's town council, and that while the majority of those who were active in the 1550s were no longer acting as members in the 1560s, after 1560, the council had a 'remarkable level of stability', with councillors staying for longer than they had pre-1560.[92] While it is possible that the patterns of burgh councils differed from those of kirk sessions, these findings concerning the turnover of council members, along with studies of several kirk sessions mentioned above, are in stark contrast to Perth. By considering the nature of Perth's rotating membership, an important element of kirk discipline, this chapter will offer further insight into elders' positions and the level of continuance in their relationships with the kirk session, as well as in their roles within the community. It will also offer an important point of comparison with studies that have based their analysis of discipline on sessions with a much lower rate of turnover. Between 1577 and 1600 in Perth, 101 individuals were elected as elders. Around a third of all elders in Perth only served for a single year, and the average numbers of years an elder served was 3.5 (Chart 1.1).

Chart 1.1:   Number of years elders served

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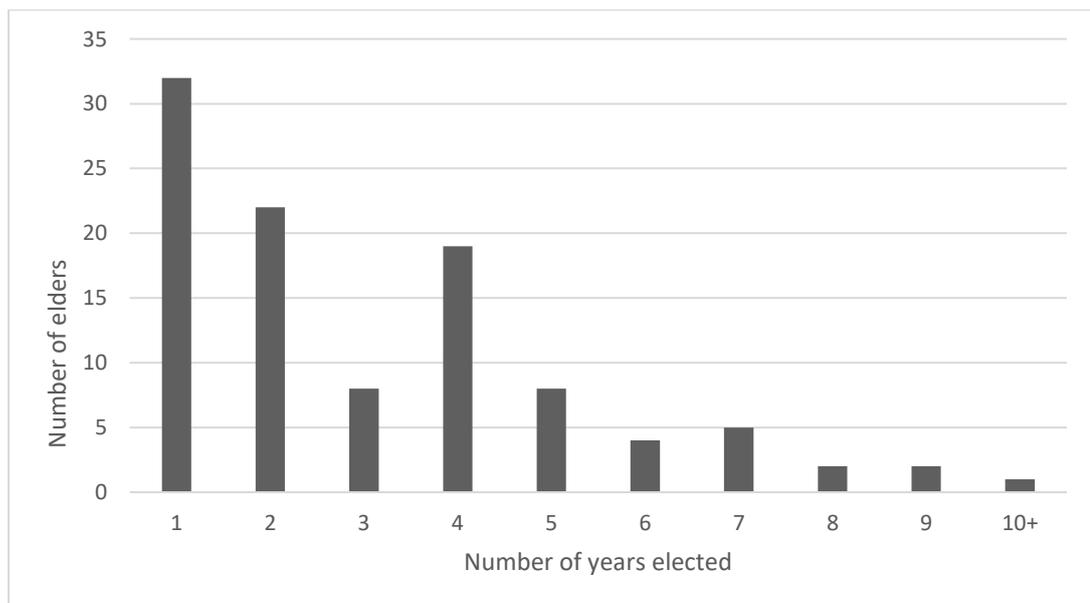
[91] Lynch, *Edinburgh and the Reformation*, p. 40.
[92] Slonosky, 'Burgh Government and Reformation: Stirling', pp. 60-62.

Table 1.1 (below) demonstrates the turnover of elders each year up to 1600. This has been calculated by dividing the number of elders who left the role at the end of the year by the total number of elders elected. 12 men were elected each year until 1592, when this rose to 14, and steadily increased each year, to 21 elders by 1599.

Table 1.1:   Election Turnover

Election year	Turnover rate of elders	Elders elected for first time
1578	92%	7
1579	100%	10
1580	75%	3
1581	100%	1
1582	83%	2
1583	50%	2
1584	100%	3
1585	100%	4
1586	58%	4
1587	75%	5
1588	100%	5
1589	67%	2
1590	92%	6
1591	67%	2
1592	67%	3
1593	36%	0
1594	57%	3
1595	50%	1
1596	50%	2
1597	72%	6
1598	20%	0
1599	21%	2
1600	65%	3

As can be seen in Table 1.1, the turnover of elders was consistently high. In five elections, there was a 100% turnover rate. Except in 1593, 1598 and 1599, at least half of the membership changed every time there was an election, and so in each election year, the eldership could consist of a very different group of men. There was

a steady intake of men who were new to the session; on average, a quarter of those elected to the session in a given year was elected for the first time. A relatively large number of men served as an elder – 101 over 23 elections. So it is clear that membership of the session in Perth was not limited to a small exclusive group of individuals.

Turnover of deacons was also high, with 138 individuals elected as deacons over the same period. To compare with Graham's figures for St Andrews, while he does not give an exact number of elders, he has stated that over 41 years (1559–1600), 231 men served as elders and deacons, specifying that far less than half of these men were elected as elders.[93] In Perth, there was a slight fall in the number of men elected for the first time over time between the 1580s and 1590s. In the 1580s, 31 elders were elected for the first time, whereas in the 1590s, 25 were new to the session.[94] Bearing in mind that this figure of 25 new elders included five landward elders, this means that there were 20 new urban elders in the 1590s. Nevertheless, the election of new elders was consistent, and there is only one year where all the elders elected had held this office before.[95] Of 36 known elders of the 1570s, only eight were still active by the 1590s, a number which declined further over this decade. Roughly two-thirds of elders served over a span of five years or less, and so overall, the eldership of the session changed considerably over the first few decades following its inception, and was very different by the turn of the century. By unrelated circumstances, Perth had had five ministers within this time, through John Row's death and Patrick Galloway's exile and later appointment as the king's minister. The length of time each minister spent in Perth is not dissimilar from that of the ministers discussed in John McCallum's study of Fife, which demonstrates that ministers did not move parishes very often, and that on average, ministers served for around 15–17 years in one parish.[96] However, this does demonstrate that during this time period covered, the change of the membership applied to the session as a whole.

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[93] Graham, *Uses of Reform*, p. 79.
[94] It should be taken into account in relation to the figures of elders newly elected to the session, that 1577 was the beginning of the records, and not the year in which Perth's kirk session was established, and so the numbers of new elders in the 1570s may only reflect their first appearance in the surviving records.
[95] These figures do not take into account some elders' previous service as deacons.
[96] McCallum, *Reforming the Scottish Parish*, pp. 128-131.

Most elders who served for more than a year rarely did so consecutively. For example, the elder Robert Cok was elected in 1586, 1588, 1591 and 1597. As was the case with many elders, he sat on the burgh council in between his terms as elder – in 1587, 1589, 1590 and 1598.[97] Roughly 30% of urban elders who served for more than one year followed a similar pattern to this. While some of these elders did at some point hold both offices at the same time, this was relatively uncommon and usually only for one year. Unlike those who only served on the session for a short period of time, who could have found the role too demanding to keep up for longer, it is less clear why longer-standing elders such as Robert Cok could not have been elected in consecutive years. It seems that Perth's session considered it particularly important to keep to the kirk's ideal of holding annual elections, where elders were chosen to serve for a year. The *First Book of Discipline* proposed annual elections in case 'long continuance of such officers men presume upon the liberty of the kirk', suggesting that it was considered detrimental for the office to stay in the same hands for too long, and that elders' suitability for the role was to be considered each year.[98] However, this had been amended somewhat by 1578 in the *Second Book of Discipline*, which states that the office of elder was to be a life-long appointment, but this was not expected to be continuous, and that 'ane part of thame may releif ane uther for ane resonable space', so as not to interfere with the elders' own occupations.[99] Roughly two-thirds of elders never served in consecutive years, and as mentioned above, even the most dedicated elders rarely did so, suggesting that this was an intentional aspect of elections in Perth. Certain entries of elections in Perth's records, such as those from 1583, note that elders were to 'bear office in the kyrk for thair lyftyme', directly reflecting the language used in the *Second Book of Discipline*.[100] Interestingly, that year, one of the authors of *The Second Book of Discipline* was among the elders elected.[101] The high turnover of elders was also advantageous to the session in the sense that those who did not serve the session well could be replaced within a year. For example, when in 1587 the session discovered that the prominent elder Dioneis Conqueror had disgraced himself by keeping 300

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[97] *PKSB*, p. 467. He was also elected as a bailie in 1596.
[98] Cameron (ed.), *First Book of Discipline*, p. 175.
[99] Kirk (ed), *The Second Book of Discipline*, pp. 192-193.
[100] *PKSB*, p. 268.
[101] *Fasti*, iv, p. 218; *PKSB*, p. 482. This was Mr William Rynd, who would later become minister of Kinnoull, a parish which neighboured Perth.

merks of the poor's alms; he was never re-elected.[102] Similarly, after the elder Henry Adamson was accused of committing adultery, although the session did not convict him, he was never elected again to the session.[103] In his study of Geneva, William Naphy has suggested that elders who served for a short period of time were likely to have 'never really settled into the post', and that the running of the consistory was largely reliant on a smaller group of recurring elders.[104] John McCallum has demonstrated similar findings in Fife of a small recurring group being central to discipline there.[105] Considering the election years of the five elders elected the most times in the sixteenth-century, one was serving in almost all years in this study.[106] However, it was uncommon for these long-serving elders to be elected in the same year, and so while there was usually at least one experienced elder on the session, election records do not suggest that a particular small group of men were a consistent feature of the session. Furthermore, as will be shown, there was not necessarily a correlation between longest serving elders and elders most involved in the running of the kirk session. This analysis of election turnover shows again that Perth's session followed the tenets put forward in the *Books of Discipline*, but also that it valued a constantly rotating and varying membership, differing significantly from some other Scottish parishes.

Attendance at session meetings

The session met at least weekly almost without fail and had done so at least since records began in 1577. Again, this appears to have been consistent with guidelines previously put forward, as John Knox had specified that sessions should meet each Sunday, with Michael Lynch noting that the Edinburgh kirk session did not always

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[102] *PKSB*, pp. 368-369. To make matters worse, these alms had been gifted from Edinburgh during the 1584-5 plague.
[103] *PKSB*, pp. 234-235.
[104] William Naphy, 'Judges and Shepherds', in C.H. Parker and G. Starr-LeBeau (eds), *Judging Faith, Punishing Sin: Inquisitions and Consistories in the Early Modern World* (Cambridge University Press: Cambridge, 2017), p. 111.
[105] McCallum, *Reforming the Scottish Parish*, pp. 154-158.
[106] These are Robert Anderson (elected thirteen times), James Drummond (elected nine times), Andro Malcolm (elected nine times), Constantine Malice (elected eight times) and James Hepburn (elected eight times).

succeed in doing so.[107] Other studies have also found that some parishes did not manage to hold meetings this frequently at this period of time.[108] Perth's session in comparison met regularly, suggesting that the session members kept to the Kirk's principles especially strictly. The session initially met each Monday, to judge disciplinary cases, and this increased to twice a week in November 1597, with the second meeting taking place on a Thursday. In addition, a separate weekly meeting was established in 1598 to deal with affairs of the hospital, which were tending to be crowded out by the business of discipline at the regular meetings.[109] The Thursday meetings are not recorded as often as the Monday meetings. The entry which introduced these stated that Thursday meetings were for the elders to convene and 'for outredding [completing] sic affaires of discipline as halbe left unfinished on the mononday', highlighting the significant amount of activity carried out by the session.[110]

The effectiveness of the kirk session depended on regular attendance of these weekly meetings by elders and, wherever possible, by the minister himself. It was considered important to have a number of elders present at each session meeting, as can be seen with meetings being cancelled due to too few members being present. For instance, on 25th January 1591, it was recorded that 'na thing [was] done this day becaus off absence off the elders except twa'.[111] There is no indication of a specific quorum, as there is also an instance of a meeting taking place with only two elders; the rest 'wes absent becaus of the merkat'.[112] Moreover, this was far below the average number of elders present at a meeting, as can be seen in Table 1.2 below. The importance of elder attendance is apparent from the fact that elders could be fined for not attending a meeting, although this was only enforced occasionally.[113] Similarly, certain meetings were cancelled due to the minister's absence, or particularly serious cases were postponed until his return. For instance, when in 1591, James Ramsay refused to admit fathering the child of Margret Car, the elders

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[107] Lynch, *Edinburgh and the Reformation*, pp. 42-43.
[108] McCallum, *Reforming the Scottish Parish*, pp. 50-59 notes that it was by 1598 that St Andrews session met on a weekly basis, and later in some rural parishes.
[109] CH2/521/3, pp. 2, 25.
[110] CH2/521/3, p. 2.
[111] CH2/521/2, f. 46r, 25 January 1591.
[112] CH2/521/3, p. 87.
[113] *PKSB*, pp. 136, 231, 232, 237, 238, 242, 394.

declared 'the matter to be remittit to the hamecuming off the minister'.[114] On another occasion, when John Cudbert appeared to swear an oath that he had not committed fornication, he was asked to return the next week, as the minister was absent.[115] On these dates, other cases were carried out, and so it appears that the minister was especially required for more complex cases. However, there were a few meetings which only record visitations and that 'the minister is absent therfoir all remittit & continewit to the nixt day', further reinforcing the importance of the minister's authority in carrying out discipline.[116]

While some meetings were shortened or cancelled due to the minister's absence, this was not always the case. Some meetings took place despite him being away, or when a new minister was to be appointed, and in those circumstances the elders continued to deal with disciplinary cases and other business. For instance, after the minister John Row's death in October 1580, the session carried on their meetings with no minister until April of the next year, when his replacement Patrick Galloway arrived. This is not to say that the session did not place great importance on the minister's role in discipline – the records show that the elders were eager, even impatient for Galloway to arrive, to the point of sending a letter asking for him to arrive more quickly.[117] Perth was again temporarily left without a minister in 1584, when Galloway fled to England, suspected of involvement in the Stirling conspiracy. While Verschuur argues that during his absence, 'much of the good work he had started faltered',[118] this does not seem to be the case for the entirety of his absence, and overlooks the fact that Perth was struck with a plague in the autumn of 1584, in which one of the elders died, during which time the focus shifted from discipline to provisions for parishioners in need.[119] In the time between Galloway's departure in May 1584 and the arrival of his substitute, John Howieson, in November 1584, the session continued to meet around once a week, and occasionally more often. They dealt with the usual offences, marriage banns and poor relief, as well as a rare case of

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[114] CH2/521/2, f. 45v.
[115] CH2/521/2, f. 54v.
[116] CH2/521/2, f. 71v.
[117] *PKSB*, p. 168, 14 November 1580.
[118] Verschuur, 'Enforcing the Discipline of the Kirk', p. 233.
[119] *PKSB*, pp. 290-293, 475-476.

the discharge of a marriage contract.[120] With the added assistance of the reader, the elders also conducted an election within this time.[121] While Galloway's absence was certainly a disruption, the session did operate capably without their minister. Similarly, between the death of John Row in October 1580, and Galloway's arrival in Perth in April 1581, the session continued to hold meetings, with no noticeable lapse in activity. The session continued to conduct a normal frequency of cases and oversaw poor relief business, and also carried out both the yearly communion and election of elders within this time.[122] Therefore, the presence of a number of elders was important to the running of the kirk session, and they were capable of exercising discipline and other business without the minister's presence.

Table 1.2 below shows the average attendance of elders at session meetings. It includes only years where attendance was recorded consistently, as in many election years lists of those present were not noted down.

Table 1.2:   Average attendance of elders

Election year	Number of recorded meetings	Average attendance over a year:	Average number of elders present each meeting
Oct 1580 – Oct 1581	30[123]	65%	9
Oct 1581 – Oct 1582	43	63%	8
Oct 1594 – Oct 1595	51	47%	7
Oct 1595 – Oct 1596	51	47%	7
Oct 1596 – Oct 1597	30[124]	42%	6
Oct 1597 – Oct 1598	46	52%	8
Oct 1598 – Oct 1599	49	43%	8
Oct 1599 – Oct 1600	48	41%	8

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[120] *PKSB*, pp. 285-286.
[121] *PKSB*, pp. 288-289. The reader is only recorded as present in three of the meetings during the minister's absence.
[122] *Fasti*, iv, p. 229; *PKSB*, pp. 168, 176-177, 181.
[123] Attendance began to be recorded three months into the election year.
[124] Damage to the records of this year means only these meetings have survived.

In the early 1580s, the average elder attended around two thirds of all session meetings. It is significant to note that average attendance of elders actually decreased by the 1590s. Due to the lack of availability of registers of attendance between 1583 and 1594, it is unclear exactly when this change occurred. When only counting the attendance of urban elders, who attended much more often than landward elders, there is still a decrease in average attendance. The attendance of landward elders averaged only 9% of meetings between 1594 and 1600; the highest annual attendance of a landward elder was still well below the overall average at 22%.[125] While the average number of elders present remained fairly consistent, this is in spite of the fact that in 1580 there were 12 elders elected, compared to 21 in 1599. It seems then, that around eight elders was a desirable number to have attend a meeting. An important aspect of the session's proceedings is the considerable variation in attendance of the session members. Firstly, in most years where attendance was regularly recorded, it can be seen that the ministers were present at most meetings, although this varied slightly between the different ministers. As touched upon above, the first minister, John Row, was sometimes absent from session meetings due to his other responsibilities. The ministers succeeding him appear to have had a higher rate of attendance, and their attendance was higher than the average elder. In only one year of Patrick Galloway's time as minister was attendance recorded, and from this it can be seen that he was present at at least 36 of the 43 (84%) meetings where attendance was recorded. John Malcolm was present at 95% of meetings where attendance was recorded, while William Cowper attended 72% of session meetings.

While the ministers were present at the majority of session meetings, some elders were present much more often than others. In fact, elder attendance ranges from 0% to 98%.[126] For instance, Andrew Moncreif was on the session for at least seven years. In 1582, he attended 18 of the 43 meetings where a register was taken. He could be absent for long periods, to the point where he was fined 2s in September 1582 for being absent 'without ane ressonable excus'.[127] In contrast, Duncan

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[125] This was the attendance of John Clunie in 1598 and Patrick Auchinlek/ Affleck in 1597.
[126] Oliver Peblis attended none of the 48 meetings in the 1599 election year, while Duncan Macgregor attended 42 of 43 meetings in 1581.
[127] *PKSB*, p. 237, 3 September 1582

Macgregor attended 42 of the session meetings that election year. John McCallum has noted a comparable variation in attendance in Anstruther in 1601, although average attendance in Perth was much higher, and so less likely to have been dominated by a small group, as he suggests was the case there.[128] Similarly, William Naphy has found at the consistory of Geneva between 1542 and 1552, that the average attendance of elders was 15%, but notes that certain elders attended meetings much more frequently than this.[129] This raises the question of whether some elders were more committed to the role than others, particularly, as Moncreif reportedly had no reason to be absent (for instance due to business). On the other hand, despite his frequent absence, he was elected seven times and so must have been seen as an important member of the session for other reasons. Along with others, Moncreif's significance as a prominent baxter is discussed in the following chapter. What is clear from this is that some session members will have had more influence on discipline than others just by their attendance alone, before considering other potential factors such as personality and social standing.

Decision making

In general, the records of meetings are formulaic, and do not provide sufficient detail to determine how most cases were initiated. Most entries simply state that a person had appeared, usually confessed, and submitted to the discipline of the kirk. For example, a typical entry from 1578 simply records 'Comperit Thomas Quhittet and confessit his fornication with Bessie Broun and therefoir submittes him self to the disciplin of the kirk'.[130] While some cases offer greater detail, this was usually about the offence itself and behaviour of the accused, rather than how the session conducted the cases, as this would presumably have been less necessary for the session to keep records of. Consequently, there is little explicit evidence into how members of the kirk session reached judgements on cases and whether there was a genuine consensus among the members. Most entries merely state that 'the minister

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[128] McCallum, *Reforming the Scottish Parish*, p. 156-157.
[129] Naphy, 'Judges and Shepherds', pp. 109-110.
[130] *PKSB*, p. 98.

and elders ordanit', or similar, with no explanation of how they reached their judgement. It is therefore also a challenge to ascertain the level of authority over judgements that the minister and elders held respectively. This is not helped by the segments on ecclesiastical discipline in the *Books of Discipline*, which also give little detail as to how judgements were to be made, only setting out the offences to be pursued and not how session members should reach agreement about a case. Margo Todd has suggested that the minister's 'vote' held no more weight than each elder.[131] However, this is not entirely consistent with the description of the elders' role in the *First Book of Discipline* as 'assisting' the minister. Given kirk session entries mentioned above describing how meetings could be postponed in the minister's absence, and the example of the elders' impatience in awaiting Patrick Galloway's arrival, it seems more likely that the elders placed a high level of importance on the minister's 'vote'. Considering that most cases simply state that the 'minister and elderis ordanit', or words to that effect, it may be that they were generally in agreement. Nevertheless, the elders as well as the minister certainly played an important role in the judgement of disciplinary cases. While the session was usually referred to as a whole, both in kirk records and historiography, it is important to note that the minister and elders were not one homogenous voice, but could have differing opinions over judgements. A very small number of cases which mention differences in judgement give some insight into this. It is apparent from the records that the minister was at least obliged to take into account the elders' opinions. It was noted in 1592, when excommunication was being considered for a serial Sabbath breaker, that the minister was 'not to proceid without avyse off the elders to be haid and taine the nixt Mononday', highlighting the importance of the elders' role in such decisions.[132] Even more than this, the elders were not only required to advise the minister, but when in disagreement with him, could also go against his ruling. For instance, in April 1593, John Elder was excused from making repentance for selling food and drink during preaching by the elders, 'fra the quhilk the minister dissassentit'.[133] Despite the minister's disagreement, the elders' ruling went ahead. John Elder was a prominent figure in the burgh; in the records he is described as in possession of significant lands, and may have been related to an elder on that year's

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[131] Todd, *The Culture of Protestantism,* pp. 369-370, 374.
[132] CH2/521/2, f. 61r.
[133] CH2/521/2, f. 74v, 16 April 1593.

session.[134] Perhaps the elders, who will have been more familiar with him than the relatively new minister John Malcolm, were more inclined to excuse him. What this case does show is that the minister did not necessarily have the authority to disregard the judgement of the elders, emphasising the importance of their role. In fact, the session was able to convince the minister to proceed with certain actions, even when they did not relate to discipline. At the General Assembly in March 1573, a complaint was made against the minister John Row for solemnising a marriage 'without proclaiming of bannes, and out of due time, viz., upon a Thursday afternoone at prayers'.[135] His reply to this charge was that 'he did nothing but at commandement of the sessioun of the kirk, and of my Lord Ruthven in speciall, one of the elders of the said kirk'. It was ordered that the superintendent of Strathearn visit Perth to take order with both Row and the session for this action. The fact that Row specified he was 'commanded' by the session not only suggests that he may not have been in favour of this action, but also that the elders had considerable authority. At the least, it indicates that Row considered this a valid explanation for his actions. Furthermore, the specification of Lord Ruthven's involvement is significant, as Ruthven (later Earl of Gowrie) was a considerably powerful local figure, suggesting that an elder's background could be an important factor in their dominance as a session member. Moreover, Ruthven was the first cousin of the bride in question, and so his personal interest in the case is also relevant to its outcome.[136] These cases illustrate the fact that the minister and elders did not necessarily agree on judgements, and that elders' views were greatly significant to the proceedings and decision making of the session.

It was not only between the minister and the elders that disagreements could arise. The records show that elders sometimes disagreed with each other too. In 1581, it was recorded that only the 'the gretest part of the assembly' ordained adulteress Jean Thornton to be warded, probably due to her status as a former elder's wife, as well as the fact she had committed the adultery with another elder, whom the session was in

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[134] *PKSB*, p. 157. He may have been a relation of Isobel Elder, the wife of current elder and merchant Constantine Malice.
[135] Calderwood, *The History of the Kirk of Scotland,* iii, p. 273.
[136] J.B. Paul (ed.), *The Scots Peerage, volume 4* (D. Douglas: Edinburgh, 1907), pp. 259-262.

turn hesitant to prosecute.[137] Notably, a majority was not necessarily required to reach a particular judgement. In 1585, a baxter named Thomas Malcum, along with Margret Oliphant, failed to appear at the session for his adultery.[138] Nine of the 11 elders present at that meeting, along with the minister, believed that they should be admonished before excommunication. However, the elders Dioneis Conqueror and William Hall, the latter a baxter himself, and a frequent deacon of the baxters' guild, disagreed with this decision. While Margret Oliphant was excommunicated, with Hall's assent, Thomas Malcum was not, again showing that elders did not always agree with each other's judgements, and that even when in the minority opinion, could sway the decision. This suggests the likelihood that the composition of the session could affect disciplinary decisions, as if Conqueror and Hall had not been present at that meeting, Malcum's sentence could have been very different. Furthermore, it appears that in all four cases discussed here, the personal connections of the elders involved affected their judgement, demonstrating that to some extent, the session members' backgrounds were significant to the nature of kirk session discipline. What can also be taken from this is that there was not necessarily a standard process in place for making a judgement – in one case, a majority was required to proceed; in another, two elders were able to sway the decision, and in another the elders effectively overruled the minister, suggesting that decisions were reached differently depending on the circumstances of the case, and the individuals presiding over it.

Relationships between session members

While the high turnover of Perth's session members shows that a large number of men served as elders during the sixteenth century, evidence shows that there are some limitations to how open membership of the session was. Kirk session records provide substantial information relating to family relationships in the burgh, through the entries of marriage banns, which was the most common form of entry in the records. Through these records, this study has identified the relationships by

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[137] *PKSB*, p. 197, 11 September 1581.
[138] *PKSB*, p. 312, 12 July 1585.

marriage of many of those who sat on the session. Moreover, the procedure of using cautioners, also recorded in entries of marriage banns, makes it possible to identify further relationships of session members. To act as caution for a marriage contract in Perth was an important responsibility, where the cautioner would promise to ensure the couple would wed within forty days, under the pain of £10, and so it is very likely that cautioners were generally close to the betrothed couple. Of the 101 elders elected during this time period, roughly a quarter have their marriage banns recorded in the kirk session records up to 1600. From these entries, it can be shown that 53, or just over half, of elders were connected to other session members, either by marriage or as cautioners. Bearing in mind that not all elders' marriage banns are recorded in the kirk session books, it is likely that this is a minimum figure. The records of marriage banns show that it was not uncommon for a future elder to marry the daughter of a current elder. For instance, Thomas Mug, later elected as an elder in 1600, married Violat Wilson in 1590, who was the daughter of the serving elder Andro Wilson.[139] In addition to the marriage banns of elders, the marriages for which they acted as a cautioner show that the children of elders also married each other. For example, in 1600, the elder Adam Anderson acted as caution for his son Oliver, who married Girsell Arnot, the daughter of elder Andro Arnot.[140] In 1588, the elder Alexander Anderson's daughter Margreit married William Malice, the son of the elder James Malice.[141] A handful of elders were also directly related (although they generally did not serve the session in the same years). These include the prominent Anderson family, of whom six members were elders in this period; Blaise Colt and his son John Colt, the brothers James and Henry Adamson (who were also the brothers of Patrick Adamson, later Archbishop of St Andrews), as well as a number of others.[142] In addition to relationships between elders, at least one of Perth's ministers' wives was almost certainly related to some of the elders, again showing close connections between some session members. Six months after his arrival in Perth, the minister John Malcolm declared his marriage banns with Jonet Anderson, the daughter of merchant Patrick Anderson, who was almost certainly

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[139] *PKSB*, pp. 451, 458; CH2/521/3, p. 159. Mug had also been elected as a deacon in 1596 and 1597.
[140] CH2/521/3, p. 144.
[141] *PKSB*, p. 394.
[142] *PKSB*, pp. 461-483. Others include brothers Patrick and William Fleming, father and son David and John Forbes, John Lowry Sr and Jr, father and son Alexander and Patrick Oliphant, and brothers John and Oliver Peblis.

related to the several merchant elders named Anderson.[143] The fact that such a significant number of elders were related by marriage shows that while the session's turnover was high and wide-ranging, this did not necessarily mean that the session was a considerably open group. However, it appears that Perth's session membership was relatively broad, considering the turnover of other Scottish parishes mentioned above. The next chapter analyses session member backgrounds in further detail, by considering the extent of relationships between elders and deacons of different guilds or occupations.

Behaviour of session members

Just as there was some variance in the attendance of session meetings by elders, some session members followed the ideals set forward better than others, and not all session members got along with one another. Michael Lynch has considered that there was a level of tension within the Edinburgh kirk session which 'derived in large measure from the differences in social origins between elders and deacons', the latter of whom were mostly craftsmen as opposed to merchants and lawyers.[144] However, as will be shown in the next chapter, the social composition of Perth's session was considerably different from Edinburgh's.

Henry Adamson, whose adultery with the wife of a fellow elder has been described in detail by Margo Todd, was clearly a divisive session member – he was eventually murdered in 1598 by a relative of the elder Oliver Peblis.[145] John Swenton, who served as both the kirk's reader and schoolmaster, was also the victim of slander from session members, who complained about his conduct in his role several times. Shortly after their election in 1595, the two kirk officers – John Jak and Archibald Steidman – were both ordained to make public repentance, having 'tulyeit in the kirk, to the great sklander of this congregatione'.[146] Two weeks later, Jak stood down from his position, probably unwilling to carry on working alongside Steidman.[147]

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[143] CH2/521/2, f. 62r; *Fasti,* iv, p. 230; *PKSB*, pp. 464-465.
[144] Lynch, *Edinburgh and the Reformation*, pp. 40-41.
[145] *PKSB*, pp. 48-53; CH2/521/3, p. 28, 15 May 1598
[146] CH2/521/2, f. 134v.
[147] CH2/521/2, f. 136.

The session may have successfully resolved their dispute, as both were elected as kirk officers the next year, and served continuously until the end of the century.[148] This suggests that while there was a closely interconnected network of session members, there were limits to the session's cohesion and those elected did not always agree with each other.

Aside from slander and assault, the court records show that some session members committed other offences that set a poor example for the congregation. As mentioned above, Henry Adamson committed adultery in 1582, and while the session had attempted to proceed against him, he refused to cooperate, insisting that the session was not 'competent' to judge him, given his position as a former elder, and he was subsequently referred to the presbytery.[149] Michael Graham has used cases from Dundonald kirk session to argue that session members who committed an offence were often given preferential treatment, with reduced sentences or even receiving no punishment at all.[150] In Perth, cases involving elders did not always involve such treatment. While the session had had to refer Adamson, who was eventually ordered to ask forgiveness for the more general 'slanderous behaviour' by the General Assembly, there are other more straightforward cases involving session members.[151] It appears that a former elder appeared for fornication, and another denied committing adultery.[152] Constantine Malice, who was to become one of the longest serving elders on the session, was fined £4 and ordered to make public repentance in March 1581 after having a wedding feast during a time of public fasting.[153] A number of other elders, as well as deacons, committed Sabbath breach, and one elder who had been recently elected at the time of his case, Gabriel Merser, hosted the laird of Innernytie, an excommunicated papist, for three days. Merser was ordered to 'give publicklie a declaratione of his negligence' from his seat after the Sunday sermon, specifically to set an example to the rest of the community.[154]

[148] CH2/521/2, f. 160.
[149] *PKSB*, p. 238.
[150] Graham, *The Uses of Reform*, pp. 272-274.
[151] *BUK,* iii, pp. 621-622.
[152] *PKSB*, pp. 234-238; CH2/521/2, ff. 49r, 155v. While the entry did not explicitly state he was an elder, Dionysius Conqueror is the same name of an elder elected in 1599, three years after this case was recorded.
[153] *PKSB*, p. 177.
[154] CH2/521/2, ff. 53v, 118v, 131r, 138v-139r; CH2/521/3, p. 54

Having agreed to his repentance, he went on to serve as an elder for several years. On his first appearance for this offence, the case was referred to the next week, with the reason given that the seven elders present was not sufficient, suggesting that for such a case, it was desirable that most of the elders were in attendance.

Some other session members were fined for neglecting their duties to the kirk. As mentioned above, elders were sometimes fined for not attending meetings, and additionally, some elders and deacons were fined for failing to collect alms or neglecting other duties. In 1594, the cantor and master of the song-school John Swenton was dismissed from his office for failing to lead the psalm-singing at the Sunday sermon, having given no reason for his absence, with the record describing him as 'a man without anie feiling or judgement'.[155] Another case from January 1597 shows that elders could differ in their approach to discipline. In this entry, three men appeared at the session to make a complaint about one of the elders, John Anderson. They reported that they 'wer maist onjustly persewit be the said Jhone and far against his dewtie being ane elder'.[156] Despite Anderson's protest, the rest of the session ordered him to desist, deciding that the three men had done no wrong. Clearly, Anderson's idea of discipline differed to some of his counterparts. This is particularly so when considering the use of the phrase 'against his dewtie', implying he had gone beyond what was deemed his remit, and that the elders did not always agree on certain measures used. Bearing these cases in mind, overall there are relatively few instances of session members committing offences in the records, and so this is not to suggest that elders did not generally carry out their responsibilities to a satisfactory standard. What these cases do show is that the session members were held to a high standard, and were not necessarily given preferential treatment when they had committed an offence. Elders were expected to set a good example for their parishioners, and if they did not, could be made an example of by means of public repentance.

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[155] CH2/521/2, f. 91r.
[156] CH2/521/2, f. 165v.

Conclusion

Overall, the records of Perth's kirk session show that the membership of the session was frequently changing in comparison to some other kirk sessions. It is apparent that the roles of session members were quite clearly defined, following closely those set out in the *Books of Discipline*, and with clear distinctions between elders, deacons and other officers. In some elements of discipline outside of session meetings, further distinctions were made between the responsibilities of the minister and the elders. Importance was placed upon both the responsibilities of the minister and elders, and it was desirable for the minister and a number of elders to be present at the weekly session meetings, although the attendance of individual elders could vary considerably. While the minister was central to the kirk session, records show that elders held a variety of roles, and their local background and connections to other institutions in Perth were valuable qualities which were constantly utilised. Entries imply that session members were held to a high standard of behaviour and could be disciplined themselves for neglecting their duties to the kirk. Regarding how judgements were reached by the session, a small number of cases suggest that session members sometimes had differing, not always impartial views on how a suspect should be disciplined, and that a majority was not necessarily vital to decision making. Of 101 men who were elected as elders during this time, a significant portion only served for a single year, and few men served more than five years as an elder. The longer standing membership rotated frequently, and therefore the composition of the session varied year by year. The membership of the session had almost completely changed by the end of the sixteenth century, raising the possibility that the exercise of discipline may also have changed over this time period. Finally, records of marriage banns show that a considerable proportion of session members were closely connected to one another, indicating some limitations to how varied the session was, and raising questions over whether the session was mostly from a similar background. The next chapter will consider this further, by looking at the backgrounds and occupations of the session members, and by investigating how this could affect the exercise of discipline.

Chapter 2

The Networks of Elders and Deacons

Between 1577 and 1600, a significant number of elders and deacons were elected to serve Perth's kirk session, and as shown in the previous chapter, the composition of Perth's session was particularly varied. This chapter will examine the backgrounds of Perth's session members, using a range of kirk session, burgh council and guild records. It will consider whether Perth's session came from a wider range of backgrounds than has been shown in studies of other urban parishes, and will analyse in detail the representation of certain occupations on the session and how this changed over time.[1] Combined evidence from different Perth records suggests that a significant proportion of those elected to the kirk session had personal connections to one another, forming a network of individuals responsible for the oversight of discipline. Outside the urban centre of the parish, landward elders were appointed later in the period, and their personal roles will also be examined. In addition to identifying session members' backgrounds and connections, this chapter will consider what effect this had on the nature of kirk session discipline, and how the session used the individual influence of elders to increase its disciplinary reach.

Elders and Guild Membership

Most of the elders of Perth's kirk session can be identified from various records. The kirk session records rarely mention the occupation of session members, and so it has been necessary to use other records, most of which are held at Perth and Kinross Council Archives. While Margo Todd traced many of the 1577-1590 elders for the published minutes, the 1590s elders and a few obscure 1580s elders have been identified here using a combination of sources. As the majority of the elders of Perth

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[1] Lynch, *Edinburgh and the Reformation,* pp. 39-40; McCallum, *Reforming the Scottish Parish*, pp. 161-165.

belonged to a range of guilds, it has been possible to identify many through either the *Perth Guildry Book*, or individual craft books, especially the skinners', hammermen's, and wrights' books. [2] The election records of Perth's burgh court have been particularly useful, showing not only which session members were elected to the burgh court, but also recording the dean of guild and deacon of each craft for almost every year covered in this study. [3] This is particularly valuable as not all guilds have surviving records. Some guild records, such as those of the baxters (bakers) and fleshers (butchers), are fragmentary, with very little surviving for this time period.[4] A few elders have proven more difficult to trace, either because they did not serve on the council, or because they belonged to a guild with fragmentary records, or did not belong to a guild at all. Some of these have been possible to identify using burgh court minute books and the burgh's registers of deeds, acts and obligations.[5] For example, the flesher elder John Pitcairn seems never to have been elected to the council, and was not mentioned in the *Perth Guildry Book* or the few surviving pages of fleshers' documents. However, a record from the register of deeds in 1597 describes him as a flesher burgess who acted as caution for a financial transaction between other fleshers.[6] The information taken from these various records has been used to identify the occupations of the session members. Table 2.1 below lists the guild membership and occupations of Perth's elders.

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[2] Stavert (ed.), *The Perth Guildry Book*; *PKCA*, MS 67/1 (1593 -1726); Hunt (ed.), *The Perth Hammermen Book*; NLS MS 19288 (1519-1621).

[3] PKCA, B59/12/2. The years 1595 and 1600 do not have the elections recorded. There was no election in 1600, although it is noted who was replaced from 1599.

[4] PKCA MS 92 (Baxters' records); MS 122 (Fleshers' documents).

[5] PKCA B59/12/9-10 (1580-1632 Court minute books); B59/8/3-11 (1579-1602 Registers of Acts and Obligations).

[6] PKCA B59/8/8, f. 24r, 14 May 1597.

Table 2.1:   Occupations of Perth's elders, 1577–1600

Occupation	Number of elders, 1577–1600.
Merchant	41
Hammerman	11
Baxter	10
Skinner	12
Cordiner	2
Flesher	2
Tailor	2
Wright/Surgeon/Cooper	4
Maltman	2
Unknown	9
Other	6

As can be seen in Table 2.1, there was a fairly equal divide between merchants and craftsmen being elected as elders, with 41 men identified as merchants, and 45 as craftsmen, out of a total of 101 elders. The 'unknown' category in the table includes four landward elders, who are discussed further below. The only other five 'unknown' cannot be identified due to the fact that either their names do not appear in any other records, or that their name was common and belonged to more than one merchant or craftsman during the same time. The six elders listed as 'other', are Colin Eviot, laird of Balhousie, and five notaries. The fairly even split between merchant and craftsman elders was a feature in most years covered in this study – a characteristic of the session which sets Perth apart from other burghs. Between 1650 and 1700 in Aberdeen, for example, DesBrisay has calculated that 90% of elected elders were merchants.[7] According to Michael Lynch, the vast majority of Edinburgh's elders were either merchants or lawyers.[8] Given the history of merchants and craftsmen in Perth, it is probable that this equal representation was deliberate and important to them. As discussed in the introduction, for a considerable part of the early sixteenth century, craftsmen had fought for representation on the burgh council, which had previously been dominated by merchants.[9] Tensions in the burgh came to a head in the 1550s, as can be seen with the 1555 parliamentary Act

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[7] Gordon Desbrisay, 'Authority and discipline in Aberdeen 1650-1700' (Unpublished PhD Thesis: University of Aberdeen, 1989), p. 311.
[8] Lynch, *Edinburgh and the Reformation,* pp. 39-40.
[9] Verschuur, *Politics or Religion?*, p. 38.

Against Craftsmen in Burghs, which banned the office of craft deacon and asserted ultimate authority of the council over the crafts. The act stated that 'the choosing of deacons and men of craft within the burghs has been right dangerous', and that craftsmen had 'caused great trouble in the burghs'.[10] In Perth, this was followed by craft riots in 1556-7, disrupted elections and violence between merchants and craftsmen, as well as the destruction of religious houses during the Reformation, which had involved craftsmen.[11] Although it is not stated in the session records, considering this violent past, it is likely that the equal numbers of merchants and craftsmen on the kirk session was not coincidental, but a conscious effort to recognise craftsmen's local authority, and potentially to maintain peace between the two groups.

While around half of these elders were craftsmen, the crafts were not all equally represented. 73% of craftsmen elected to the kirk session belonged to the three most prominent crafts in Perth – the hammermen, baxters and skinners. Additionally, these crafts were each represented for substantial periods of time, while the other crafts' representation on the session was more varied. Chart 2.1 below indicates the years in which each guild was represented by at least one elder elected to the session, and Table 2.2 demonstrates the average length of time members of each craft served as elders.

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[10] *RPS (1567–1625)*, ii, 497, c. 26, at http://www.rps.ac.uk/trans/A1555/6/27 [accessed 9 June 2017].
[11] Verschuur, 'Merchants and Craftsmen in Sixteenth-Century Perth', pp. 44-47.

Chart 2.1:   Years in which guilds were represented on the kirk session, 1577-
1600
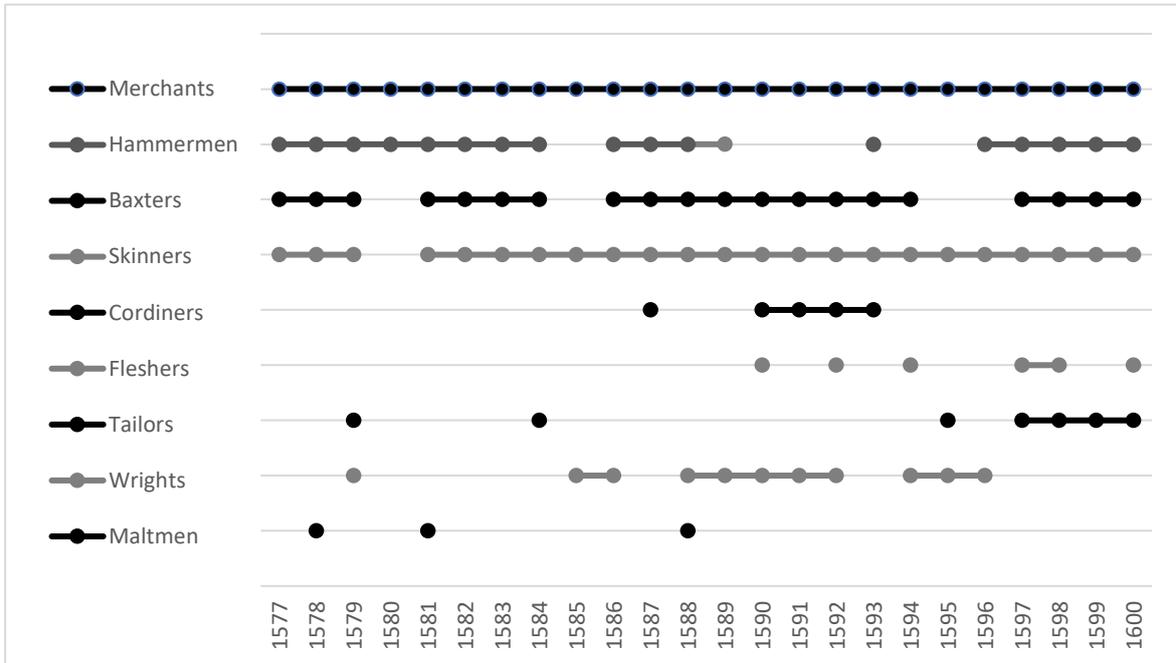
Table 2.2:   Average years served by elders of each guild

Guild	Average number of years elected to kirk session
Merchant	3
Hammerman	2.5
Baxter	4
Skinner	3
Cordiner	2.5
Flesher	3.5
Tailor	4
Wright/ Surgeon/ Cooper	3
Maltman	1.5

The evidence collated for Tables 2.1 and 2.2, and Chart 2.1 shows that men from a variety of occupations were elected as elders. Some occupations featured more often than others and there was variation in the length of time served. The hammermen's guild of Perth, which consisted of smiths of all kinds, as well as saddlers, was the largest and wealthiest craft in Perth, and one of the earliest to achieve political influence in the burgh: Perth's first ever craftsman elected as a bailie was a goldsmith.[12] Of the 11 hammermen elders, nine served in the 1570s and 80s, and only two in the 1590s. For half of the 1590s, there were no hammermen on the session, compared to an average of two hammermen elders in the 1570s. As shown in Verschuur's ordering of crafts by their importance and prominence, after the hammermen was the baxters' guild, which also had many influential members.[13] Baxter elders were some of the longest standing session members in Perth, serving an average of four years as an elder. Four were elected over the span of a few decades – for example, Androw Malcolm was first elected in 1577 and his final and tenth election was in 1600.[14] As for the skinners' craft, skinners served an average of three years as an elder. In contrast to patterns of hammermen elections, for most of the 1580s, one skinner was elected each year to the session. By the mid-1590s, this increased to three skinners usually being elected each year. Unlike the baxters, most skinners who were re-elected returned to office within a short period of time, rather than holding office in different decades.

Contributions made to the kirk eldership by the other guilds of Perth is limited by comparison. The only two cordiners (shoemakers) elected, Patrick Justice and James Merser, were elected once and four times respectively, and so for the majority of the years covered here, there were no cordiner elders elected.[15] Similarly, only two members of the fleshers' guild can be identified as elders. Both of these were elected for the first time after 1590: one, Henry Balnevis, was only elected for a year and the other, John Pitcairn, was elected six times between 1590 and 1600.[16] Election of

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[12] Verschuur, *Politics or Religion?*, pp. 39-42. Hammerman Constantine Arthur was elected as bailie in 1520.

[13] Verschuur, 'Merchants and Craftsmen', p. 38.

[14] *PKSB*, pp. 79, 198, 268, 327, 379, 429; CH2/521/2, ff. 66v, 107r; CH2/521/3, pp. 48, 159 for all his elections.

[15] *PKSB*, p. 379 for Justice's 1587 election; *PKSB*, p. 451, CH2/521/2, ff. 53r, 66v, 85v for Merser's 1590-93 elections.

[16] CH2/521/2, f. 107r for Balnevis' 1594 election; *PKSB*, p. 451; CH2/521/2, ff. 66v, 107r; CH2/521/3, pp. 4, 48, 159 for Pitcairn's elections.

tailors was sporadic: only two men, Henry Leis and Gabriel Merser, can be identified as elders. Before 1595, it was rare for a tailor to be elected – Leis only served in 1579 and 1584.[17] For the last five years of the sixteenth century, there was a tailor elder for all but one year.[18] Therefore, it was not only the case that fewer elders came from the less prominent crafts, but also that they were elected fewer times, and in many years were not represented on the kirk session at all, especially before the 1590s. This is further supported by the fact that, of the four wright elders, only one was elected before 1586, again suggesting a shift in the composition of the session at around this time.[19] The wrights' guild was represented on the session for fewer than half of the years covered in this study. Two crafts – wobsters (weavers) and waulkers (fullers), considered below wrights on the hierarchy – may have produced no elders at all, as none of those elected are described as such, and none of the unknown elders can be identified as belonging to these crafts. As noted by Verschuur, while maltmen were often some of the wealthiest craftsmen, they were not an incorporated trade, and so were not allowed to hold civic office in Perth.[20] Despite this, a few were elected as elders (and many served as deacons). The two maltmen elders were elected even less often than the crafts mentioned above – David Mackay twice, in 1578 and 1581, and Patrick Lamb once, in 1588.[21] It is clear that craftsmen elders were most likely to come from the three most prominent crafts up until 1588, as 75% of instances where the less prominent crafts were represented on the kirk session occurred during or after the election of 1588. This suggests that there was a marked change in the nature of the kirk session around this time.

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[17] PKSB, pp. 135, 289.

[18] CH2/521/2, ff. 133v; CH2/521/3, pp. 7, 48, 111, 159 for Merser's 1595, 1597, 1598, 1599 and 1600 elections. Leis was also elected along with Merser in 1599.

[19] *PKSB*, pp. 135, 327 for Oliver Cragy's elections.

[20] Verschuur, *Politics or Religion?,* pp. 10-11.

[21] *PKSB*, pp. 100, 198 for Mackay's elections, p. 402 for Lamb's election.

Deacons and guild membership

Another way of demonstrating the variation in backgrounds of session members is by tracing the occupations of the church deacons. 138 different men served as deacons between 1577 and 1600 – slightly more than the number of men elected to serve as elders, showing that the office also had high turnover. By the 1590s, it is possible to identify the occupations of roughly 70% of the deacons who served the session, and these are shown in Table 2.3 below:

Table 2.3:   Occupations of Perth's deacons, 1591-1600

Occupation	**Number of deacons, 1591–1600**
Merchant	11
Hammerman	3
Baxter	8
Skinner	7
Cordiner	2
Flesher	2
Wright/Surgeon/Cooper	2
Maltman	9
Notary	1
Unknown	18

Unlike the even split of elders between merchants and craftsmen that was shown in Table 2.1, 73% of traceable deacons can be identified as craftsmen, rather than merchants. Michael Lynch and Margo Todd have suggested that deacons were generally of a lower social status than elders, although the previous chapter demonstrated that some deacons went on to be elected as elders.[22] There are some other limitations to this premise, as among the 1590s deacons were at least five

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[22] Lynch, *Edinburgh and the Reformation*, pp. 40-41; Todd (ed.), *PKSB*, p. 28.

deacons of their craft, including Alexander Forbes, future deacon of the hammermen.[23] This is not to say that there was no distinction between the social standing of elders and deacons – 18 deacons were not possible to identify, and this may be evidence itself of their lack of office or guild membership. This seems quite likely, given that so many other session members are identifiable. Moreover, there is a much greater proportion of deacons who were maltmen (an unincorporated craft), than maltmen elders, suggesting it was easier for maltmen to be elected as a deacon than an elder. It should be noted that the deacons of the wobsters and waulkers' crafts are identifiable from burgh court records for this period, and none of these served the kirk session in any capacity, ruling out that they are amongst the 'unknown'.[24] Although Perth's deacons were not usually involved with kirk session discipline, this evidence suggests that, while there was some distinction between the social status of elders and deacons, this may have been less pronounced in Perth.

Personal relationships of session members

As discussed in the first chapter, evidence shows that many session members were closely connected to one another. Using a combination of records of marriage banns, guild and burgh court records, it is apparent that not only were many elders related, but also that these relationships often transcended the lines of guild membership, and to an extent, the boundaries of social status. 29% of elders can be connected to a session member of a different occupation through marriage banns, and many of these connections were between merchant and craftsman elders. An example of this is shown with the baxter elder Adam Anderson, who acted as caution for David Grant, Constantine Malice and James Malice, who were all merchant elders at some time. His wife Isobel was a relative of merchant elder Duncan Robertson, and his son Oliver married the daughter of merchant elder Andrew Arnot in 1600, showing

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[23] These were Thomas Bisset (cordiners), CH2/521/3, p. 110; B59/12/2, ff. 64r, 64v, 65r; Malcolm Hall (baxters), CH2/521/2, f. 107r; B59/12/2, ff. 64r, 64v; William Hall (baxters), CH2/521/3, p. 159; B59/12/2, ff. 33r, 58r, 61r, 62r, 62v, Patrick Niving (skinners), CH2/521/3, p. 110; B59/12/2, ff. 65v, 66r; Alexander Forbes (hammermen), CH2/521/2, f. 85v; Hunt (ed.), *The Perth Hammermen Book*, p. cxix.
[24] B59/12/2, ff. 29r-63v.

considerable interconnection of the elders.[25] Adam Anderson was the son of a previous merchant elder, John Anderson, and three of his brothers also served as elders at some time.[26] Bearing in mind that less than half of the elders had marriage banns recorded within this time frame, the fact that so many session members can be linked together by their banns suggests that they were part of a circle of individuals considerably familiar with each other. Of all the members of those crafts less represented on the kirk session (i.e. fleshers, tailors and wrights), two out of eight had connections to the more represented guilds, as seen by their marriage banns.[27] The two maltmen elders, who were a minority compared to the many maltmen deacons, seem to have had very limited connections with other elders. One, Patrick Lamb, was caution for just one elder's marriage – cooper Oliver Cragy in 1585. There is no record of the other, David Mackay, having done anything similar.[28] In comparison, just over half of the 41 merchant elders can be connected to other session members by marriage banns; these were not only fellow merchants, but many craftsmen too.

In contrast, connections between the landward elders of the parish, who lived on the outskirts of the burgh, and their urban counterparts, are harder to identify. Most of their recorded interactions were at the burgh court, where they were recorded as having sold goods or borrowed money from one another. None of the landward elders' own marriage banns are contained within the 1577–1600 records. There are instances where they acted as caution for the banns of others (usually family members), but these show no connections with either urban or other landward elders. While connections can be found between some of the landward elders, this is not to the same degree as the urban elders. For example, Thomas Oliphant and William Methven, both of whom lived in the south landward of Perth, are named together as owing a merchant elder £100 in 1600.[29] Several financial transactions between elders such as this survive, but there is less evidence of personal relationships between these men. In a similar vein, while deacons often acted as caution for their fellow

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[25] *PKSB*, p. 442; CH2/521/3, p. 144.
[26] These are Robert Anderson (merchant), Henry Anderson, and Andrew Anderson (hammerman).
[27] *PKSB*, p. 194; CH2/521/2, f. 55v, for Henry Balnevis' banns, for which merchant elder Oliver Peblis was caution, and Andrew Broun's banns, for which merchant elder Henry Adamson was caution.
[28] *PKSB*, p. 322.
[29] PKCA B59/8/10, ff. 135v-136r, 8 June 1600.

deacons, it was less common for them to act as caution for elders, suggesting a limit to the social connections between these two kinds of session members. However, several deacons had elders acting as caution for their marriage banns, or even married the close relatives of elders. These were not necessarily elders from the same guild as themselves.[30] Therefore, while a considerable proportion of Perth's elders and deacons were closely connected, both by guild membership and family networks, there were fine distinctions between their social backgrounds that put limitations on the extent to which they were linked to one another.

Session members and their guilds

Connections between guilds and the practice of religion are well known.[31] As with many other churches – in Scotland and elsewhere – St John's Kirk in Perth had allocated seats for each guild, and members were expected to donate candles to keep their sections lit. This association continued after the Reformation. Before 1560, guilds were also very active in celebrating religious traditions, most notably with the annual craftsmen's plays celebrating Corpus Christi and St Obert's Day. Despite this, there has been little consideration of connections between guilds and the operation of kirk session discipline. It has been argued that craftsmen across Scotland were unwilling to give up their traditional rituals.[32] While he does not consider the occupations of session members, Michael Graham has given a couple of brief examples in Edinburgh of craftsmen protesting the disciplining of their peers, noting that in 1560 a group of fleshers broke into the town tolbooth to free their deacon. Having been carted through the town, they exclaimed that 'on na wayis thay wald appreve the samyn nor na sic extreme lawis upoun honest craftismen'.[33] This example suggests that craftsmen would be more likely to protect their fellow members, as might be expected. After all, it has been argued that craftsmen in

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[30] *PKSB*, p. 433, for example, where merchant elder James Adamson acted as caution for surgeon and future deacon Archibald Steidman.
[31] Audrey-Beth Fitch, *The Search for Salvation: Lay Faith in Scotland, 1480 to 1560* (John Donald: Edinburgh, 2009), pp. 25-27; Mairi Cowan, *Death, life and religious change in Scottish towns, c. 1350-1560* (Manchester University Press: Manchester, 2012), pp. 100-114.
[32] Todd, 'Profane Pastimes and the Reformed Community', pp. 127-129.
[33] Graham, *The Uses of Reform,* pp. 53-54.

particular tended to look after each other in other ways. Laura Stewart has found that in Edinburgh, guild brothers provided 'unofficial networks of support' for struggling peers, with the example that hammermen would make collections to donate to the widows of fellow hammermen.[34] Additionally, Smout has argued that while most merchants' alliances generally 'subsisted only as long as the venture lasted', craftsmen were close-knit communities who assisted their fellow members in times of hardship.[35]

On a few occasions in Perth, elders did show lenience towards fellow guild members. In a 1585 case mentioned in the previous chapter, the baxter Thomas Malcum, as well as Margret Oliphant, had failed to answer his summons after committing adultery.[36] While most of the elders agreed that both Malcum and Oliphant should be admonished before excommunication, William Hall, a current baxter elder, and frequent deacon of the baxters, disagreed with this decision – he agreed with the excommunicating of Oliphant, but he and another elder did not join their colleagues in ordaining the minister to excommunicate Malcum. Consequently, Malcum did not suffer the same sentence. This suggests that Hall was inclined to favour his fellow craftsmen, and that the relationships of elders affected their actions within the kirk session. The records do not indicate specifically how the final judgement was decided – only that while most of the present elders ordained the minister to give this judgement, William Hall and one other elder did not, and so it is difficult to confirm how far the relationship between these two craftsmen influenced the proceedings of the session. However, evidence from Perth indicates that forms of support between guild brothers did not generally extend to protection from discipline. In fact, Perth elders were active in ensuring that the guild they belonged to adhered to the kirk's regulations, as will be discussed below. It may be that Perth was not typical in this aspect of discipline, however it is difficult to make such comparisons because this aspect of discipline in Scotland has received very little attention.

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[34] Laura A.M. Stewart, 'Poor Relief in Edinburgh and the Famine of 1621-24', *International Review of Scottish Studies* 30 (2005), pp. 11-12.
[35] Smout, *A History of the Scottish People*, pp. 157-163.
[36] *PKSB*, p. 312.

Although the surviving guild records for sixteenth-century Perth are fragmentary, they do show that a significant number of elders, and a few church deacons, were prominent members of their guilds. The dean of guild was the head of the merchants' guild, and each craft had its own deacon as leader, who would generally be elected annually.[37] Of all the 101 elders elected between 1577 and 1600, around a third can be shown to have held the office of dean / deacon within their guild at some time, therefore many were likely to have been important to the organisation of their respective guilds. Craft deacons had numerous responsibilities. First and foremost, these included the upkeeping of the craft's practical standards – that is, the required quality of their work. An example of this can be found in a document of Perth's baxters from 1550, which records the weighing of baxters' four-penny loaves by the craft's deacon, who took action against one baxter for baking a loaf that was five ounces too light.[38] Similarly, T.C. Smout has described how merchant guilds across Scotland punished members for forestalling goods before they appeared at market.[39] Craft deacons were also responsible for disciplining unruly members for a range of actions, and in acting as an arbiter in disputes between guild brothers.[40] Of the 33 elders in Perth from the three most represented crafts, around half were elected as deacon of their craft at some point. In comparison, of those crafts less represented on the session, such as the tailors, fleshers and cordiners, almost all were deacons of their craft, suggesting that it was especially important for these elders to have seniority within their own circles in order to be deemed suitable as elders. This was the case with both tailor elders, and both cordiner elders were deacons of their craft before their terms as elder. Of the four members of the wrights' guild elected as elders during this time period (bower David Billie, coopers Oliver Cragy and Andrew Wilson, and surgeon Andrew Broun), three were deacons of the wrights at some point.[41] In the wrights' book, Andrew Broun can be found protesting the poor standards of a fellow surgeon a year before his election to the kirk session, suggesting that he was accustomed to holding his peers to account.[42] Similarly for

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[37] For example, see Hunt (ed.), *The Perth Hammermen Book*, pp. cxviii- cxix for annual change of hammermen deacons.

[38] PKCA MS 92 Bundle 3/2.

[39] Smout, *A History of the Scottish People*, p. 157.

[40] Hunt (ed.), *The Perth Hammermen Book,* p. xxxi.

[41] B59/12/2, f. 27r for Oliver Cragy; B59/12/2, f. 65v for Andrew Broun; B59/12/2, f. 28r for Andrew Wilson. While this guild is generally shortened to 'wrights', it included several occupations - wrights, bowers, coopers, barbers and surgeons.

[42] NLS MS 19288, f. 72r.

the tailor craft, it has been noted that the tailor elder Henry Leis was particularly active in disciplining his fellow tailors, and is frequently referred to in the tailors' book.[43] It is therefore likely that many elders had experience in administering discipline through their occupations.

In comparison to the less prominent crafts, six of the 11 skinner elders can be identified as deacons of their craft. Alexander Broun, for instance, was elected deacon of the skinners at least three times during the 1590s, and in two years this overlapped with his role as elder.[44] The skinners' book begins with him as deacon, ordering fines to be implemented for those skinners who had not convened at their meeting.[45] A list of 'auditors' present for this proclamation includes seven skinners who were also elders at some point. The skinners' book of Perth also has evidence of members being disciplined by the guild for various actions, such as slander and mistreatment of apprentices.[46] Punishments could include being required to ask their deacon for forgiveness, or payment of a fine to the kirk for support of the poor. Similarly, extracts from the Perth hammermen's book also show connections between craft discipline and the kirk. Of 11 hammermen elders, seven acted as deacon of the hammermen at some time. In an entry from 1566, John Moncreif was disciplined by the craft for 'blaspheming' and drawing his sword against a fellow hammerman.[47] The craft deacon that year was future elder Patrick Inglis, who declared that Moncreif was to come into the kirk, where he should ask forgiveness in front of the whole craft. Amongst those present for this judgement were three other future elders of the kirk, two of whom would also be elected as deacons of the craft.[48] Many disciplinary procedures in these extracts involve the kirk in some way, particularly in paying a fine to be used for the kirk's candles, or for the poor's alms, showing that there was a strong connection between discipline, crafts and the kirk. This evidence also shows that a significant proportion of Perth's elders were considerably active within their respective guilds, suggesting a certain level of

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[43] *PKSB*, p. 475.
[44] B59/12/2, ff. 52r, 53r, 62r.
[45] PKCA MS 67/1/1, f. 1r, 4th May 1593.
[46] PKCA MS 67/1/1, ff. 8r, 19r, 29r for some examples.
[47] Hunt (ed.), *Perth Hammermen Book*, p. 99.
[48] These were Andro Anderson, Andro Donaldson and David Horne (the latter two were future deacons of the hammermen).

authority, and were often already experienced in administering discipline when they were elected to the kirk session.

Guild membership of elders and kirk session discipline

Having traced the backgrounds of Perth's session members, and their responsibilities within their respective occupations, it is possible to explore how the connections of the session members affected the exercise of kirk session discipline. Evidence suggests that the occupations of the session members were significant to the nature of kirk session discipline in Perth. One particular aspect of discipline which was affected by the composition of the session was the treatment of guilds. Across the late sixteenth century, guilds were sometimes summoned to the session as a whole, usually either for continuing to practise festive traditions, or for failing to observe the Sabbath properly. In other instances, entries remark upon the poor conduct of a particular guild and order a deacon of craft to bring members into line.[49] It is unclear how effective this approach was, because these entries usually only record the instruction given to the craft deacon, and not the response from the guild in question. However, it is apparent that the session often chose to take matters into their own hands instead, as will be shown here.

Baxters

The first example to be given is that of the baxters, one of the crafts that appears most frequently among those disciplined in the kirk session records. According to Mary Verschuur, the baxters of Perth were a dominant guild within the burgh, and before the Reformation Parliament, it was a tradition for large groups of baxters to put on plays around December.[50] This tradition continued to be practised well after the kirk session was established, and the session appears to have struggled to stop it

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[49] *PKSB*, pp. 366-367, 409.
[50] Verschuur, 'Merchants and Craftsmen in Sixteenth-Century Perth', p. 38.

being practised. The session also struggled to stop baxters from collectively committing Sabbath breach, noting that their 'dyvers adminitions takis not effect'.[51] Because the session was inconsistent in recording the occupations of individuals during the 1570s and 80s, it is not possible to quantify the number of individual baxters who were prosecuted each year. However, the baxters, like other crafts, were sometimes referred to as a whole group, particularly when summoned for putting on plays together, or in entries acknowledging that 'the Saboth day is specially brokin be the baxters'.[52] In a given year, there was usually at least one elder who was a member of the baxters' guild. When looking at the election years in which baxters were collectively summoned for a suspected offence, it can be seen that in these years, a greater proportion of the session consisted of baxters.

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[51] *PKSB*, p. 431.
[52] CH2/521/2, f. 53r.

Table 2.4:   Baxter Elders and Disciplining of Baxters

Election year	Number of baxter elders	Action taken against groups of baxters
1577	3	Two groups of baxters prosecuted for plays.[53]
1578	1	Group of baxters disciplined for a play.[54]
1579	1	None
1580	0	None
1581	3	Group of baxters prosecuted for a play.[55]
1582	2	None
1583	2	None
1584	2	None
1585	1	None
1586	2	Summoned once, warned once for Sabbath breach.[56]
1587	3	Warded once, prosecuted once, ordained to repent once for plays.[57]
1588	1	None
1589	2	Summoned once for Sabbath breach.[58]
1590	1	None
1591	1	Reported but no action taken.[59]
1592	2	None
1593	1	None
1594	1	None
1595	0	None
1596	0	None
1597	1	None
1598	2	None
1599	2	None

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[53] *PKSB,* pp. 83-84.

[54] *PKSB*, p. 108.

[55] *PKSB*, pp. 203-204.

[56] *PKSB*, pp. 372, 376.

[57] *PKSB*, pp. 385, 391, 393.

[58] *PKSB*, p. 431.

[59] CH2/521/2, f. 53r.

As seen in Table 2.4, in all but one year when a group of baxters was prosecuted, at least three elders that year were themselves baxters. It could be that baxter elders were simply more aware of their colleagues' activities, but given that Perth was a small, densely populated burgh, the types of activity they engaged in would have been quite difficult to go unnoticed. This is especially the case for plays, which could involve the players going around the town at evening 'disguisit in pyping and dansing and tartorchis beryng'.[60] It seems likely that elders were able to use their influence within their own guild to enforce discipline. Take, for example, the case in 1588, when six baxters were disciplined for participating in a play, and the session that disciplined them included three other baxters. This coincided with a serious declaration that if any more baxters committed the same offence, not only would they be disciplined, but actually 'debarrit frome all the liberties of the craft nevir to have entres to the same agane'.[61] Not only did the session give punishments related to the kirk, but now threatened to take away offenders' craft privileges. There was no recorded opposition to this from the three baxter elders, who were likely to have been involved in the decision, seeing as it would have required the cooperation from members of the baxter craft in order to implement it. This is shown by the fact that that year's deacon of the baxters, George Jak, signed the declaration against plays in the name of the craft. However, just a year later, between October 1588 and October 1589, there was only one baxter elder on the session. During that election year, the session gave way, allowing a play to be performed under the condition 'that nether swering, banning, nor nane scurrilitie be in it', showing a change in approach which depended on the membership of the session in a given year.[62]

As mentioned above, some baxters served as elders for longer than average periods of time, and many of the cases highlighted in Table 2.4 were pursued by the same individuals. One baxter, Andrew Moncreif, was serving as an elder in all four years when groups of baxters were prosecuted together (1577, 1578, 1581 and 1587). Baxter Andrew Malcolm served in three of these years and Adam Anderson served in two.[63] These men were all influential, either because they owned substantial

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[60] *PKSB*, p. 108.
[61] *PKSB*, p. 392.
[62] *PKSB*, p. 418. 'Banning' refers to cursing, and 'scurrilitie' is mocking or insulting language.
[63] *PKSB*, p. 79, 100, 198, 379 for these elections.

property, or because they frequently served on the burgh council as bailies. Interestingly, the *Perth Guildry Book* shows that Anderson and Moncreif were admitted to the guildry in 1571 and 1567 respectively, suggesting they may have been fairly young at the time of the Reformation Parliament in 1560.[64] Anderson seems especially likely to have been brought up with Reformed theology, as he was the nephew of one of the 1544 martyrs.[65] The possible combination of a Protestant education and high social status seems to have been significant to these baxters' administering of discipline against their fellow baxters. Because the kirk session records do not record how it was decided who was to be elected each year, and since baxters were being disciplined from the beginning of surviving records, it is a challenge to ascertain whether these baxter elders were elected in response to specific problematic behaviour of the baxters. Given the dates in which they were summoned, it does not seem that this was the case. Rather, a number of baxters were first elected to the kirk session, and this was followed by an increase in cases involving their guild brothers. However, this was not necessarily the case for all crafts, as will be shown below.

Fleshers

By the 1590s, the fleshers had become more of a concern for the session, with frequent declarations denouncing the fleshers for working on the Sabbath. A few complaints had been made previously in the late 1580s, but no punishment was given on these occasions; the session instead 'referrit them to the aggriment of their brethrene'.[66] Only two men described as fleshers appeared for Sabbath breach before 1590, and both were forgiven and avoided punishment.[67] It is likely that the approach to disciplining disobedient fleshers changed over time, as references to fleshers breaking the Sabbath increased noticeably in the early 1590s.

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[64] Stavert (ed.), *The Perth Guildry Book*, p. 268 (Anderson), p. 259 (Moncreif).
[65] *PKSB*, p. 463.
[66] *PKSB*, p. 394.
[67] *PKSB*, pp. 379-380.

In June 1592,

> 'Forasmekill as this day certane bretherne off the flescher craft was callit and desyrit to giff obedience to god in keping the Saboth day & denyit the same planlie and promises to giff no obedience Thairfoir ordanis the consell to be conwenit the nixt Tuysday efter the prayers in the morning and with them the elders for ordor taking with the haill fleschers that the Saboth may be kepit and god therto resort as becumis'.[68]

There is no record of the 'haill fleschers' appearing after this declaration, and so they may have refused to do so. Trouble with the fleshers continued, with more fleshers being summoned than any other craft. It seems to be no coincidence that a few months after the fleshers had refused to give obedience, a flesher, John Pitcairn, was re-elected as elder.[69] In 1590, he had been the first flesher ever to be elected in Perth, and one of only two elected between 1577 and 1600.[70] Apparently, the method of disciplining fleshers in the 1580s was no longer deemed suitable, and it is likely that Pitcairn was elected as a reaction to this perceived problem. It was not only groups of fleshers that were regularly the subject of complaint in the records, but certain individual fleshers as well. The most notable of these was the unrepentant Thomas Tailyeor, who narrowly avoided excommunication for his constant Sabbath breaking.[71] After numerous citations, Tailyeor finally apologised for his actions and submitted to the kirk's discipline in November 1592, in the presence of the recently elected John Pitcairn, as can be seen from that day's attendance list.[72] In other entries, Pitcairn can be shown to be directly responsible for the disciplining of his fellow fleshers. For example, on 17th September 1599, he was appointed as visitor for that week.[73] The next week, he reported back that the fleshers specifically had not kept good order on the Sabbath, showing he was not motivated to protect his guild brothers from being disciplined.[74] As a result, it was ordained that the visitors were to attend on the fleshers every week thereafter. A similar example of this occurred on 5th February 1593, where he reported 'the Sabboth to have bene brokin & prophanit

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[68] CH2/521/2, f. 62v, 19 June 1592.
[69] CH2/521/2, f. 66v, 9 October 1592.
[70] *PKSB*, p. 451.
[71] CH2/521/2, f. 65r, for his third admonition before excommunication, on 7 August 1592.
[72] CH2/521/2, f. 68r, 13 November 1592.
[73] CH2/521/3, p. 104.
[74] CH2/521/3, p. 106, 23rd September 1599.

be the flesheris in breking and selling off flesh and thairfoir ordenis them to be warnit'.[75]

In 1594, Perth's second flesher elder was elected, seemingly in the hope of reducing the fleshers' frequent offences. In his time as an elder, Henry Balnevis was present at the majority of session meetings, suggesting he was very committed to the session's actions. He had also previously served as a deacon, a burgh council member and bailie, and was regularly the deacon of the fleshers' guild in the 1580s and 90s.[76] He was also the brother of the session's reader and clerk, Alexander Balnevis.[77] During his year on the session, there is one occasion of a group of fleshers being summoned, and they appeared the same day and submitted to the kirk.[78] Usually, it could take weeks for a group to appear, if they did at all. It was remarked that one of these men, Alexander Moncrieff, was to be punished as an example to others so that they would not do the same. This seems to have had an effect, as no flesher ignored their summons for the rest of that election year. Furthermore, in the years in which either Pitcairn or Balnevis was serving as an elder, there were considerably more instances of fleshers confessing and making repentance. For instance, during the 1592-3 election year, when Pitcairn was an elder, two groups of fleshers were reported, and a further nine men described as fleshers appeared for Sabbath breach.[79] During Balnevis' year as elder, one group of fleshers was summoned, and another six men described as fleshers appeared for Sabbath breach.[80] During the next two election years, when there were no flesher elders, the craft was never collectively summoned. Only three men described as fleshers appeared, promising not to break the Sabbath, and they were not ordered to make repentance.[81] The next election year, Pitcairn was re-elected, and in this time 'the fleshers' were summoned for drinking together during the sermon, and another six fleshers appeared for Sabbath breach.[82] Again, it

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[75] CH2/521/2, f. 71r. On 29 January 1593, on the same page, he and one other were chosen as visitor for that week.
[76] B59/12/2, ff. 33r, 38r, 39r, 52r, 53r, 58r, 60r, 61r, 62r, 64r. Balnevis was also deacon of the fleshers in the same year he was elected as elder.
[77] B59/12/9, f. 43r.
[78] CH2/521/2, ff. 111v-112r, 2 December 1594.
[79] CH2/521/2, ff. 68r, 71r, 75v, 81v, 83r. NB some fleshers appeared on the same day.
[80] CH2/521/2, f. 111v, 112r, 113v, 128v, 132r, 133r, 133v.
[81] CH2/521/2, f. 158v, 27 September 1596; CH2/521/2, f. 166v, 17 January 1597.
[82] CH2/521/3, pp. 3, 4, 8, 46, 47.

appears that the session was able to use their connections to other institutions to promote more godly behaviour.

Wrights

In comparison to some other guilds, very few members of the wrights' craft can be identified in the kirk session records. While this guild was generally referred to as the 'wrights', both in their own records and burgh records, this was short for 'the wryts bowaris couparis chirugeans', as all of these occupations were included in the guild.[83] Only four wrights were ever elected as elders up to 1600, and through the 1570s and 80s, there was a wright elder less than half of the time. There are no instances of wrights being prosecuted for actions relating to their occupations during this time, either. However, between 1590 and 1596, there was a wright elder for all but one year. Seven out of eight men described as wrights breaking the Sabbath were prosecuted within this time frame. One of the most notable instances was in May 1592, when four barber-surgeons were made to promise to refrain from barbering on the Sabbath.[84] The elder Andrew Wilson, a previous deacon of the wrights, appears to have presided over these cases. A year later, Wilson was re-elected. Another group of surgeons appeared at the session, this time to be questioned about the kind of patients in their care, being warned not to hide from the session the identities of any parishioner 'quho had the goir'.[85] By warning the surgeons that they must report parishioners suffering from venereal disease, the session was able to use their relationships with certain crafts in order to expand their disciplinary reach – in this case, beyond the guild members themselves. In some cases, action against a fellow guild brother was carried over to the kirk session. For example, the surgeon George Ruthven, who was a frequent deacon of the kirk session, entered a bill of complaint to the session against his fellow surgeon Archibald Steidman, claiming that he had worked on the Sabbath.[86] For this, Steidman was ordained to make public

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[83] B59/12/2, for example, where the deacon is frequently referred to as of the 'wryts'; NLS MS 19288, f. 5. That is, the wrights, bowers, coopers and surgeons.
[84] CH2/521/2, ff. 61r-61v.
[85] CH2/521/2, f. 72v, 19 March 1593.
[86] CH2/521/2, f. 140r.

repentance. Interestingly, three months earlier, Ruthven had complained to the deacon of the wrights about Steidman's improper practice of medicine, resulting in sanctions being placed on Steidman, limiting the procedures he could perform.[87] It appears that in this case, Ruthven was able to use the authority of the session to curb the poor conduct of his fellow guild member. Entering a formal bill of complaint to the session was quite rare for an offence of Sabbath breach. Again, connections can be seen between guild membership of session members and the cases brought forward to the kirk session.

Other crafts

Perth's most prominent craft, the hammermen, was never summoned collectively in the records. This could be partly due to the fact that most of the hammermen elders were elected to the session before the 1590s, when the vast majority of Sabbath breach cases are recorded, or feasibly as a result of their high social status. As mentioned above, none of Perth's elders can be identified as either wobsters or waulkers, two of the lowliest crafts. Unlike most other guilds in Perth, no guild books or documents of these two crafts have survived. Perhaps due to the nature of their work, wobsters are never referred to collectively in the session minutes. Michael Lynch has stated that by the sixteenth century, wobsters 'had often moved to the suburbs or rural hinterland to secure lower operating costs', and generally worked on a small scale, and so may have been less visible to the session.[88] Moreover, the few cases of individual wobsters also imply that some of their work was done individually within their own homes. For instance, wobster Androw Rutherfurd was fined 10s in 1588 when in his house, his wife set up a loom for weaving on the Sabbath day.[89] Combined with the absence of wobster elders, this may explain why they do not ever appear as a group before the session. Waulkers are rarely mentioned as a group either. They too, undertook much of their work on the outskirts of the burgh – in the waulk mills which were located north of the town

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[87] NLS MS 19288 f.72r.
[88] Michael Lynch, *Scotland: A New History* (Pimlico: London, 1992), p. 383.
[89] *PKSB*, p. 406.

walls. In 1599, Alexander Farie, deacon of the waulkers, was found guilty of Sabbath breach, having carried some cloth from the waulkers' mill on the Sabbath.[90] The session ordered him to make private repentance, and, 'seing he is deacone of the wakeris to command his brether of craft that thay nether caus wak nor cary cloth ather to or from the towne on the Sabboth'. Clearly, the session did not want Farie to set a poor example for his craft, and, recognising the influence a craft deacon could have on their peers, here strove to make sure they did not replicate his misconduct.

Merchants

The merchant guild of Perth as a group is not referred to as often as baxters and fleshers in the session records. This is probably because unlike certain crafts, merchants were not known for group activities such as plays, and could often be away from the burgh on business. It is also possible that their high status made it more difficult for the session to discipline them, as may have been the case with the hammermen. While he discusses Scottish nobility and not the mercantile class, Keith Brown has asserted that while many of those with high social status supported reformation, kirk sessions faced difficulties in disciplining them, and using discipline against nobility could 'drive a wedge between magnates and ministers', as sentences such as public humiliation would have been difficult to accept.[91] Writing about the local exercise of authority, Michael Graham has stated that when kirk sessions 'encountered traditional interests, including those dear to the elders themselves, they usually had to yield'.[92] The only time before 1600 when the 'haill merchandis' were referred to was in 1592, where it was ordained they were each to pay half a merk for going to a fair on the Sabbath.[93] That year, three quarters of the session were merchants, but more importantly, several were very influential men.[94] Three of these merchant elders were dean of the merchants' guild at some time, and so were

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[90] CH2/521/3, p. 107.
[91] Brown, 'In Search of the Godly Magistrate in Reformation Scotland', pp. 566-567.
[92] Graham, *The Uses of Reform*, p. 279.
[93] CH2/521/2, f. 59v, 23 March 1592.
[94] CH2/521/2, f. 53r.

experienced in exerting their authority over fellow merchants.[95] Two were also some of the longest standing merchant elders the session had had. This is not to suggest an exact parallel to the process identified for some craft guilds, since it was not the case that merchants were summoned each year that there were particularly influential merchants on the session. However, when merchants were brought to the kirk session, it was when influential guild brothers were acting as elders. Ultimately, having elders who were active members in their respective guilds was beneficial to the session's enforcement of discipline on a larger scale.

Merchant elders occasionally reported back from fairs and markets in surrounding towns where they had witnessed Perth parishioners (particularly fellow merchants) failing to properly observe the Sabbath. In December 1595, merchant elder James Drummond reported that merchant John Wilson, along with several others had been at a fair in Fowlis, 'quhair on the Sabboth thay set furth thair standis to sell & mak merchandis'.[96] On the same day, another merchant elder, Constantine Malice, reported on merchants whom he had seen at the market of Crieff on a Sunday, including the same John Wilson, who was later fined 40s and ordained to make public repentance. It appears that merchants carrying out such actions against fellow merchants sometimes resulted in retaliation – something that is not seen amongst craftsmen. In 1594, the merchant John Niving slandered Robert Mathow, the then bailie and frequent merchant elder, for attempting to punish his wife at the request of the session.[97] In another year, his wife, Jonet Donaldson, can be found elsewhere in the records breaking the Sabbath by 'exponing of merchandis to be sold in the towne of Doning'.[98] In the same year, Bessie Kinglassie 'injurit ane elder quha rebukit hir for making merchandis on the lordis day'.[99] Kinglassie was a huckster – a woman who sold small goods door-to-door. She had previously been convicted for slandering another merchant, breaking the Sabbath and fornication. Her husband Thomas Ritchie was a merchant himself, and can be found in the records drinking

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[95] B59/12/2, ff. 28r (1576), 38r (1587), 64r (1601). These were Oliver Peblis, Robert Anderson and Constantine Malice.
[96] CH2/521/2, f. 140r.
[97] CH2/521/2, f. 109v.
[98] CH2/521/3, p. 114.
[99] CH2/521/2, f. 106r.

with and even breaking the Sabbath with former session members.[100] Their marriage banns show that they were close to some prominent merchants in Perth; her caution, merchant Thomas Moneypenny, was a bailie around the time of her marriage.[101] It is possible that in these cases, the merchant families involved felt wronged by merchant session members not acting in their interest. Nevertheless, in individual cases it is apparent that merchant elders as well as craftsmen elders could be utilised by the kirk session to bring action against offending guild brothers.

Motivations for Disciplining Guilds

The actions of Perth's elders raise the question of why they were so willing to discipline their guild brothers, rather than protect them as might be expected. One explanation is that the guilds aimed to protect their reputations through engaging fully with kirk session discipline. While not specifically referring to discipline, E. Patricia Dennison has argued that during the early modern period, 'a close awareness of the relative importance of specific craft guilds also emerged', and that the larger crafts in Scottish burghs 'had a strong sense of their own importance and would go to great lengths to project and defend it'.[102] Ian Whyte has gone further in stating that Scottish craft guilds were often particularly exclusive groups, giving the specific example that 'the Perth skinners and baxters effectively maintained closed shops', conveying the notion that these crafts were made up of exclusive communities with distinct identities.[103] John McCallum has also suggested that in St Andrews, the desire to protect craft reputation was a factor in crafts monitoring their members' Sabbath observance.[104] While specific evidence of this protection of guild reputation is less apparent in the kirk session records, the records of some guilds show that the upholding of standards was important to the craftsmen. As discussed above, deacons of craft worked to ensure that practical standards of the craft were kept to. They

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[100] CH2/521/3, p. 101.
[101] *PKSB*, p. 317, 16th August 1585; B59/12/2, f. 34r.
[102] E. Patricia Dennison, 'Urban Society and Economy', in Bob Harris and Alan R. Macdonald (eds), *Scotland: The Making and Unmaking of the Nation, c. 1100-1707, Vol 2: Early Modern Scotland c. 1500-1707* (Dundee University Press: Dundee, 2007), p. 148.
[103] Ian D. Whyte, *Scotland before the Industrial Revolution: an Economic and Social History, c. 1050-c. 1750* (Longman: London, 1995), p. 199.
[104] McCallum, *Reforming the Scottish Parish*, pp. 185-186.

could also discipline members for slandering or mistreating each other. An entry in the wrights' book from 1554 stated that it was specifically 'ffor ye honour & weilfair of our craft' that men would only be given licence to work in the town if they were known to the deacon, who would judge whether they were well qualified.[105] The skinners' book contains similar evidence – in an entry from 1603, it was ordained that the skinner George Dog and his apprentice must not 'wirk ony labour of the said craft in landwart bot only within the burgh of Perth amongis the rest of the bretherne', implying that their conduct was to be supervised.[106] Within a year, it was also declared that no unfree men's sons could enter the craft, and that skinners could only take on an apprentice if they had a wife and family to entertain him, showing that the craft had specific standards that needed to be met.[107] This was not unique to Perth – Maureen Meikle has argued that there was an increasing call for exclusivity amongst crafts in the sixteenth century, giving the example that in Canongate in 1567, there were clear attempts to stop outsiders from joining guilds.[108] Although none of these guild records for Perth specifically refer to kirk session discipline, it is likely that, as reputation was so important to guild members, as was the increasing emphasis on craft identity, there were benefits to be gained from showing that craft guilds were supportive of the kirk session and content to subject their members to the rigours of kirk discipline.

Alongside this motivation to protect personal and occupational reputations, some session members placed a high value upon discipline and the godliness of the community as a whole. Session records show what was required of those to be elected as elders. The entry of the 1587 election stated that those to be elected should be 'endowit with gud qualities, fering god, hating vyce in all estait of men', which indicates that the elders chosen in Perth would not only have needed strong faith, but also a good reputation within the local community.[109] The phrase 'all estait of men', suggests that elders were expected to demonstrate impartiality, and this should include their fellow guild members. Considering the previously mentioned perceived

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[105] NLS MS 19822, f. 28r.
[106] PKCA MS 67/1/1, f. 15r.
[107] PKCA MS 67/1/1, ff. 15v, 16r.
[108] Maureen M. Meikle, *The Scottish People, 1490-1625* (Lulu: Raleigh, 2013), pp. 42-43.
[109] *PKSB*, p. 378.

importance of craftsmen's representation within local institutions, it is possible that men of different crafts strove for representation on the session, and could demonstrate their suitability for the role and religious rigour by their approach towards the collective moral behaviour of their craft. The entry suggests that the session may have especially adhered to the Calvinist principle that the whole community was required to contribute to a godly society – that 'the individual's sins...were the community's'.[110] While there were certainly limits to this, it does appear that this was applied at times to certain crafts. Entries in the session minutes suggest that session members considered Perth a good example of a well-reformed town, for instance by referring to the town as 'this reformit burgh', and occasionally imply that their ideal of impartiality was an element of Perth's status as an especially 'christiane and reformit congregatione'.[111] For example, this is demonstrated in an entry regarding the session's concern over outsiders making residence in the town:

> 'Forasmekill as sindrie gentilmen both meane & greit resortis unto towne with ther fameleis to duell heir... to the greit contempt of god... & to the evill exempill off this congregatione... ordenis that na strangeris meane or greit be sufferit to halbe residence except that ather thay giff a confessione off ther faith befoir the sessione'.[112]

While it was not unusual for a kirk session to express concern about outsiders, particularly poor vagrants and beggars who may become a burden, the fact that this entry specified that wariness extended to those who were 'greit', 'gentilmen', and that a confession of faith was required of them, is quite distinct.[113] It suggests that the session had genuine religious concerns about those who came to inhabit the town, regardless of their social standing.

On a more individual level, it is plausible that some elders placed more personal importance than others on the exercise of godly discipline and the teachings of the kirk. As discussed in the introduction to this thesis, according to Mary Verschuur, despite there being 'none of the prerequisites' for Reformed activism in Perth, such as an intellectual community, many craftsmen burgesses in Perth participated in this.[114] As early as 1539, a baxter burgess was accused of (Protestant) heresy, and in

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[110] Todd, *The Culture of Protestantism,* p. 174.
[111] *PKSB*, p. 385; CH2/521/2, f. 168v.
[112] CH2/521/2, f. 80v.
[113] McCallum, *Reforming the Scottish Parish*, pp. 204-206.
[114] Verschuur, *Politics or Religion?*, pp. 71-74.

1544, five craftspeople were executed for heresy. Therefore, some of the craftsmen of Perth had a history of favouring Reformed ideas. One of the few wright elders, Oliver Cragy, was himself disciplined in 1551 by his guild for 'molestin of the kirk'.[115] Moreover, some of Perth's elders were closely related to those craftsmen martyred in 1544 – for instance, the martyred Robert Lamb was the brother-in-law of the elder John Anderson, and the uncle of his three elder sons.[116] Similarly, the skinner elder Alexander Pullor was probably related to the early protestant Lawrence Pullor.[117] The flesher burgess Walter Piper, who in 1543 had participated in an attack on the local Blackfriars' house, was most likely related to the flesher elder Henry Balnevis, who along with his family often went by the alias Piper.[118] In addition, Margo Todd has argued that a few of the elders' wills contained distinctly Reformed preambles. For example, cooper Andrew Wilson's will of 1596 included the expression that 'his salvation is only in the death and passion of Jesus Christ'.[119] While it can be difficult to evaluate elders' motivations, because records rarely provide any insight into them, it is evident that some of the elders of Perth placed great importance on maintaining the reputations of their respective guilds, as well as on reforming and maintaining good behaviour in Perth, and that this extended to the disciplining of their fellow guild members.

Landward Elders and Discipline

In 1592 landward elders were elected for the first time. The session also increased their scope in the 1590s by including another area, labelled as 'above the turret brig port', with its own elder. For the landward regions, two men were elected to oversee the rural areas surrounding the town, one to oversee the north and west landward region and the other the south landward region. Unlike their urban counterparts, most of the landward elders were not elected to the burgh council at any point, and most do not appear in surviving guild records either. Only seven men served as landward

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[115] NLS MS 19288, f. 20v; *PKSB*, p. 469.
[116] *PKSB*, p. 464.
[117] *PKSB*, p. 481.
[118] Verschuur, *Politics or Religion?*, pp. 73-74; B59/12/2, f. 33r, for example, where he was referred to as 'Henry Balnavis alias pyper'.
[119] *PKSB*, p. 483.

elders for the entire 1590s. Of these, two can be identified as merchants, one living in Balhousie (north landward), and the other also possessing property outside the town walls.[120] Another, Colin Eviot, was the laird of Balhousie. The other four landward elders for this period appear to have occupied farmland surrounding Perth. For example, Patrick Auchinleck was elected seven times before 1600, and lived in Muirton, situated in the north landward area. He is recorded as owing John Ross (laird of Craigie) ten 'bollis' of wheat 'for the teind addettit be the said Patrik to the said John', having occupied a sixth of the land of Muirton.[121] Auchinleck had connections to Colin Eviot, and so was probably a prominent individual. He and the other landward elders can be found in Perth's burgh records selling goods such as wheat, barley and salmon to local merchants (who were often elders themselves), showing their connections to the urban centre of Perth.[122]

The purpose of electing landward elders was to extend the scope of kirk session discipline into areas falling outside of the original four quarters of the town. The session was certainly concerned about the behaviour of people living in these areas, who may have previously been more difficult to keep an eye on than urban parishioners. As was noted in 1593, 'sindrie great inormeteis ar found to be in the landwart partis off this congregatione bot speciallie the b[reak] off the Sabboth'.[123] In an effort to combat this, the minister and five elders were to begin visiting the landward areas. Another large-scale visitation of the landward areas was arranged in 1595, after the session had noted that 'sindries in the landwart parochine hes nocht resortit to the examinationis & communione and sindrie enormeteis brekis out amang them'.[124] Before the 1590s, the session had not specifically focused on landward parishioners. By electing elders who lived in these rural areas, they aimed to expand their reach. Because these proclamations were made after the first election of landward elders, it appears that unlike certain crafts mentioned above, landward elders were not necessarily elected in reaction to particular troublesome behaviour of

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[120] PKCA B59/8/8, f. 28r; *PKSB*, p. 473.
[121] PKCA B59/8/5, f. 32r.
[122] PKCA B59/8/7, f. 162v, for example, where south landward elder Thomas Oliphant sold merchant elder Robert Mathow half a barrel of salmon.
[123] CH2/521/2, f. 81v, 6 August 1593.
[124] CH2/521/2, f. 124v, 2 June 1595.

rural parishioners, but that the session had a general aim of expanding their reach. While in general, the records rarely state where in Perth a suspect resided, references to people farming, for example 'schering & leiding ther cornis in the tyme off harvest', or simply being 'in the fields' on the Sabbath do increase in the records from this time onwards.[125]

There are also far more references to millers and the mills being open on the Sabbath in the 1590s. This is in comparison to 1577-90, when there was only one year in which millers were summoned for Sabbath breach, and no punishment was noted.[126] Between 1591–1600, there are five cases referring to a mill being open on the Sabbath, and another three groups of millers appeared for breaking the Sabbath.[127] These mills were located outside of the town walls, along the river, and so were probably either within the area overseen by the north/ west landward elder, or the elder for 'above the turret brig port'. The landward elder Colin Eviot actually possessed a mill in Balhousie. A marriage bann from 1587 suggests that another – the turret bridge elder, Thomas Jakson, was the brother of the master miller of the Inch Mill, Patrick Jakson.[128] Thomas oversaw a slander case in which Patrick was the victim in 1598, and in 1599 Thomas was accidentally referred to as 'Patrik' in the list of present elders.[129] As Sabbath breach increasingly became the focus of the kirk session by the late 1580s, it may be that the session was able to extend their reach to millers by electing elders nearer to the town mills.

As discussed in the previous chapter, landward elders generally did not attend session meetings as frequently as urban elders, with two of them (Colin Eviot and William Methven) not attending a single meeting. However, these two elders only served for one year each and were not re-elected, and attendance of landward elders did improve over the 1590s. Occasionally, landward elders themselves were punished by the session for committing sins. In May 1600, on a day he was also in attendance as an elder overseeing discipline, Patrick Auchinleck confessed that his

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[125] CH2/521/2, f. 88r.
[126] *PKSB*, p. 376.
[127] CH2/521/2, ff. 53v, 63r, 67v, 86v, 130v, 133r, 153r; CH2/521/3, p. 112. This does not include cases of individual millers committing Sabbath breach.
[128] *PKSB*, p. 369.
[129] CH2/521/3, pp. 42-43, 109.

'servandis spred muk on the Sabboth', for which he was fined and ordained to make private repentance.[130] Similarly, the south landward elder Thomas Oliphant appeared at the session in October 1594 for hiring labourers on the Sabbath for the harvest. Not only was he to abstain from doing so again, but he was given the responsibility of making sure his family and tenants did the same, under the pain of £10.[131] It appears then, that landward elders were considered responsible for setting a good example for those living outside the urban centre. Ultimately, the session was able to increase the scope of discipline by electing elders in the landward areas of Perth, which resulted in an increase in prosecutions of rural parishioners.

Conclusion

Overall, this investigation into the records of Perth's kirk session, in combination with other contextual records, shows that the session members came from a range of backgrounds, with a variety of occupations being represented. The findings in this chapter support the reputation of Perth as being a 'craftsmen's town'. As demonstrated by the utilisation of recorded marriage banns, many session members were personally connected, conveying the idea that they belonged to a relatively wide network of influential families, with many connections between elders of different backgrounds. Elders were often prominent and active members of their respective guilds. The influence and experience in administering of discipline within their guild that these elders often already had could be utilised by the kirk session to increase their reach and bring action against disobedient craftsmen. For several guilds, evidence has shown that guild members were more likely to be prosecuted for actions relating to their occupation when there were influential members of the same guild acting as elders at the time. A similar correlation is shown with the election of landward elders and increasing prosecution of those living outside the urban centre of the town. The fact that most of this evidence is from the cases of the 1590s rather than earlier, together with the fact that over time, a wider range of crafts were represented on the session and more consistently, also implies that the priorities of

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[130] CH2/521/3, pp. 142-143.
[131] CH2/521/2, f. 109v.

the kirk session changed over time, as the scope of discipline was broadened and membership changed. Therefore, from analysis of various Perth records relating to the eldership, it is evident that the backgrounds and networks of the elders of the kirk session significantly influenced the nature of discipline in Perth.

Chapter 3

Managing Discipline by Offence

Perth's kirk session dealt with a variety of moral offences ranging from forms of sexual immorality, Sabbath breach and verbal violence, which made up the majority of cases, to several other less common offences. Recent historiography has brought forward the concept of a 'Long Reformation' in Scotland, arguing that this was a gradual process extending far beyond the Reformation Parliament of 1560, and, in relation to discipline, arguing that kirk sessions developed over a long period of time.[1] In Perth, there was a gradual increase in the number of offences being heard, so that the nature of kirk session discipline was certainly not the same by the end of the sixteenth century as it had been when surviving records began. This chapter will discuss how the kirk session's approach to discipline developed over time with regard to several different types of offence, as well as some forms of punishment. It will begin by discussing how these offences were pursued and prioritised. While Michael Graham has previously discussed the widening variety of offences pursued by a range of other urban kirk sessions, this chapter will not only consider offences that were added to the kirk session's remit at different points, but will also demonstrate that the disciplining of some other offences declined over time in Perth, while other offences were pursued inconsistently.[2] It will offer some possible reasons for the changing focus of the kirk session, and will consider how and why the frequency of certain forms of punishment changed during this period. In order to fully understand how kirk sessions categorised and prioritised certain types of offence, this chapter will then also examine the level of cooperation between the session and secular burgh court. A number of offences fell under the jurisdictions of both of these institutions, raising questions about the distinctions that were made between ecclesiastical and criminal offences. This chapter will explore the extent to which their membership and areas of authority overlapped, as well as how the session decided how a case would be punished. With these aspects considered, this

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[1] McCallum (ed), *Scotland's Long Reformation*; McCallum, *Reforming the Scottish Parish*, pp. 37-72.
[2] Graham, *The Uses of Reform,* ch. 6.

chapter aims to demonstrate the significant variation which was an important feature of discipline in Perth.

Categories of offences

Perth's kirk session pursued a variety of offences, although in considerably different frequency. The data that follows shows how many cases the Perth session heard, categorised by type of offence. Because this chapter focuses specifically on how the kirk session prioritised certain offences, and not the identity or behaviour of offenders, cases have been counted as numbers of incidents rather than numbers of offenders. So, if two people were accused of fornication this has been counted as one case, as has any group of offenders who appeared together before the session (for example for participating in a play with each other). As certain offences by their nature involved more than one person, to count each offender individually would potentially misrepresent which offences the kirk session particularly focused on.[3] Therefore, while Table 3.1 below counts a total of 1,190 offences, this represents a total of 1,567 suspected offenders who appeared before the kirk session between 1577 and 1600. It should also be noted that the number of offences is slightly higher than the total of 1,146 cases. The difference between the number of cases and number of offences is explained by the fact that on a very small number of occasions, some offenders appeared for more than one offence on the same date. For instance, if an offender was convicted of both fornication and Sabbath breach on the same date, both actions have been counted separately in this table. Cases in which the suspect was accused, but not found guilty or punished, have been included in this total as they were nevertheless pursued by the kirk session – the outcomes of cases involving denials of guilt are discussed in more detail in the final chapter.

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[3] Graham, *Uses of* Reform, p. 77-78 n. 15; McCallum, *Reforming the Scottish Parish,* p. 190 n. 7. While Michael Graham counted each offender separately for his study of several Scottish parishes, John McCallum did not in his study of Fife.

Table 3.1:   Total of Offences, 1577-1600

Offence	Count	Offence	Count
Fornication	529	Unorthodox religious practice	10
Sabbath breach	243	Incest	5
Adultery	83	Drinking	5
Verbal	73	Blasphemy	4
Disobedience to the session	57	Child neglect, abortion, infanticide	4
Marital	43	Religious ignorance	3
Hosting outsiders or offenders	35	Theft	3
Traditional pastimes and festivities	17	Disrupting the church service	3
Unknown	17	Murder	2
Physical assault	15	Witchcraft	2
Negligence of officers	14	Aiding a fornicator's childbirth	2
Prostitution and 'bawdry'	10	Rape	1
Cohabitation	10		
		Total	1,190

As shown in Table 3.1 above, Perth's kirk session pursued a wide variety of offences, with instances of fornication far outnumbering any other type of offence. Some offences were recorded far more often than others, with sexual offences, Sabbath breach and verbal offences making up the majority of the kirk session's disciplinary activity, as was the case in many Scottish parishes.[4] The second most commonly recorded offence at the kirk session was Sabbath breach, which included instances of absence from the Sunday sermon and other religious services such as communion; various other activities, such as working, playing games, and drinking on the Sabbath; and instances of porters allowing people into the town at the time of the Sunday service. Around 40% of Sabbath breach cases were only concerned with absence from the Sunday sermon, a further 13% involved entertainment on the Sabbath, such as drinking and playing football or golf, often at the time of the sermon, and the remainder of cases involved working on the Sabbath day, usually in

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[4] Graham, *Uses of Reform*, pp. 73-125; McCallum, *Reforming the Scottish Parish*, pp. 192-207. Cohabitation has been kept separate from fornication in this table according to the term used in session records, as well as the fact that some entries suggest these were not exactly the same offence. CH2/521/2, f. 49r mentions plans to repair Hackerson's Tower, using fines from 'cohabitants afoir mariage or fornicators'.

addition to absence from the sermon.[5] The category of verbal offences includes 52 cases of slander and 15 of flyting, which have been differentiated as separate, distinct offences by the wording used in the records themselves. A further six verbal offences in the records were not specifically stated as either slander or flyting, but include some threats made towards others. The majority of marital offences tabled involved a couple failing to marry within 40 days of their banns being read, which usually warranted a substantial fine from their cautioner. The dozen or so marital disputes in the records have not been included in the table because punishments were not given in these cases and so they have not been considered as offences, but as a part of the role the kirk session held in reconciling members of the community, as was the case with consistories elsewhere in early modern Europe.[6] The category of traditional pastimes includes a number of activities deemed unacceptable behaviour by the session, such as participating in plays, visiting holy wells, fortune-telling, and ballad singing. While there are relatively few cases of these in the records, most involved a group of people rather than a single offender. One of the other more prominent categories of offence is disobedience to the kirk session, which included a range of actions, including refusing to submit to the discipline of the kirk, failing to make repentance once convicted, failing to present a suspect to the session as requested, and lying or concealing evidence or information from the session. These offences were naturally considered serious by the kirk session and are discussed further in the final chapter in relation to offenders' interactions with the session.

Total offences over time

The proportions of different types of offence pursued in Perth changed noticeably over the late sixteenth century, often in ways which can not be shown to be connected to wider changes to discipline declared by the General Assembly, but which sometimes mirror changes to discipline in other Scottish burghs. While sexual

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[5] CH2/521/2, ff. 57v, 60r, 94r, 97r for examples of the different forms of Sabbath breach.
[6] Todd, *The Culture of* Protestantism, pp. 231-235, 254-257; Karen E. Spierling, 'Negotiating Penance', in C.H. Parker and G. Starr-LeBeau (eds), *Judging Faith, Punishing Sin: Inquisitions and Consistories in the Early Modern World* (Cambridge University Press: Cambridge, 2017), pp. 211-212.

cases were the offences most commonly prosecuted by the kirk session overall, this was not always the case for particular years. In some years, Sabbath breach was the most common type of offence: sometimes, the number of Sabbath breach cases was higher than any year's total number of fornication cases.

Chart 3.1:   Total Cases and Offenders by Year
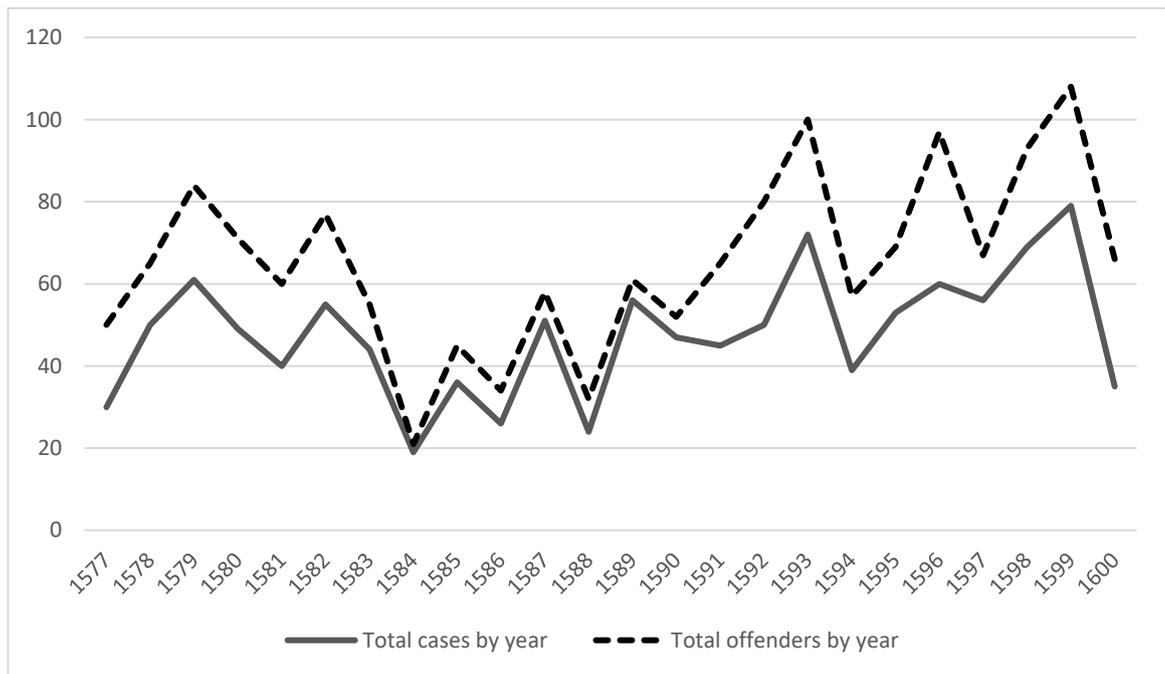
As shown in Chart 3.1, the number of offences prosecuted by the kirk session generally increased over time, rising from an average of 40 recorded cases a year in the 1580s, to an average of 57 recorded cases a year in the 1590s, reaching a peak of 79 recorded cases in 1599. As can be seen from the chart, however, this was not a steady rise in the number of cases. There were declines in some years, and in the late 1570s more cases were pursued than in the early 1580s. Some of these declines have a clear explanation: in 1597, approximately five months' worth of records were damaged and some have not survived, while in 1584–5, a plague in Perth almost certainly caused the drop in cases.[7] Nevertheless, there is an upward trend in cases.

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[7] *PKSB*, pp. 289-307.

The increase in number of offenders who appeared at the session is even more pronounced, with as many as 108 suspects appearing in 1599. Increases in the numbers of cases over time has also been observed in studies of other Scottish parishes, and this appears to have been a common occurrence as kirk sessions became more firmly established.[8] This is very likely to have been the case in Perth. An additional factor in this increase which is specific to Perth is the finding from previous chapters that by the 1590s, the number of elders elected steadily increased. Along with the addition of landward elders, this probably led to more thorough and wide-reaching visitations and investigations into the offences of parishioners. As will be seen, not all types of offences increased in frequency over time. Some became less frequent or even disappeared from the records entirely. Certain offences, such as slander, flyting and adultery, did not have an overall trend of increasing or decreasing, but peaked sharply in particular years. Some of the changes to be discussed were likely to have been a result of the changing priorities of the session membership as well as the wider trend of increasing zeal for discipline in Scotland.

Sexual offences

For most of this period, the most commonly recorded offence by far was fornication. Studies of other parishes in Scotland have remarked on kirk sessions' preoccupation with illicit sexual activity. Fornication made up the majority of cases in many regions, in the sixteenth and seventeenth centuries, although this was not the case in all Scottish parishes.[9] The prevalence of sexual cases has also been observed in some consistories and other church courts elsewhere in Europe.[10] Some studies have considered the reasons for this by focusing on the practicalities of discipline, suggesting that these were easier to prove than some other offences, and that in comparison, offences such as slander were only prosecuted when they had taken

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[8] Graham, *Uses of Reform*, pp. 214-216, 257-258.
[9] Graham, *Uses of* Reform, pp. 281-286; McCallum, *Reforming the Scottish Parish,* pp. 192–193; Stephen J. Davies, 'Law and Order in Stirlingshire, 1637–1747' (Unpublished PhD Thesis: University of St Andrews, 1984), pp. 104-123; Foster, *The Church Before the Covenants*, pp. 75-77, 97-100.
[10] Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge University Press: Cambridge, 1988), pp. 16-20; Philip Benedict, *Christ's Churches Purely Reformed: a social history of Calvinism* (Yale University Press: New Haven, 2004), pp. 473-475.

place in public.[11] As this chapter will show, several types of offence were prosecuted by both the kirk session and the secular burgh court, which may have affected proportions of cases. Others have argued that the fixation on sexuality was a result of both religious and economic factors. Michael Graham has asserted that there was a growing concern of the kirk about the support of illegitimate children in a time of 'diminishing resources and growing population'.[12] He also asserts that sex outside marriage was one offence that both the session and wider community could agree was a serious sin, so the session was on sure ground when pursuing such cases. Graham argues that this focus on sexuality was more a sign that the session lacked confidence to broadly pursue other offences. Other studies, however, challenge these arguments, with some suggesting that parishioners did not actually share the same views on sexuality as the session, particularly with regard to antenuptial fornication, and that in some parishes, illegitimacy was unlikely to have been the key concern, as men were sometimes summoned on their own for fornication.[13] It is possible that this detail was not recorded consistently, and pregnancy was certainly used as evidence in some cases, however cases and acts concerning fornication do not make specific mentions of concerns about illegitimacy, further suggesting that illegitimacy was not the predominant concern.[14]

Instead, many entries in Perth's records relating to sexual offences stress the religious element of the session's concerns, for instance by describing offenders or their behaviour as ungodly or to the 'gret dishonour of god'.[15] This is also the case in the occasional entry where an offender's response was recorded. When Laurence Drummond denied fornication with Jean Browne, who had recently given birth to a child, he is recorded as 'saying god plage him in saull and body give [if] he wes the father of that barne'.[16] Several records note the responsibility of others to report fornicators to the session – for example, an act made in 1584 which ordered masters and mistresses to inform the kirk officer of their servants' fornication, under the pain

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[11] Davies, 'Law and Order in Stirlingshire', p. 103.
[12] Graham, *Uses of Reform,* pp. 283-286.
[13] Leah Leneman and Rosalind Mitchison, 'Girls in Trouble: The Social and Geographical Setting of Illegitimacy in Early Modern Scotland', *Journal of Social History* 21:3 (1998), pp. 484-485; McCallum, *Reforming the Scottish Parish*, p. 210. As the final chapter will discuss, evidence from Perth's records does not indicate that most sexual cases involved a pregnancy.
[14] *PKSB*, pp. 204, 352, 450-451.
[15] CH2/521/2, ff. 57r, 58v, 141v.
[16] CH2/521/3, p. 77.

of a merk fine.[17] An entry from 1582 ordered that the kirk officer was to be rewarded with a portion of fornicators' fines for apprehending them.[18] Because Perth was a very densely populated town, as well as the fact that during this time, living quarters were often shared by many people, sexual offences were unlikely to have gone unnoticed. Furthermore, evidence certainly suggests that parishioners reported those they caught, as some fornication cases note that the offence had been 'cryit out against be the haill nytbors', so it is apparent that there was a certain level of cooperation between the session and community in the pursuing of these offences.[19] Therefore, it is likely that a combination of factors was behind the prevalence of sexual offences, and that these were cases that the kirk could pursue with the confidence that the community would support them, both from a moral and religious standpoint.

In this study, 'sexual offences' includes not only fornication, but the more serious and less commonly recorded offences of prostitution, adultery, incest and rape. On average, sexual offences made up approximately 55% of cases each year, but with a considerable range, with the lowest proportion being 29% of cases in 1588 and the highest being 83% of cases in 1590. Fornication made up an average of 45% of cases a year. As will be seen, however, this variation in the proportion of cases being sexual offences was partly a result of the increases and decreases in the number of other offences, rather than a drastically changing approach to the disciplining of sexual immorality. This is to say that over time, the frequency of sexual offences prosecuted stayed roughly the same, with an average of 31 sexual cases pursued in the 1570s, 25 in the 1580s and 29 in the 1590s. In terms of impact, there has been some difference in opinion about the effect of the session's disciplining of sexual offences. T.C. Smout has argued that while discipline did not reduce rates of sexual offending by much, it would have 'transformed the outward attitude of society', with less toleration of such offences by the community.[20] Geoffrey Parker had previously suggested that the frequency of sexual offences in the parish of St Andrews decreased dramatically in the 1590s, stating that 'improbable though it may seem...a

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[17] *PKSB*, p. 278.
[18] *PKSB*, p. 219.
[19] Leneman and Mitchison, 'Girls in Trouble', pp. 487-488; CH2/521/2, f. 47v.
[20] Smout, *A History of the Scottish People,* pp. 75-76.

genuine "reformation of manners" took place in the burgh'.[21] However, his argument
has since been disputed. In his study of several Scottish parishes, Michael Graham
has given another explanation for this decline in the number of sexual offences in St
Andrews, arguing that by the late-sixteenth and early-seventeenth centuries, some
sexual offenders were disciplined directly by the civil authorities, without mention in
any kirk session proceedings, as well as the possibility that 'as local attitudes
hardened against unwed mothers, they were more likely to flee to more tolerant
locales', therefore also suggesting that there was a change in the attitudes of the local
community towards such offences.[22] This also implies that while the disciplining of
sexual offences was often a focus of kirk sessions, this could vary by region and the
years observed. Considering the sexual cases in Perth's records, there is no evidence
to suggest that the session was successful in changing attitudes towards sexual
offences – partly because most cases include little detail of the circumstances and
give few glimpses of the perspectives of the accused, but also because the frequency
of sexual offences certainly did not decrease by the end of the sixteenth century. In
the 1580s, the kirk pursued an average of 19 fornication cases a year; in the 1590s,
this number slightly increased to 22 cases a year on average. Unfortunately, the
burgh court records of Perth that have survived for this period do not include records
of disciplinary cases, and so it is not possible to tell whether more sexual cases were
dealt with by secular authorities. Nevertheless, it appears that the frequency of
fornication cases stayed relatively consistent over time.

While fornication was prosecuted frequently and at a relatively consistent rate, other
sexual offences were not pursued anything like as regularly. Prostitution, for
instance, was very uncommon in the records, with only nine women appearing
specifically for this offence. The fact that cases of 'harlotry' were rarely recorded
raises the question of whether this type of offence was sometimes simply described
as fornication, although there is no evidence to confirm this. Alice Glaze noted for

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[21] Geoffrey Parker, 'The "Kirk By Law Established" and the Origins of "The Taming of Scotland":
Saint Andrews 1559-1600', in R.A. Mentzer (ed.), *Sin and the Calvinists: Morals, Control and the
Consistory in Reformed Tradition* (Truman State University Press: Kirksville, 2002), pp. 189-190.
[22] Michael F. Graham, 'Social Discipline in Scotland, 1560-1610', in R.A. Mentzer (ed.), *Sin and the
Calvinists: Morals, Control and the Consistory in Reformed Tradition* (Truman State University
Press: Kirksville, 2002), pp. 137-138, 213.

the parish of Canongate that distinctions were made between fornication and prostitution as punishments for prostitution were generally more severe.[23] These cases of suspected prostitution occurred in distinct years, with one case each in 1581, 1582, 1590, and 1596, and two cases each in 1583 and 1598. In addition to these cases, there were two unrelated recorded cases of 'bawdry'– or procuring prostitutes – one in 1585, and another in 1599, and so it is likely that this form of sexual offence was not often a concern of the kirk session, or difficult for the session to identify.[24] Adultery cases were more common, but were also prosecuted inconsistently, with far more cases of adultery in some years than in others.

Chart 3.2:   Number of Offenders Charged with Adultery, 1577–1600
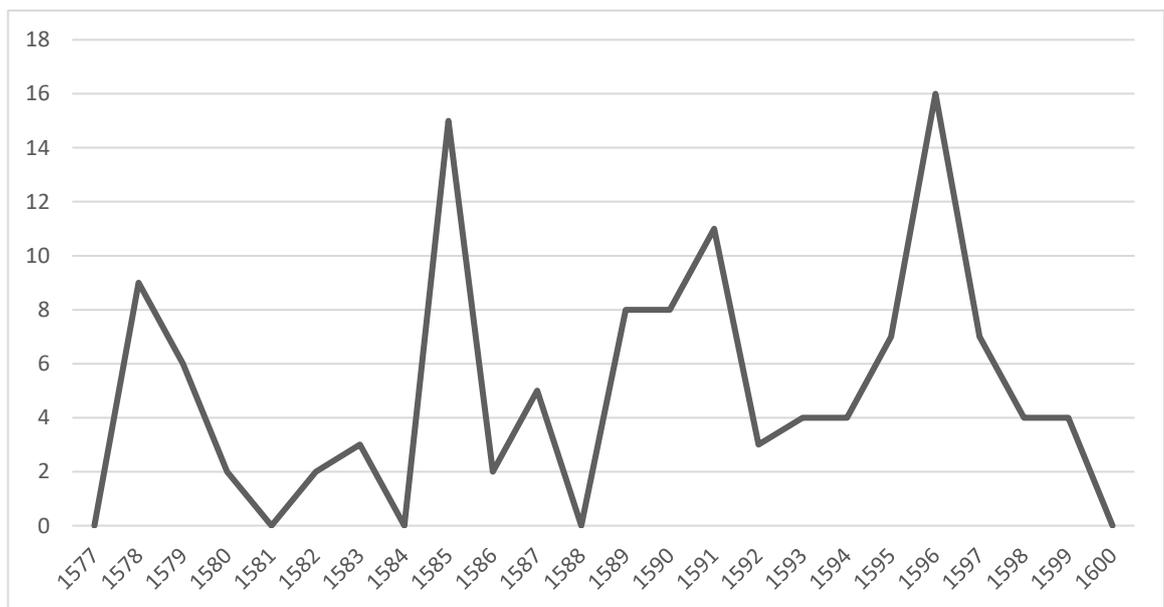
On average, five suspects appeared for committing adultery each year, and as can be seen from Chart 3.2, in some years there were far more than this, with the highest being 16 offenders in 1596, while in several years, no cases of adultery were recorded at all. As can be seen when compared to Chart 3.1, these increases in adultery cases do not generally correlate with overall increases in the total number of

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[23] Glaze, 'Women and Kirk Discipline', pp. 132-133.
[24] *PKSB*, pp. 187, 243, 254, 267, 312, 453-454; CH2/521/2, ff. 150v; CH2/521/3, pp. 13, 36, 64.

cases. The rise of cases in 1585 was probably a result of the plague of that year, as the session became increasingly concerned about the effect of immoral behaviour. Referring to an increase in unusually harsh punishments, Margo Todd has also noted that evidence suggests that the session considered the pestilence as a sign of divine judgement.[25] The increase in 1596, however, can be correlated with an act made by the kirk session at the beginning of that year. It emphasises that previously, instances of adultery had not been taken seriously enough, and that 'the committeris of this sin ar past as it war with litill or na punischment'.[26] In order to rectify this, it was declared that 'everie adulterer or adulteress in tyme cuming sall remane in ward fyftene dayis and 2 doubill the penaltie of fornicatouris thridly thay sall compeir thrie severall merkat dayis on the crocheid [market cross] with a paper [hat, labelling their offence] on thair heidis to ther ignominie', suggesting that the session intended to focus more closely on instances of adultery, which they did for the following year. A few months after this act was declared, the deacon Jhone Andersone was ordered to purchase a large amount of sack cloth and hair cloth to be used for adulterers' gowns during public repentance, again alluding to an increase in the conviction of adulterers, and more specifically, an increase in adulterers receiving this form of punishment, which was considered particularly shameful.[27] As noted above, a few months of 1597's records were badly damaged and some missing, and so the figure for that year is likely to have been higher than is shown. The declaration by the Perth session does not appear to have been a reiteration of an act made by parliament or the General Assembly, as similar entries do not appear in their respective surviving records near the time that this declaration was made, and so it is likely to have been a local initiative of the kirk session.[28] Moreover, the fact that the act places emphasis on how adultery had previously been dealt with by the session, and not that it was being committed more frequently, again suggests a changing attitude by the local session of the time.

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[25] *PKSB*, p. 54-55.
[26] CH2/521/2, f. 141v.
[27] CH2/521/2, f. 144v; Todd, *The Culture of Protestantism*, pp. 143-144.
[28] *BUK*, pp. 420-421. In 1595 there was a brief mention of adultery in relation to unlawful marriages, but it is not the focus of the act.

Traditional celebrations and pastimes

One aspect of discipline that changed significantly over time was the almost complete disappearance of traditional festivities from the records during the 1590s. In the 1570s and 1580s, although they certainly did not dominate session proceedings, there were regular cases involving various traditional celebrations. While fornication was a universal, year-long problem for the parish, participation in traditional celebrations or pastimes was often seasonal, and involved specific groups of people.[29] This was especially the case for one of the most common forms of traditional festivity recorded, namely when groups of craftsmen participated in plays, often around St Obert's Day (the patron saint of baxters) and Corpus Christi. Other offences include parishioners processing around the town, playing pipes and drums and wearing masks, as well as superstitious acts of visiting holy wells, fortune-telling, and May celebrations in nearby Scone, as well as in the 'Dragon Hole', a cave situated across the river Tay.[30] Dancing and ballad singing were also prosecuted, although very rarely.[31]

There are a few possible explanations for the decline in cases of traditional activities. Firstly, by 1590, 30 years had elapsed since the Reformation Parliament and the establishment of kirk sessions in Scotland, and so it may be that the kirk session was able to gradually reduce parishioners' engagement in pastimes they disapproved of. In Scotland, as well as across Reformation Europe, efforts were made to restrict festivity, although there is debate over the extent of the church's effectiveness in this regard.[32] Of course, it is problematic to assume that the composition of offences pursued by the kirk session directly reflected the activities of the congregation. Some recent studies have been sceptical of a profound change in people's practices. Margo Todd has argued that Scottish parishioners continued to observe feast days and

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[29] Todd, *The Culture of Protestantism*, p. 189-193.
[30] *PKSB*, pp. 83-84, 108, 114, 151-152, 182, 183, 373, 434; CH2/521/2, f. 162r.
[31] *PKSB,* pp. 216, 377, 437; CH2/521/2, ff. 49r, 56v.
[32] Todd, *The Culture of* Protestantism, ch.4; Ronald Hutton, *The Rise and Fall of Merry England: the ritual year, 1400-1700* (Oxford University Press: Oxford, 1994), pp. 127-129, 143-146.

superstitious practices well into the seventeenth century, and that Perth was no exception.[33] In church records of other parishes, there is little indication that such activities had declined. Michael Graham has shown that in Aberdeen, traditional customs such as handfast marriages were still present by the late 1570s, and that there was 'little sign that the behavioural ideology of the Reformed kirk had had much effect' by this point.[34] In Ayrshire, Margaret Sanderson has also argued that 'seasonal activities [were] among the most difficult 'faults' to eradicate', and Jenny Wormald has discussed similar difficulties recorded by Stirling presbytery in reducing parishioners' visits to holy wells well into the seventeenth century.[35] Therefore, there is little to suggest that this decline in cases was a result of changes to the behaviour of the congregation.

Another more likely reason for this decline is the changing priorities of the kirk session itself – not as a result of the minister and elders changing their personal attitudes towards these kinds of offences, but because of changes in membership. In November 1591, John Malcolm succeeded Patrick Galloway as minister of Perth, and as touched upon in the first chapter, brought in several new acts and changes to the nature of the kirk session. Interestingly, Malcolm is known to have placed little importance on the prosecuting of superstitious practices. On one occasion that has been noted in some other studies in relation to religious culture, he recalled recurring criticisms from his fellow minister William Cowper (who arrived at Perth in June 1595), for not visiting parishioners' houses at Yule to ensure they were not celebrating with a feast.[36] In the years he served alone as minister, there is only one recorded case that may fall into this category – of a woman singing bawdy songs – but even then, she was only given a warning and it is not specified that the offence was considered superstitious.[37] Putting the date of Malcolm's arrival and this contextual evidence on his views together, it is therefore likely that this change in

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[33] Todd, 'Profane Pastimes and the Reformed Community', pp. 136-149.

[34] Graham, *The Uses of Reform*, pp. 122-124.

[35] Sanderson, *Ayrshire and the Reformation,* p. 136; Wormald, 'Reformed and Godly Scotland?', pp. 210-211.

[36] Todd, *The Culture of Protestantism,* p. 222; Ryan Burns, 'Enforcing Uniformity: kirk sessions and Catholics in early modern Scotland, 1560-1650', *The Innes Review* 69:2 (2018), p. 120. The extract is taken from NLS MS Adv 31.1.1a, James Scott's transcription of the 1620-31 Perth kirk session books.

[37] CH2/521/2, f. 56v.

discipline was at least partly caused by the changing membership of the session. However, Malcolm's arrival does not explain the decline in cases completely. Certain festivities ceased to appear in the kirk session records even before his arrival in Perth and cannot be correlated with the preceding ministers' terms. The last time an incident of a participation in a play appears in the records was in March 1588, when six men were convicted, for which they were fined 20s along with a sentence of public repentance.[38] One explanation for this decline in cases is that around this time, turnover of elders on the session was particularly high. In October 1588, the eldership of the session had a 100% turnover rate, and five of the 12 men elected had not been a session member before. During this election year, a number of acts were recorded in the minutes. One, which was mentioned briefly in the previous chapter in relation to baxters, shows a significant reversal of the session's attitude towards festivities. It stated that the minister and elders gave licence for a play to be performed, as long as it involved no swearing or indecent behaviour.[39] The fact that this act allowing plays, which had never been declared before in Perth, coincided with a considerable change in the membership strongly suggests that the new eldership took a much more lenient view of these types of festivities. None of the other acts declared within this election year related to superstitious or festive practices – most of them reflected concerns about Sabbath observance, beggars and outsiders coming into the town, as well as women's immoral behaviour.[40] Moreover, the fact that this act is the last time in the sixteenth century records that plays are mentioned may suggest that this was not a one-off allowance for that year, and therefore that parishioners did not cease to perform plays, but that they continued this practice with the consent of the session. Therefore, it appears that the changing eldership, reinforced by the appointment of a minister who did not consider these forms of offence worth pursuing, were largely the cause of this changing aspect of discipline. The session's records do not give an explicit reason why they decided to change their approach. It seems likely that they considered other offences a greater priority and chose to devote more attention to those. This is not to say, however, that the session of the 1590s had no interest whatsoever in prosecuting traditional festivities – although a different form of festivity to plays, in March 1592, a

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[38] *PKSB*, pp. 391-392.
[39] *PKSB*, p. 418.
[40] *PKSB*, pp. 403, 405, 406, 409, 413, 415-416, 422-423.

declaration was made warning parishioners not to celebrate Yule, although no convictions were subsequently made.[41] Nevertheless, there are clear correlations between the decline of prosecutions for this type of offence and the changing membership of the session.

Sabbath breach

The second most common offence during the period studied here was Sabbath breach, for which 350 offenders appeared during this time. Some studies have considered the importance placed on Sabbatarianism as a central element of Presbyterianism, using this as an explanation for the prevalence of Sabbath breach cases in kirk sessions across Scotland.[42] There has been some criticism of this association, with others noting that importance was placed on Sabbath observance prior to 1560, and could be similarly valued by Episcopalians.[43] Michael Graham has further argued that proper Sabbath observance was an important indicator of parishioners' engagement with the Reformed kirk.[44] According to Margo Todd, incidents of Sabbath breach were considered very serious as indicated by the prevalence of such cases and sabbath observance was considered 'the principle mechanism for establishing the new culture of protestantism'.[45] Ryan Burns has suggested that those who frequently committed Sabbath breach by absence from the sermon fell under suspicion of Catholic belief.[46] Correct Sabbath observance was an imperative: it ensured that the congregation engaged with Reformed teachings while ruling out practices such as visiting markets and celebrating on Sundays, which had previously been permitted under the Catholic church. When the baxter William Williamson appeared for 'baking & selling great loavis' on the Sabbath day, his act was described as 'sklanderous and a superstitione in the hartis of the ignorant'.[47]

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[41] CH2/521/2, f. 59r.
[42] Smout, *A History of the Scottish* People, pp. 77-80; R. Douglas Brackenridge, 'The Development of Sabbatarianism in Scotland, 1560-1650', *Journal of Presbyterian History* 42:3 (1964), pp. 152-155.
[43] David George Mullan, *Scottish Puritanism, 1590-1638* (Oxford University Press: Oxford, 2000), pp. 135-138; McCallum, *Reforming the Scottish Parish*, p. 70.
[44] Graham, *The Uses of Reform*, pp. 91-93.
[45] Todd, *The Culture of Protestantism,* pp. 33-34.
[46] Burns, 'Enforcing Uniformity', p. 119
[47] CH2/521/2, f. 166r.

Perth's kirk session clearly had both of these concerns in mind at points, with many convicted Sabbath breakers told that they must strive to come 'to the heiring of the word & to mak mor conscience of the exercis of religione', as well as declarations referring to attempts to prevent Sunday markets, particularly when traditionally festive days fell on a Sunday.[48] Offences of Sabbath breach accounted for another of the most notable changes to discipline in the sixteenth century. The sharp increase in cases of Sabbath breach occurred at roughly the same time as the decline in cases of traditional festivities discussed above. Before 1587, incidents of Sabbath breach were barely pursued by the session, and it was in this year that the term 'Sabbath breach' first appeared in the records.

Chart 3.3: Cases of Sabbath breach by Year
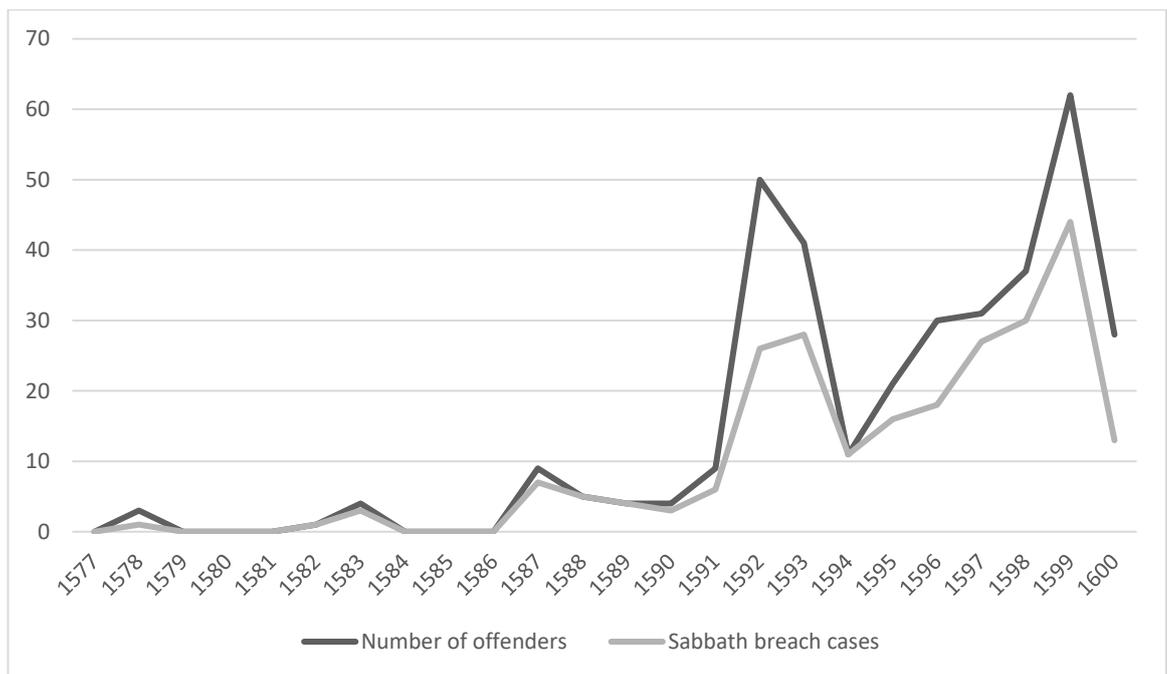
As can be seen in Chart 3.3, in most years before 1587, no cases of Sabbath breach were recorded. Following 1587, and particularly over the 1590s, there was a drastic increase in recorded instances of this offence, in some years overtaking fornication

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[48] CH2/521/3, p. 165; CH2/521/2, f. 77v, for example, when it was noted that Midsummer fell on a Sunday that year, and the session requested the bailies to prohibit a market taking place.

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There are two sharp spikes in Sabbath breach cases. One, in 1592, when 50 people were convicted in 26 cases, correlates with the appointment of the minister John Malcolm who, as noted above, had a different approach to discipline. Within months of his arrival in Perth, several acts were declared in the records concerning the congregation's behaviour. One from March 1592 ordered visitations of the town's taverns during preaching, noting that many parishioners went there instead of going to hear the sermon.[51] A few weeks earlier, a declaration lamented the existence 'off greit and mony enormeteis off dyvers fameleis and particular howsis' within the town, announcing that every household was to be visited 'within this burgh off perth for ther reformation and information in godlines', with the specification that these households were to be informed of the importance of prayers and psalm-reading each morning and evening.[52] Clearly, the session of 1592 was especially concerned with the education of its congregation, which would explain the increasing drive to curb Sabbath breach, in order to ensure that parishioners were hearing the sermon. This is likely to have been the main priority in the disciplining of Sabbath breach in general, as the majority of cases involved absence 'from the heiring of the word'.[53] This is supported by yet another declaration in July 1592, which complained that few had been attending the Thursday sermon, and that the minister would intimate this from the pulpit at the next Sunday sermon, as well as another from December 1591, which introduced Saturday morning prayers in addition to these preaching days.[54] Leah

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[49] *RPS,* iii 138, c. 8, at https://www.rps.ac.uk/trans/1579/10/23 [accessed 3 April 2019]; *BUK,* pp. 146, 151, 199, 247-248.
[50] *PKSB*, pp. 366-367.
[51] CH2/521/2, f. 59r.
[52] CH2/521/2, f. 58v.
[53] CH2/521/2, ff. 83r, 109r.
[54] CH2/521/2, f. 55r, 64v.

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[51] CH2/521/2, f. 59r.
[52] CH2/521/2, f. 58v.
[53] CH2/521/2, ff. 83r, 109r.
[54] CH2/521/2, f. 55r, 64v.

Leneman has argued that approaches to disciplining Sabbath breach varied across parishes in several ways, from frequency of visitations to views on specific activities on the Sabbath. She suggested that this caused regional differences in the number of Sabbath breach cases pursued, which implies that the views of individual sessions impacted on the disciplining of Sabbath breach.[55] For the other sharp rise of cases in 1599, when 62 people were convicted in 44 cases, there is not an obvious explanation for the significant increase in cases. The increase in the prosecution of Sabbath breach does share similarities to other parishes around the same time. Michael Graham has noted that in St Andrews, there was a sharp increase in Sabbath breach cases in 1594, which he argues was a result of 'the installation of a sympathetic burgh regime', along with the appointment of a new minister in 1590.[56] Leading on from this, John McCallum has noted a rise in prosecutions of Sabbath breach in St Andrews following the appointment of George Gladstanes as minister in 1597.[57] Therefore, while changing membership of Perth's session was an important factor, this can also be seen as part of a broader shift in approach by the kirk session to the enforcing of discipline.

During this time, the particulars of punishment for Sabbath breach also changed, placing more emphasis on matching the punishment to the severity of the offence. Of the few who were convicted of absence from sermon before 1587, two were admonished not to repeat their offence, and some others were fined 6s.[58] By the 1590s, most Sabbath breakers were fined either 10s, a merk, or 20s, along with having to make public repentance.[59] This punishment was closer to the 1579 Act of Parliament regarding Sabbath observance, which stated that those found 'handy labouring' should be fined 10s, while those selling food and drink, playing games or missing the sermon should be fined 20s.[60] Continual Sabbath breakers could be fined more than this, with James Bisset threatened with a fine of 10 merks.[61] It should be noted, however, that the session could be quite flexible in punishing Sabbath breach

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[55] Leneman, '"Prophaning" the Lord's Day', pp. 221-226.
[56] Graham, *The Uses of Reform,* pp. 215-216.
[57] McCallum, *Reforming the Scottish Parish*, pp. 49-51.
[58] *PKSB*, pp. 99, 259
[59] CH2/521/2, ff. 82v, 85r, 87r, 169v; CH2/521/3, p. 112.
[60] *RPS,* iii 138, c. 8, at https://www.rps.ac.uk/trans/1579/10/23 [accessed 8 March 2019].
[61] CH2/521/3, p. 35.

at this time, with a number of parishioners receiving a lessened or no punishment for their offence, usually because it was their first fault and they had shown remorse for their actions. For example, when one baxter ground wheat on the Sabbath, his punishment was reduced to a fine of half a merk, 'becaus he is no malicious nor common breker of the Sabboth'.[62] Another difference is that the few cases which can be counted as Sabbath breach before 1587 all concern acts of absence from the sermon, and none of any other activity such as working, drinking or playing on the Sabbath. This is despite the fact that Acts from the early 1580s prohibited these activities as well, and so this change in the nature of discipline may be related to the increased visitations of the town on the Sabbath day.[63] Overall, there was a significant shift in the disciplining of Sabbath breach during this time period.

Verbal and physical offences

Other types of offence pursued by the kirk session were actions of verbal and physical assault. The vast majority of these were either described as 'slander' or 'flyting', and in this study these cases have been classified according to the word used in the records. There has been some debate over the exact meaning of the two terms 'slander' and 'flyting', and what distinction was made between these offences. Elizabeth Ewan has suggested that there was no firm distinction made between slander and flyting, noting that the terms were sometimes used interchangeably in court records, and that flyting could be used to mean slander.[64] On the other hand, Margo Todd has argued that kirk sessions considered them two wholly separate offences. She has considered flyting as similar to scolding, stating that it was usually a mutual offence – an instance of two or more people exchanging insults, generally in a public place such as the street or marketplace.[65] Perth's records support this view to an extent: the records indicate that the terms 'slander' and 'flyting' usually referred to separate offences in Perth, although the nature of 'flyting' was slightly different from that put forward by Todd. In Perth, 'flyting' almost always applied to

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[62] CH2/521/2, f. 152v. CH2/521/2, 124v, 131v-132r for some other examples.
[63] *PKSB*, pp. 183-184, acts made in April and May 1581.
[64] Ewan, 'Many Injurious Words', p. 164.
[65] Todd, *The Culture of Protestantism*, pp. 235-236.

the act of a person hurling insults against a neighbour in public. For example, in April 1597, Margret Murdoch and Margret Weddell were convicted for 'ther flyting and prophane spechis utterit be them against utheris upon the common streit'.[66] However, in Perth it was rare for both parties to be found culpable, as in 86% of flyting cases, only one of the involved parties was convicted and punished. Sometimes, the second party in a flyting case was not even named. Moreover, the language used in records also suggests that those involved were not mutually responsible, and a distinction was made between the perpetrator and the victim of the abuse. For instance, in June 1589, when Janet Watson was convicted of flyting, the incident was described as all 'that was done be Janet Watson to John Rynd'.[67] Similarly, when Bessie Kinglassie was convicted for flyting with her sister in March 1587, it was declared that in the future 'if any occasions of her towards her sister or her sisters towards hir' of flyting occurred, they would be punished accordingly.[68] It appears then, that the Perth session considered one party to be the instigator of the incident, and therefore culpable.

Slander, on the other hand, could take place either in private or in public, and was often a more serious targeted attack, involving defamation of a person's character. For example, in November 1593, James Donning was convicted of slandering Henry Adamson. He had fixed libellous writing defaming Adamson onto the doors of the kirk on the day of the communion. The session records that he had done this with 'malicious intention', to make Adamson 'be abominabill both in the hartis and befoir the eyis off all men & women' attending that day.[69] A common feature in slander cases involved making false accusations more specific than mere insults. For instance, in November 1589, John and Helen Watson accused their neighbour of being a witch. After several witnesses defended her, saying she was an honest woman, they were found guilty of slander.[70] Similarly in August 1598, Jhone Kilbride was summoned for slandering Patrick Jaksone, who alleged that Kilbride had falsely accused him of stealing. He noted the damage this accusation had had,

[66] CH2/521/2, f. 170v.
[67] *PKSB*, p. 419.
[68] *PKSB*, p. 362.
[69] CH2/521/2, ff. 101r-101v.
[70] *PKSB*, pp. 431-432.

causing 'gret defamatione of his persone' and his position 'bering a publick & commone office'.[71] These examples illustrate how slander tended to be a calculated attack on an individual's standing in the community, compared with the less specific sort of verbal assault inflicted through 'flyting'. As will be discussed in the next chapter, concepts of slander and flyting appear to have had a gendered element to them, with most cases of flyting involving women, and most slander cases involving men. Unlike some of the offences discussed here, the prosecution of verbal and physical offences was far less consistent, with no general increase or decrease in the total of these cases.

Chart 3.4:   Verbal and Physical Offences by Year
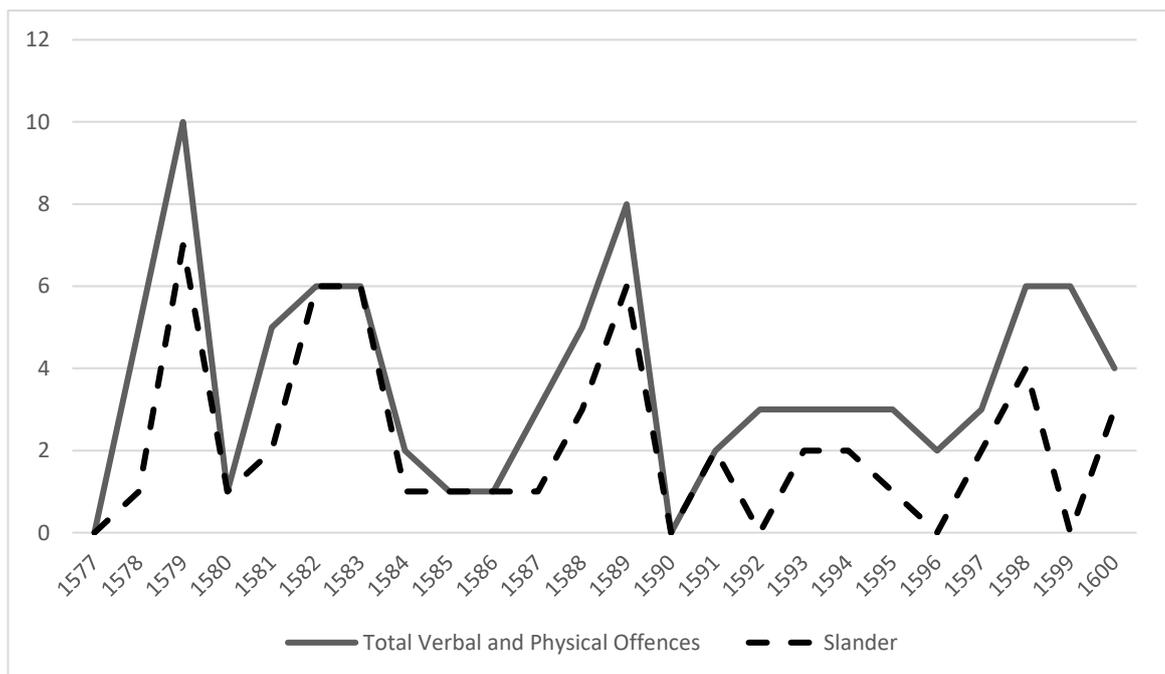
As can be seen in Chart 3.4, the prosecution of verbal and physical offences was very inconsistent, with sharp increases in some years, while no cases were pursued at all in others. Moreover, the session only pursued 3.5 such cases a year on average – 7% of the total annual average – which seems to be a very low proportion, and

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[71] CH2/521/3, p. 43.

unlikely to reflect parishioners' behaviour. In contrast, the kirk session of Canongate prosecuted around six times more such cases per year, accounting for roughly 27% of cases convicted there.[72] Meanwhile, other urban parishes such as Edinburgh and Aberdeen appear to have had an even lower proportion of slander and physical assault than Perth, showing a wide variation in the practice of discipline across Scotland.[73] These types of offences in general were not as great a priority for Perth's session as some others. However, it does appear that certain circumstances made particular instances of physical and verbal assault of more interest to session members. By using a combination of information taken from these cases, along with analysis of the marriage banns of the session members, this study can reveal that more than half of verbal and physical offences pursued by the kirk session involved a some time session member or a close contact of one. Out of 69 cases of slander, threats and physical assault between 1577 and 1600, 23 involve a some time session member, and another 12 involve a person closely connected to a session member. This includes wives and widows of session members, and those shown to be close to a session member by marriage banns. By the 1590s, this proportion rises to at least 62% of slander, threats and physical assault cases involving a session member or a person closely connected to a session member. This rate could be even higher in specific years. For example, between 1594 and 1596, there were three cases of slander, and four cases of physical assault recorded by the session. In six of these seven cases, the victim had been a session member at some time, and four were current session members at the time of the case. Several wives and widows of session members, including a minister's wife, were also defended by the session.[74]

Unfortunately, very few of these cases give any detail about what had actually occurred. Chris Langley has suggested that in seventeenth-century Scotland, the most common form of slander against elders was criticism of their suitability for the role, as parishioners had high expectations of session members.[75] In Perth, there is little evidence that this was the most prevalent theme of slander. A few cases mention backlash from being disciplined. For example, in 1598, 'Thomas

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[72] Graham, *Uses of Reform*, pp. 98-100.
[73] Graham, *Uses of Reform*, pp. 110-120.
[74] *PKSB*, pp. 124, 197, 200-201 for some examples.
[75] Langley, 'In the Execution of His Office', pp. 506-508.

Hendersone wes also found drinking with the afoirsaid persones drinking in tyme of preching and being rebukit be Robert Mathow elder for prophaning of the Sabboth he reprochit him'.[76] This was not the first time Mathow had faced backlash – he was slandered by a fellow merchant in 1594, and again in 1595, when merchant William Hamilton was 'accusit first for brek off the Sabboth last being a day apointit for celebratione off the halie communion and that be trafiqueing the mercat off Stragaith secondlie for traducing off Robert Mathow elder'.[77] In an unrelated visitors' report from 1599, it was declared that the officer James Young had been found drinking during the sermon, and 'being bestly drunken he invadit Georg Macgregour [an elder] with ane drawin sword', for which he was to make public repentance barefoot and in linen cloth, to mark the severity of his offence.[78] Cases like this illustrate how some offences of slander and assault may be understood as perceived forms of disobedience against the session. Not all cases appear to be motivated by negative reactions to discipline. In 1593, Geils Fell was found guilty of the slander of elder John Pitcairn, having given 'ongodlie sklander & fals accusationes against the said Jhone' both publicly and privately.[79] It is not recorded what these accusations were, but she had previously appeared at the session as 'ane that heiris not the word' and a receiver of beggars, and this assault on an elder is likely to have been viewed as a further act of defiance.[80] In an intriguing case, Thomas Talyeour appeared for 'invading Antone Maxtone', who would later be elected as an elder.[81] His response to the charge was that 'he invadit the said Antone becaus of befoir he had hurt him to the effusione of his blud', implying that his actions had been either defensive or in revenge. While the session declared the case would be continued, there is no further record of it. Bearing in mind that in Perth, incidences of outright recusancy were very rare and not a great concern for the session, it is feasible that these offences were considered as some of the more present, active forms of serious disobedience committed by Perth's congregation, and therefore were more of a priority for the session than other forms of slander and assault.

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[76] CH2/521/3, p. 17.
[77] CH2/521/2, ff. 119r-119v.
[78] CH2/521/3, p. 72.
[79] CH2/521/2, f. 80v
[80] CH2/521/2, f. 51.
[81] CH2/521/2, f. 145.

The kirk session did not only seek to defend their own members and personal contacts, but also prosecuted several of them for these offences. This includes elders being convicted of slander, such as John Peblis in 1583, but also their close relatives.[82] For example, the week before John Peblis' conviction, Isobel Wenton was found guilty of slandering three women.[83] She was a relative of skinner elder John Wenton, and in a later entry he acted as caution that she 'leif in peace with hir neibouris, especiallie with Walter Eldar [a skinner elder] and his servanddis'.[84] Two weeks later, Jean Thornton, wife of an elder, slandered the minister's fiancée.[85] It is apparent that the session considered themselves to be appropriate to judge those within their own networks, and were not necessarily averse to disciplining them. The fact that such a significant proportion of these cases were of personal interest to the session suggests that discipline was affected by the backgrounds of the session members. As this chapter will show, slander and physical assault were offences that were pursued by both the kirk session and burgh court, and these connections to session members were likely to be factored into decisions as to where these cases appeared.

Recusancy and ignorance

Religious heterodoxy was never a common form of offence recorded by Perth's kirk session, who were far more active in disciplining acts of sexual immorality. This is in contrast to the numerous declarations recorded at the General Assembly that placed utmost importance on the disciplining of recusancy or papistry.[86] As noted in the introduction to this thesis, Mary Verschuur has argued that the community of Perth was likely to have been more receptive to the reformation of religion than had been the case in other areas of Scotland, particularly as a result of the structure of society. She argues that as Perth was a town characterised by its craftsmen, a group

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[82] *PKSB*, p. 253.
[83] *PKSB*, p. 252.
[84] *PKSB*, p. 305.
[85] *PKSB*, p. 253.
[86] *BUK*, pp. 90, 133, 198, 223, 235, 303, 328, 330-331, 358, for some examples.

already 'clamouring for change' in society, the notion of spiritual equality was particularly appealing.[87] Moreover, the session themselves considered Perth to set a good example of Reformed godliness to others, with references to the town as a Reformed burgh and as setting a standard for others to follow.[88] While this was so, Perth's kirk session was not unique in its lack of cases involving heterodoxy or recusancy. John McCallum has noted a similar absence of such cases in the parishes of Fife, which he argues 'reflects very well on a church which was facing very little open opposition', and T.C. Smout has suggested that the kirk faced little threat from Catholicism in urban areas.[89] In her study of Ayrshire, Margaret Sanderson has noted only 'scattered instances of adherence to the old faith' by the 1580s.[90] While she does note in her article that there were regional variations in pursuing recusancy, she has argued that the general level of recusancy was minimal and that kirk sessions sometimes exhibited some tolerance towards those they suspected.[91] Other studies have previously noted the difficulty in evaluating the religious beliefs of ordinary parishioners, as few sources were written from their perspective, and it is unlikely that kirk session records are a reliable source of evidence for parishioners' views.[92] While this is not to say that heterodoxy may have been less rare than kirk session records suggest, it is probable that this kind of offence was more difficult to investigate than offences which were more noticeable, such as absence from the Sunday sermon or the pregnancy of an unmarried woman. Offences of recusancy were evidently investigated: in an entry from January 1587 reference is made to a former priest who had kept hold of his vestments and books, as well as a collection of 'buikes of idolatrie' having been discovered, for which the owner was presently imprisoned in the Spey Tower.[93] While few and far between, those cases involving heterodox beliefs or practices, ranging from outright refusal to accept the Reformed doctrine to witnessing an illegal baptism, were taken very seriously by the session, but the offenders were not considered to be beyond redemption. In 1594, two men and two women appeared, confessing to witnessing the baptism of a child born out

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[87] Verschuur, *Politics or Religion?,* pp. 71-73.
[88] *PKSB*, p. 385; CH2/521/2, f. 59r.
[89] McCallum, *Reforming the Scottish Parish,* pp. 202-203; Smout, *A History of the Scottish People*, pp. 70-71.
[90] Sanderson, *Ayrshire and the Reformation*, p. 124.
[91] Margaret H.B. Sanderson, 'Catholic Recusancy in Scotland in the Sixteenth Century', *The Innes Review* 21:2 (1970), pp. 105-106.
[92] Sanderson, *A Kindly Place?,* pp. 155-157.
[93] *PKSB*, p. 355.

of adultery. It had taken place in the medieval chapel of St Catherine and was performed by a former minister who had been 'depryvit fra all office off the halie ministerie'.[94] The session, considering this a 'verie wechtie' matter, ordered them to come to their public repentance in sackcloth, barefooted and barelegged, to stand at the door before giving 'a publick confessione off thair hainous falt', under the pain of excommunication. The only parishioner excommunicated for papistry in the records, Andro Trumpet, had been given many chances to renounce his beliefs, and a year after his excommunication, he was given another opportunity to make a confession of faith.[95] However, 'the artikles of religion being red unto him, [he] refusit to subscryve the samyn', and so he was referred to the bailies.[96] The session continued, however. Three years later, it was agreed that the minister was to 'confer with Andro Trumpet prively and asailye [ascertain] gif he will turne fra his godles opinion of papistrie'.[97] While these offences were clearly deemed serious, the session did not consider offenders unable to change, and endeavoured to bring them to repentance.

Aside from those who actively refused to conform to the kirk's teachings, some parishioners were simply ignorant of the faith. There are a few entries in the records in which a person was prosecuted for ignorance of religion, and those that were recorded generally do not involve a standard punishment. In one entry from March 1582, Bessie Glass appeared 'accusit first of ignorance of the principallis in religion', for which she was to attend 'every day ane hour befoir nun heiring the examination publict in the kirk in the rudimenttis of religion and so to learn', as well as to attend preaching twice on the Sabbath.[98] As discussed earlier in this chapter, by the 1590s, there was an increasing level of importance placed on the religious education of the congregation, with several declarations made regarding instruction, catechesis and examinations of all parishioners. One act from July 1595 stated that despite the fact that up until then, all parishioners underwent a yearly examination, some were still ignorant of their religion, and so special measures were to be taken.

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[94] CH2/521/2, f. 112r.
[95] *PKSB*, pp. 88, 122.
[96] *PKSB*, p. 158.
[97] *PKSB*, p. 253.
[98] *PKSB*, pp. 215-216.

It declared that examinations were to take place more often 'that all may be instructit & cathecisit'.[99] In September 1596, another declaration was made emphasising the importance of catechesis in addition to preaching from the pulpit, ordering a weekly examination of all families in the town and surrounding landward area, so:

> 'that thay may know quhat profeit & progress thair pepill makis in christianity...and also that the pepill of god heir amang us maybe stenthenet and armit against the fals doctrine of the instrumentis of Sathan quho gois about... to subvert or then to corrupt the puritie of the evangell of jesus chryst and his blissit quhilk...we halbe brukit & injoyit thir yeiris bypast with sik peace and libertie as no natione besyd dois for the present'.[100]

While this act highlights an underlying concern for religious heterodoxy, this was not met with any increase in the low numbers of parishioners who were accused of related offences. Only two cases in the 1590s refer to suspicion of unorthodox religious beliefs. In 1595, when accused of travelling to Spain and participating in a Catholic mass, Alexander Lowrie denied the accusation, explaining that he had travelled to Portugal on business and had not involved himself in any of the religious services whilst there. Taking this into account, the session decided that he would not be punished, but that 'he suld be admonischit nocht to travell to thos partis agane except that thay wer utherwys reformit in religione'.[101] As seen with the session's flexibility in punishing Sabbath breach, it appears that if the parishioner in question did not resist the kirk's teaching outright, then the session intended to encourage them to reform their behaviour rather than deter misconduct through punishment.

Hosting offenders or outsiders

While cases of papistry and other forms of religious unorthodoxy were rare throughout the sixteenth-century records, one other offence was a cause for concern in certain years. There are 35 instances recorded in the minutes of parishioners harbouring individuals who were not welcome in the town. This included convicted fornicators, as well as thieves, beggars, and those who had been excommunicated.

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[99] CH2/521/2, f. 126v.
[100] CH2/521/2, f. 158r.
[101] CH2/521/2, f. 139r.

Although there were usually only a few such cases each year, there was a slight increase in cases in the 1590s. More importantly, in the mid-1590s, there was a shift in the nature of these offences. Before 1592, roughly three-quarters of cases involved parishioners hosting female fornicators, who were often pregnant, as well as a few excommunicated adulterers, and one 'avowit papist and Jesuit excommunicat' in 1588.[102] After 1592, while those who received fornicators did still appear, more than half of cases of hosting outsiders concerned parishioners who had received excommunicated papists into their homes.[103] One factor in this shift is likely to have been the wider concerns about Jesuit infiltration in Scotland, as expressed by the General Assembly in the late 1580s, and by Perth's session in 1587.[104] The changing focus also raises the question of whether the session had previously been reluctant to pursue such cases, particularly as the papists in question were always men of high social standing, such as the Earl of Angus, and various Catholic lairds.[105] As will be discussed in Chapter 4, the cases of lairds being prosecuted by the session began to appear in the records at around the same time. That this shift occurred in Perth in 1592 is likely to have been related to the addition of landward elders to the session in October 1592, at least one of whom was a laird himself, and other landward elders who certainly came into frequent contact with lairds, as can be seen from various burgh records and registers of deeds.[106] It appears then, that as the session became further established, their expanding eldership was more able deal with these concerns and pursue cases involving these social groups.

Changes to punishments: excommunication

The change in the frequency of particular offences was not the only aspect of discipline that changed over time. While around 43% of cases do not have the punishment recorded, often with the generic statement that the offender 'submitted

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[102] *PKSB*, p. 191, 332, 390, 404 for some examples.
[103] CH2/521/2, f. 93v, 162r; CH2/521/3, pp. 54, 132, 133, 152.
[104] MacDonald, *The Jacobean Kirk*, p. 39; *PKSB*, p. 383.
[105] CH2/521/2, f. 93v.
[106] CH2/521/2, f. 107v for the election of Colin Eviot, laird of Balhousie, located in the north landward of Perth. PKCA B59/8/3, f. 264v for north landward elder Patrick Auchinlek acting as surety for the laird of Balhousie in a financial record; B59/8/4, f. 235r for south landward elder Thomas Oliphant's connections with the laird of Craigie, to give some examples.

themselves to the discipline of the kirk', nevertheless, the administering of certain punishments also shifted. The most obvious change was the drop in the number of offenders who were excommunicated. While Perth's kirk session had never commonly prescribed this punishment, as was similar to other kirk sessions across Scotland, of the seven recorded excommunications between 1577 and 1600, six occurred before 1586.[107] In her discussion of Patrick Galloway, who was minister of Perth in 1581–84 and again from late 1585-91, Mary Verschuur noted that he only excommunicated one offender in his time at Perth. She uses this fact to support her argument that he was a key figure in spreading Calvinism in the town, and that the number of offences that warranted excommunication actually declined because of his success in improving the behaviour of parishioners during his time as minister.[108] Another potential explanation for this change would be that after the formal establishment of presbyteries, the kirk session was more likely to refer cases that warranted such a serious punishment. It is certainly the case that the 25 offenders who were referred to the presbytery in this time period had committed what the session considered to be highly serious offences, such as adultery, incest and disobedience to the session.[109] However, there is only one example of a referral to the presbytery of a case where a sentence of excommunication was being considered, and this was a very unusual case the session was not accustomed to dealing with. Thomas Peblis, who in 1598 had murdered a former elder, was referred to the presbytery after the victim's wife had requested that the session excommunicate him.[110] Of the 24 other offenders who were referred to the presbytery in this time period, there is no indication that the session thought them worthy of excommunication – in fact, several instances suggest the opposite. For instance, when Henrie Talyeour confessed to adultery in September 1599, he was ordered to present himself at the next presbytery meeting 'to receive his injunctiones concerning the forme of his repentance'.[111] Similarly, when Piter Balmanno confessed to adultery in February 1598, it was noted he had submitted himself to the

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[107] Graeme Murdock, *Beyond Calvin: the intellectual, political and cultural world of Europe's Reformed churches, c. 1540-1620* (Palgrave Macmillan: Basingstoke, 2004), p. 89, 97; *PKSB*, pp. 86, 122, 146, 161, 269, 390.
[108] Verschuur, 'Enforcing the Discipline of the Kirk', p. 234.
[109] *PKSB*, pp. 101, 110, 122, 142-143, 211, 224, 226, 307, 410, 454; CH2/521/2, ff. 55v, 82r, 112v-113r, 114r, 132v, 154r; CH2/521/3, pp. 5, 16, 21, 28, 38, 40, 108.
[110] CH2/521/3, p. 28. The murdered man was Henry Adamson, who had served as an elder in the 1580s.
[111] CH2/521/3, p. 108.

discipline of the kirk, and 'promesit to performe quhatsoever the sessione wald injoine', before being referred to the presbytery for his sentencing.[112] In addition to this, it should be noted that the kirk session was not required to refer excommunicants to the presbytery, and that this was more than a decade before bishops became involved in decisions on excommunication.[113] Therefore, it does not seem likely that this change in sentencing was a result of increased referrals to the presbytery.

Another potential reason for this decline in excommunications is that fewer parishioners waited until their final warning before excommunication to come forward and agree to submit to the kirk. In general, excommunication as a punishment was very much a last resort, when repeated attempts to convince offenders to make repentance or renounce their behaviour had already failed. In the 1590s, 13 offenders were threatened with excommunication, but were not subsequently excommunicated. This included those who followed the session's warning that they would be excommunicated if they reoffended, as well as those who had received formal admonitions before excommunication, but submitted to the discipline of the kirk before the sentence was carried out. For instance, when in November 1598, Thomas Lamb received a third and final admonition before excommunication for his multiple offences of violence and threats towards session members, breaking out of gaol, and failing to appear when summoned, he quickly appeared to confess, and to declare:

> 'that he is sorie that he hes committit sic offencis and be them has given sclander to the congregatione and for thir faltis committit be him he is content to satisfie both the counsell and sessione and ernestly cravit for godis caus that the sentence of excommunicatione be not pronuncit aganst him as he deservit'.[114]

The number of offenders threatened with excommunication stayed roughly the same throughout this time period, except for a few unusual years. While in previous years, a similar number of offenders were threatened with excommunication, a greater

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[112] CH2/521/3, p. 16.
[113] Cameron, *The First Book of Discipline,* pp. 168-170; Murdock, *Beyond Calvin*, p. 88; MacDonald, *The Jacobean Kirk,* pp. 143-144; *BUK*, pp. 610-611.
[114] CH2/521/3, pp. 52, 53, 54, 55 for all entries related to Lamb's case.

proportion were subsequently excommunicated after failing to respond to their warnings. Considering this, it may be the case that the kirk became more efficient in dealing with especially difficult offenders and were more successful in convincing them to submit themselves to the discipline of the kirk. As will be discussed in the final chapter, evidence suggests that the session became more persistent in pursuing cases where parishioners denied charges, and so this could be another element of their determination to bring offenders to make their repentance.

Many of the changes in the patterns of offences and practice of discipline appear to have taken place during the same period of time, suggesting that there was a considerable shift in the kirk session's approach in certain years. Most of the changes discussed here fall into two distinct periods. The initial increase in Sabbath breach cases, along with the decrease in traditional festivities and punishments of excommunication, all occurred in 1587 and 1588. As mentioned above, the election of 1588 saw a 100% turnover of elders, which was the first time this had occurred in surviving records. The sharp increase in Sabbath breach cases, along with increases in cases of receiving undesirables, and the changing nature of slander cases, all began in the early 1590s. As in 1588, there was an unusually high turnover of the session in 1590, with only one of twelve elders being re-elected, and with six elders being elected for the first time. As the later chapters will show, other changes to the kirk session, relating to aspects of gender and social status, as well as the way in which denials were dealt with, also often correlated to these time frames. Some other changes to the frequency of offences do not fall into these years, such as the increase in actions taken against adultery in 1596. Looking at the elders elected in late 1595 who were serving when the act against adultery was made, eight had previously been elected in 1587-88 or 1590-91. Although particular elders' views on certain offences were not explicitly recorded, and therefore it is uncertain whether this overlap was significant, it does show that in years in which significant changes occurred, there were several elders in common. All in all, this suggests that the evolving priorities and approaches of new session members, both ministers and elders, could have a significant impact on the composition of kirk session discipline. With this in mind, it is important to note that the kirk session was not the only authority in Perth that prosecuted offences. Several of the offences discussed here were also judged by the

secular burgh court, and evidence shows that these two institutions overlapped considerably, both in their membership and disciplinary activity. In order to fully understand how the kirk session prioritised offences, it is necessary to consider here the extent of this overlap, as well as how the session determined whether an offence should be judged by the burgh council or themselves.

The Kirk Session and Burgh Court

In order to evaluate how various offences were pursued by both the burgh council and kirk session, the level of cooperation and relationship between the two institutions needs to be understood. The burgh council was a secular institution that dealt with a wide range of business within the burgh. This included administrative matters such as regulation of the local market by the council, taxation, property transactions and cases of debt litigation, as well as prosecution of civil crimes.[115] In Perth, the council met within the town's tolbooth, near to the market cross, and only a short distance from St John's Kirk. As will be shown, there was a considerable level of overlap between the membership, and disciplinary business of, these two institutions.

Elections and membership of the burgh council

The process of Perth's burgh court elections bears a close resemblance to those of the kirk session. The burgh council consisted of twelve council members and four bailies who were elected annually. According to the burgh court records, the new council was chosen by the previous outgoing council, with very few re-elected to serve a consecutive year. Election records generally state that the old and new council, together with the deacon of each of the nine incorporated crafts then 'all in a

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[115] Falconer, *Crime and Community in Reformation Scotland,* pp. 13-14.

voce be votis and fra electioun' chose the bailies.[116] Typically, the election records noted that following this, the provost and bailies then 'profest the trew religioun of Jesus Chryst renuncing all idollatrie and superstitioun & all papistuall ordors', and promised to keep 'trew allyance to or said lord quhais...service thai sall assist and defend to the utmost of ther powers'.[117] While it is not mentioned in the burgh court election records, the kirk session minutes show that the minister and elders also attended the burgh court elections. This may suggest that the session was involved in deciding who was to be elected but could also be simply because members of the current session were themselves candidates for, or were otherwise involved in, the council election. For instance, on 30 September 1594, there was 'no conventione off elderis becaus the maist part off the elderis wer at the electione off the magistratis quhill half or to twa efternoone'.[118] Subsequently, four of these elders were elected as the new council members. In 1599, the burgh court election even took place 'in the sessione hous'.[119] In that election, six of the current elders were chosen to sit on the burgh court for the following year. At the least, session members were present at the election of the new council, with a number of outgoing elders being elected as council members.

Elders and council members were not two distinct groups of men. Evidence taken from both the kirk session and burgh court records show that there was a considerable overlap between the personnel of the two institutions. Out of 101 church elders elected between 1577 and 1600, 59 were also elected to sit on the burgh council at some point as well, showing that most would have been familiar with both forms of authority. Similar overlapping of personnel has been observed in other Scottish burghs. For Aberdeen, Falconer has argued that this overlap 'ensured a consistent application of the prescribed values' of the kirk, and suggested that it enabled any jurisdictional conflict to be avoided.[120] Timothy Slonosky has shown that in Stirling, a kirk session was able to be established quickly and maintained due to the burgh council's facilitation of change, and that 'to be a member of the town

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[116] B59/12/2, f. 22r.
[117] B59/12/2, f. 28r.
[118] CH2/521/2, f. 106v.
[119] CH2/521/3, p. 109.
[120] Falconer, *Crime and Community in Reformation Scotland,* p. 66.

council…was to exercise a significant role in overseeing the burgh's religious activities'.[121] It should be noted that in Perth, this was not a complete overlap of personnel during the same election year – in an average election year, two out of the 12-21 elders were also currently council members. It was less common for a man to be elected to the session and to the council in the same year than for an individual to be elected to the burgh court in between the years he served as an elder.[122] In Perth, only two elders had sat on the burgh court before the Reformation Parliament of 1560, and both of these have been credited as early protestants by Margo Todd.[123] 32% of Perth's elders had served the burgh court before their appointment to the kirk session, suggesting that many elders were already men with high social standing, and experience in overseeing cases. However, this was changing by the end of the century. For instance, of the elders elected for the first time in the 1580s, around a third had previously sat on the council. This decreased to a quarter of newly elected elders in the 1590s. In the last five years of the sixteenth century, only two of the 13 elders elected for the first time had previously served the burgh court, possibly because by that point, with the kirk session more firmly established and served by already experienced men, it was no longer necessary for new session members to have had experience serving the council. Therefore, while a significant number of Perth's elders also acted as council members at some point, in a given year the two institutions were largely served by different individuals, and the proportion of elders who had previously been council members changed by the end of the sixteenth century.

Cooperation between the burgh council and kirk session

Evidence from Perth's kirk session records shows that council members often assisted with punishing those who were prosecuted. Occasionally, entries record that the guilty person was to submit themselves 'to the disciplein of the kirk and the civil

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[121] Slonosky, 'Burgh Government and Reformation: Stirling, c. 1530-1565', pp. 50- 55.
[122] Roughly 25% of elders served a year where their roles overlapped.
[123] *PKSB*, p. 464.These were Alexander Anderson and John Anderson. B59/12/2, ff. 14r, 17r for their respective elections.

punisment'.[124] The session frequently prescribed punishments such as putting offenders in ward or on the market cross, where they could be put in irons or branks. Other less common punishments included shaving offenders' heads, ducking them or carting them through the town. As the kirk session could not administer corporal punishment, it was the responsibility of the town's bailies to carry this out. Occasionally, this extended to especially serious punishments. For instance, in 1595, the session ordered 'the balyeis to banische Ewfame Leslie trilaps in fornicatione & to remove hir out of the towne with all diligence'.[125] John McCallum has shown that in the urban parishes of Fife, 'it was rare for kirk sessions to require secular assistance', with only between 5% and 7% of cases involving secular authority.[126] This is quite different to Perth, where between 1577 and 1600, approximately 23% of cases explicitly mentioned actions for which bailies were required, and so at least 1 in 5 cases from this time involved the cooperation of the civil magistrates. This statistic may even be a low estimate, as the session did not always record the specific punishment given out to those who were convicted.

Provision of corporal punishment was not the only way in which the council cooperated with the kirk session. The session also often made other requests of the bailies, such as ensuring that suspects who had avoided appearing did so, and that fines to be given to the poor were paid. Bailies alone were also tasked with gathering neighbours to act as witnesses for certain cases, and were often given proclamations by the session which they were instructed to announce at the market cross.[127] As can be seen in weekly reports from the 1590s, at least one of the four bailies joined the elders in their weekly visitations of the town, which involved making sure that no parishioners were absent from the Sunday sermon, or committing any other sins. In 1593, it was declared that this was to increase to two bailies assisting with the visitations.[128] Along with the elders, these bailies were also responsible for keeping the kirk doors during the Sunday sermon, ensuring that no parishioners attempted to leave before the minister had completely finished, which was apparently a common

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[124] *PKSB*, p. 78, for an example.
[125] CH2/521/2, f. 132v.
[126] McCallum, *Reforming the Scottish Parish,* pp. 179-180.
[127] CH2/521/2, ff. 52v, 59v, for example.
[128] CH2/521/2, f. 81r.

problem.[129] Outside of matters of discipline, council members also assisted in organising and running the yearly communion, and records also suggest that they assisted the session in collecting alms for the poor.[130] For example, in December 1588 council member Andrew Merser was fined 10s for failing to collect alms despite being 'wairnit' to by the kirk officer.[131] Therefore, the council members, especially the bailies, of Perth were involved in assisting the kirk session not only with punishing offenders, but with a range of actions on a regular basis.

Cooperation did not, however, always run smoothly. There are several entries in the kirk session records which complained that the bailies had not done what was asked of them. Entries sometimes described non-cooperating bailies as 'slouthful and negligent' for failing to take order with disobedient offenders as they had been instructed, suggesting that the session considered them obliged to comply.[132] In 1591, it was recorded that the bailies and some elders often failed to make reports of visitations to the session, and that in future this would incur a fine of a merk.[133] On a few occasions, the bailies were threatened with excommunication for not carrying out their duties. For instance, in 1585, the session 'ordanit the minister to proceid with admonitions befoir excommunication agains the bailyeis incaise they put not the kingis majesties actis of parliament to execution agains Thomas Smyth on Satterday nixt'.[134] The record goes on to say if nothing had been done within a week, that the bailies would be excommunicated 'without ony farder delay', and then that their successors would also be proceeded against if they too failed. The bailies must have acted swiftly, as Thomas Smyth, who had been found guilty of fornication, had completed his punishment by the next week.[135] Similarly, in 1592 the bailies were described as 'negligent' in failing to ward the 'contempteous' Thomas Tailyeor, and were threatened with excommunication if they did not follow the session's order.[136] These actions were in line with the view of the General Assembly, which in 1571

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[129] CH2/521/2, f. 92v.
[130] CH2/521/2, f. 49v, for an example of a bailie's role during communion.
[131] *PKSB*, p. 407.
[132] *PKSB*, p. 207.
[133] CH2/521/2, f. 45v.
[134] *PKSB*, p. 319.
[135] *PKSB*, p. 320.
[136] CH2/521/2, f. 63r.

declared that a minister could proceed with admonitions before excommunication against magistrates for not carrying out punishments.[137] The entries imply that the kirk session assumed a certain level of authority over the burgh council in relation to discipline, and were able to hold them to account for not completing their duties. Looking at Edinburgh, Michael Graham has argued that the council was often unenthusiastic and 'inactive' in assisting the kirk session there, going as far as to say that they did not consider it necessary to punish offenders with any more than public repentance.[138] In individual cases, some of Perth's bailies also resisted their own punishment by the kirk. In 1578, Thomas Moneypenny, a bailie, was convicted for the second time for fornication, and was not only ordered to make repentance and pay a fine to the poor, but he was also given the civil punishment, to be carried out by his fellow bailies.[139] An entry from two weeks later shows he had still not satisfied the kirk, and another six weeks later he was again called up 'for his contempt and sclander offerit to the kirk in the place of repentance'.[140] Evidently, the personnel of the burgh council did not always work well with those of the kirk session.

Despite these examples of poor cooperation, it is still clear that the kirk session and burgh court were constantly working together. It should also be noted that complaints about the council from the kirk session do appear to have been less frequent in Perth than in Edinburgh, again raising the possibility that cooperation was particularly close there.[141] The fact that cooperation between the two institutions was so regular, and that the session criticised bailies for not following their instruction, follows the idea that, even with frequent calls for independence of the church from royal and temporal authority during the late sixteenth century, 'the prevailing opinion of the Kirk...was that the civil authority should support the Kirk but not interfere with it'.[142] It should be noted that, at least before they were given regular duties as visitors, evidence suggests that the bailies did not usually attend the

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[137] Calderwood, *History of the Kirk of Scotland*, iii, p. 37.
[138] Michael Graham, 'The Civil Sword and the Scottish Kirk, 1560-1600' in W.F. Graham (ed.), *Later Calvinism: International Perspectives* (Sixteenth Century Publishers: Kirksville, 1994), p. 244.
[139] *PKSB*, p. 91.
[140] *PKSB*, p. 92, 95.
[141] Graham, 'The Civil Sword and the Scottish Kirk', pp. 243-245.
[142] Mullan, *Scottish Puritanism,* p. 73; MacDonald, *The Jacobean Kirk,* p. 39.

kirk session meetings, and there is no indication that they had any input in the session's own judgements.[143] In his study of crime in Aberdeen, J.R.D Falconer has argued that the common goal of both kirk session and burgh court there to maintain godly behaviour 'sublimated any ideological differences among the spiritual and secular authorities within the town', and it is likely that Perth's authorities placed similar importance on such collaboration.[144] As will be shown, this interconnection extended to many aspects of discipline in the burgh.

Offences prosecuted by the kirk session and burgh court

Some studies of other Scottish parishes have shown that certain offences were pursued by both the kirk session and the burgh court. In his study of Aberdeen, Falconer has stated that both courts dealt with various sexual offences, verbal and physical violence, as well as improper religious observance, and that both played a key role in maintaining order in the burgh.[145] John McCallum has also noted that in Fife, there was some overlap between kirk session and burgh court discipline, and particularly with acts of violence.[146] Records of criminal cases in Perth have not survived for this period, however, certain cases were referred by Perth's kirk session to the burgh court, and so it is apparent that some types of offences could be heard in either of these courts.

Only around 1% of offenders that appeared at the kirk session were referred to the burgh court – that is only 16 out of just over 1,500 offenders. Therefore, it was rare for the session to give over a case for the bailies to make their own judgement. These referred cases consisted of a variety of offences, including theft, slander and physical assault, adultery, prostitution and incest (Table 3.3). All of these types of offences,

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[143] *PKSB*, pp. 160 is an example of an entry where it was ordained that the names of offenders were to be passed on to the bailies for corporal punishment, suggesting they were not present for the convictions, p. 452 (19 October 1590) is the first mention of bailies acting as visitors.

[144] Falconer, *Crime and Community in Reformation* Scotland, p. 47.

[145] Falconer, *Crime and Community*, p. 52.

[146] McCallum, *Reforming the Scottish Parish*, p. 177.

except for theft, were also prosecuted by the kirk session at other times, and it was never explicitly stated why some cases were referred and not others. Additionally, these referrals do not follow a chronological pattern. Therefore, at first glance there is no clear reason why such cases appeared at one court rather than the other.

Table 3.3:   Offences and Offenders Referred to the Burgh Court, 1577-1600

Type of offence	Number of offenders referred
Refusing articles of religion	1
Incest	2
Adultery	2
Adultery and hosting outsiders	1
Prostitution	1
Theft	2
Theft and drinking	3
Sabbath breach	1
Physical assault	2
Witchcraft	1

Looking more closely at the circumstances of these offences, it seems that these had been considered as particularly serious incidents, where the session desired a punishment that they themselves could not administer. Offences were considered to be particularly serious by the kirk session for a few reasons, including if the accused person had previous convictions, or if the offence was 'notorious' – that is, had occurred in public.[147] For example, in February 1597, Cristen Cudbert appeared at the session for a combination of adultery and hosting 'theivis and ydill vagabondis' in her home. As she had been previously convicted several times, it was decided that she was to appear before the bailies so 'that scho may ather be punischit by death...or at the leist may be banischit'.[148] The two other adulterers referred to the burgh court – David Gray and Helen Watson – had been reported by several neighbours to the session. As the pair had been 'apprehendit diverse tymes' and their sin was well known in the community, the session requested that the burgh court 'do thame justice according to goddis law and the lawis of thir cuntrie' – probably again

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[147] Todd, *PKSB*, pp. 36-37.
[148] CH2/521/2, f. 168v.

referring to the act of parliament which prescribed execution for adultery.[149] Consequently, the two were executed a week later. Similarly, for the one case of witchcraft referred, the session specifically requested that the bailies 'obtene a commissione to execut Jonet Robertsone sorcerer'.[150] The *Chronicle of Perth* indicates that she was subsequently burnt at the stake.[151] Some of the other cases referred to the burgh court described the suspect as 'onworthie to have residence in any christiane congregatione', suggesting that they desired the burgh court to order their banishment.[152] This was how Margret Huntar was described, after several witnesses claimed she had not only insulted many neighbours, but was a 'blasphemer of the name of god', and 'an abuser of hir husband', having shed his blood during a fight.[153] Having committed several offensive actions, to the knowledge of many parishioners, the session decided that banishment was the most appropriate punishment for her, and so referred her to the burgh court. In the case of Andrew Trumpet in July 1580, who had previously been excommunicated, he was referred to the burgh court after refusing to give a confession of faith, suggesting that non-compliance was another reason for the session to refer cases.[154] Therefore, it seems that most of these referrals to the burgh court were determined by the severity of the offence and appropriate punishment, rather than the type of offence itself. Studies of other Scottish burghs suggest that burgh courts had a similar approach to deciding on punishments in certain criminal cases. In his work on the burgh court of Aberdeen, Falconer has stated that there was 'a very subjective element to establishing the appropriate measure of restorative or regulatory punishment'.[155] While due to lack of surviving records it cannot be certain that Perth's burgh council acted the same, this similarity further implies a close connection between the two institutions.

While it is apparent that many offences were considered both a civil and an ecclesiastical offence, there were limits to the extent the two jurisdictions

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[149] *PKSB*, pp. 294-295 for the case. *RPS* ii, 539, c. 10, at http://www.rps.ac.uk/trans/A1563/6/10 [accessed 2 July 2018].
[150] CH2/521/3, p. 6.
[151] Maidment (ed.), *The Chronicle of Perth.* p. 7.
[152] CH2/521/3, p. 73.
[153] CH2/521/3, pp. 71, 73.
[154] *PKSB*, p. 158.
[155] Falconer, *Crime and Community in Reformation Scotland,* p. 11.

overlapped. In theory, different offences were categorised by how serious they were considered to be. *The Order of Excommunication and of Public Repentance,* published by the General Assembly in 1569, outlined an order of offences, with a description of how each category should be punished.[156] In keeping with the *First Book of Discipline*, it defined murder, adultery and witchcraft, among others, as capital crimes, to be prosecuted by civil authorities.[157] All the offences that were to be pursued by the kirk session were divided into two groups: those that were to be punished with public repentance, such as fornication, fighting and drinking; and 'less haynous' actions that only required private admonition, such as absence from the kirk and gestures of vanity.[158] In practice, some offences appear to have been considered as purely a responsibility of the civil authorities. For instance, the kirk session never prosecuted theft, but referred all of these cases to the burgh court. As Elizabeth Ewan has stated, theft was 'almost always punished by banishment', or in more serious circumstances, execution.[159] However, evidence suggests again that in reality, the formal distinctions between the two authorities were not followed strictly. As mentioned above, offences such as adultery and murder were capital crimes and 'not properly to fall under censure of the kirk'.[160] Clearly, this was not followed regarding adultery – as Michael Graham has noted, adultery was regularly punished by kirk sessions across Scotland.[161] Records from Perth show that while it was rare, the session did also occasionally become involved in cases of murder. For example, in 1593, when a couple appeared at the session having accused William Ramsay of murdering their son.[162] Ramsay swore an oath of innocence before the session, and no further action was taken against either party. In 1598, Helen Orme appeared at the session after the murder of her husband Henry Adamson, requesting that they excommunicate his murderer, Thomas Peblis.[163] Adamson had previously served as an elder, and rather than sending this case to the burgh court, the session agreed Peblis should be excommunicated, but decided to have the case considered by the

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[156] David Laing (ed.), *The Works of John Knox,* vi. (Wodrow Society: Edinburgh, 1846), pp. 449-454.
[157] Cameron (ed.), *The First Book of Discipline*, pp. 165-166.
[158] Laing (ed.), *Works of John Knox*, vi, p. 453.
[159] Elizabeth Ewan, 'Crossing Borders and Boundaries: The Use of Banishment in Sixteenth-Century Scottish Towns', in Sara Butler and K.J. Kesselring (eds), *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain* (Brill: Leiden, 2018), p. 240.
[160] Cameron (ed.), *First Book of Discipline*, p. 166.
[161] Graham, 'The Civil Sword and the Scottish Kirk', p. 240.
[162] CH2/521/2, f. 89r.
[163] CH2/521/3, p. 28.

presbytery. Despite this, the burgh court took action shortly after, and Peblis was executed.[164] A year later, the session oversaw another case of murder involving Thomas Lathriche.[165] This time they did not refer the case at all, but chose to excommunicate him. Therefore, in practice there was not a clear-cut distinction between crime and sin, with many offences being prosecuted by both the secular and the spiritual authorities.

'Sin', 'Crime', and 'Offence'

The language used to describe individual cases may offer further insight into the kirk session's concepts of sin and crime. Historians have previously discussed the distinctions made between crime and sin, with Sharpe noting that in early modern England, the two are often difficult to distinguish.[166] In Perth's kirk session records, one of the most commonly used words to describe an illicit action was 'sin', particularly in fornication cases. The minutes of these cases usually followed a similar form, for instance, 'Jeane Gibsone confessis hir sin of fornicatione committit with Laurence Drummond and submittis hir to the discipline of the kirk'.[167] Fornication was a priority for the kirk session of Perth, as was the case in many other Scottish parishes; as discussed above, it accounted for a greater number of cases than any other type of offence. Of the 108 disciplinary entries in which the word 'sin' was used in the records up to 1600, 105 were of a sexual nature.[168] In comparison, none of the slander and physical assault cases recorded were described as 'sin', but often as 'offences', and occasionally 'crime'. 'Offence' appears to have been used as a general term for wrong-doing, applied to several types of cases, and also used to describe cases referred to the burgh court, again suggesting a limited distinction between crime and sin by type of offence.[169] The use of 'offence' to describe verbal

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[164] Maidment (ed.), *The Chronicle of Perth*, pp. 6-7.
[165] CH2/521/3, p. 66.
[166] J.A Sharpe, *Crime in early modern England, 1550–1750* (Longman: London, 1999), pp. 7-8.
[167] CH2/521/3, p. 68.
[168] That is, 93 entries concerning fornication, 10 of adultery, 2 of prostitution. The remaining 3 were cases of Sabbath breach.
[169] 'Offence' is used 43 times to describe cases in the session minutes. Cases of slander, physical assault, Sabbath breach, disobedience and lying as well as fornication and adultery were described as offences at different times.

and physical violence often reflects the overlapping of the two court systems. For example, when tailor Androw Pole attacked Androw Quhittet, he received a civil penalty along with public repentance 'for his greit offence'.[170] Interestingly, on most of the occasions when 'offence' was used to describe fornication, as opposed to 'sin', this was in cases that concerned another parish as well as Perth. For example, when tailor Jhone Dasone confessed to committing fornication with Agnes Cunninghame of Edinburgh, he was to make public repentance 'quhair he hes comittit the offence'.[171] Similarly, Cristen Bray, who had relapsed in fornication 'both heir and in uther placis bot specially in Dundie' was ordered to be banished, having 'not satisfeit for hir offence bot is fugitive'.[172]

While used less often, 'crime' also appears in the records in cases.[173] In some of these cases, this term was used distinctly to describe cases that were to be dealt with by the burgh court, as with the case of suspected theft involving Patrick Jaksone. Aside from this case, 'crime' was only used in cases of verbal and physical violence, and adultery. In 1584, Walter Bog appeared at the session, accused of attacking his mother-in-law 'to the effusion of hir blud', and this was described as a 'cryme'.[174] The record stated he would be punished according to 'the haill points of repentance prescryvit in the *Buik of Disciplein* to ane adulterar or homiceid' – firstly, making public repentance and asking forgiveness of his mother-in-law, along with a fine. After this, Bog was to be handed over to the bailies to be punished civilly, as his offence was 'heynous and wordie of the dead'. In this case, 'crime' was used to describe a particularly serious offence which did not fall solely under the session's authority. In her study of English courts, Cynthia Herrup has argued that the distinction between crime and sin was determined by the intent of the individual; that criminals were those who did not attempt to practise self-discipline, and were considered beyond redemption.[175] This is reflected in some of Perth's cases referred

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[170] CH2/521/2, f. 84v.
[171] CH2/521/2, f. 77r.
[172] CH2/521/2, f. 73r.
[173] 'Crime' is used only 11 times in the session records. This includes 3 cases of adultery, 3 of physical assault, 2 verbal assault, 1 of theft and two proclamations.
[174] *PKSB*, p. 277.
[175] Cynthia B. Herrup, 'Law and Morality in Seventeenth-Century England, *Past and Present* 106:1 (1985), p. 110.

to as crime. For example, when Marion Wobster appeared at the session for adultery, described as a 'cryme', she was sentenced to banishment, rather than any form of repentance.[176] Similarly, after Kathrene Mackie was found flyting with her neighbour for the third time, 'it is ordanit gif scho be found in the lyk cryme in tymes cuming to be banisit the toun for ever'.[177] Elizabeth Ewan has pointed out that burgh courts often threatened banishment for reoffenders, and has emphasised how through its rarity, banishment was perceived by local communities as an especially serious, shameful punishment.[178] In addition to the use of both 'offence' and 'crime' to describe acts of verbal and physical violence, in different cases adultery was recorded as 'sin', 'offence', or 'crime', again suggesting that any distinctions between these concepts were not necessarily determined by the type of offence, but its specific circumstances.

Personal connections to cases

The seriousness of particular cases was not the only factor that could influence whether a case appeared at the kirk session or burgh court, and the offences mentioned earlier were not the only ones which could be convicted by either court. Elizabeth Ewan has argued that slander was prosecuted by both courts across Scotland, and that this had been the case since before the Reformation Parliament.[179] Moreover, Perth's records show that the kirk session often ordered offenders to be put in irons at the market cross for slander and physical assault, and so the town's bailies assisted especially often for these types of offences. As discussed earlier, the prosecution of slander and physical violence by the session was inconsistent, with noticeably more cases being pursued in certain years than in others, and the session's interest in verbal and physical cases involving themselves or those close to them is likely to have been a determining factor. The prioritisation of cases involving particular individuals is likely to be a reason why certain cases were dealt with by the session instead of the burgh court. Of the cases of slander and physical assault,

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[176] *PKSB*, p. 373.
[177] *PKSB*, p. 362.
[178] Ewan, 'Crossing Borders and Boundaries', pp. 243-254.
[179] Ewan, 'Many Injurious Words', p. 165.

three were referred to the burgh court.[180] Only one of these cases can be linked to a session member. This was the case described above concerning slander against the master miller Patrik Jaksone, the brother of elder Thomas Jaksone. Patrik originally appeared at the kirk session to complain that a servant at the Inch mill, John Kilbride, had called him a thief. [181] It is possible that his connection to the session influenced the decision about where this case was first heard. However, when Kilbride appeared, he confirmed he had called Patrik 'thieff', and that he could prove that the theft had taken place. The session decided that 'this wes criminall and that the tryell off this no wayis apertenit to thair judicatour' and referred the men to the burgh court.[182] However, it was concluded that if Kilbride could not prove that Jaksone had stolen from him, the session stated that the civil judge should report so back to them, and he would be convicted as a slanderer by the session. Therefore, if this elder's brother was a victim of slander, his slanderer was to be disciplined by the session, not the burgh court. The other two cases referred to the burgh court have no traceable connections to session members, and in these there was no declaration that the civil authorities should report the outcome back to the session. The fact that such a high percentage of slander and physical assault cases were of personal interest to session members raises the question of how far elders directly influenced how cases were brought to, and dealt with, by the kirk session rather than the burgh council.

Writing about the secular court system in Scotland, Lenman and Parker have stated that many cases of all kinds never reached the court because there was a high likelihood of acquittal. Conviction required either a confession or an eyewitness statement, and parishioners often preferred to settle disputes themselves rather than submit to the court.[183] While the kirk session seems to have followed a similar procedure for conviction to that described by Lenman and Parker, there may be other reasons why there were few recorded cases of verbal and physical offences. One explanation could be that more of these cases were pursued by the burgh court,

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[180] CH2/521/3, pp. 42-43, 73, 87. These are two cases of physical assault, and the slander/ theft case discussed here.
[181] CH2/521/3, pp. 42-43.
[182] CH2/521/3, p. 43.
[183] Bruce Lenman and Geoffrey Parker, 'Crime and Control in Scotland, 1500–1800', *History Today* 30:1 (1980), p. 14-15.

further supporting the idea that where a case appeared was determined by its specific circumstances. Cathryn R. Spence has noted that slander was one of the most common types of offence dealt with by burgh courts in Scotland, along with debt litigation and relationships between landlords and tenants.[184] One case of slander was written into Perth's burgh court minute book in 1585, which contains almost exclusively records of financial business within the town. Here, on 15th June, William Merschell was cited for 'blasphemyng of Thomas Monypenny and Patrik Blair bailyeis', as well as 'for mispersonying of Adame Brusone notar clerk depute with vicious wordis'.[185] Having defamed several members of the burgh council, Merschell was not only ordered to 'pas about the toun bair fute and bair hedit sack alane with ane writing upone his bak and hede contenying therin blasphemy of the magistratis on Saturday nixt and at ilk gate and and [sic] corner therof to sit down on his kneyis and ask the saids bailyeis & Adam Brusone forgiffynes', and to be put on the cross head for six hours; he was also to come to the stool of repentance on three consecutive Sundays, and to ask forgiveness from the kirk session. This case does not appear anywhere in the kirk session records, and only one of the 17 men recorded as overseeing this case was an elder that election year, and so it is intriguing that Merschell was given an ecclesiastical punishment in addition to what was a common civil punishment for slander.[186] Nevertheless, this case shows that the kirk session did not record or involve themselves in all cases of slander within the town. It is likely that, in addition to the factors mentioned here, the session placed greater importance on verbal and physical disputes they had a personal interest in. Just as deciding upon methods of punishment could be subjective, so could the decision to pursue certain offences.

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[184] Spence, 'Negotiating the Economy', p. 175 n.2.
[185] PKCA, B59/12/9, f. 191r. 15 June 1585.
[186] *PKSB*, p. 289, for Blaise Colt's 1584 election.

<u>Conclusion</u>

The kirk session of Perth dealt with a wide variety of offences, and pursued some more vigorously than others, depending on factors including the motivation of its members, wider developments in Scotland and the evolving relationship between the kirk and burgh court. As was the case in many Scottish burghs, sexual offences made up a considerable proportion of cases. In terms of the frequencies of different offences, the nature of discipline changed significantly by the end of the sixteenth century. Firstly, the total number of offences gradually increased over time, as the kirk session became further established, and along with the increasing number of session members with a greater reach. Cases of fornication, while still prevalent, gradually ceased to dominate disciplinary proceedings. The shift in focus towards Sabbath observance and decline in instances of traditional pastimes was primarily a result of the changing personnel of the session. As demonstrated in this chapter, many of these changes were not a gradual rise or fall in cases across the years, but a sharp turn in trends which seem unlikely to have been caused by a drastic transformation in the behaviour of parishioners. Evidence again suggests that the differing approaches and agendas of session members played an important role in this variation, with session members' relationships having a clear influence on the prevalence of certain verbal and physical cases. The shift in the form of punishments, as seen with the decrease in the number of excommunications, was very likely to have been a result of increased effectiveness in convincing offenders to appear and submit to the kirk before this sentence could be carried out as a last resort. As the administering of discipline became more developed, the kirk session showed some flexibility in the punishment of offenders, showing leniency in certain circumstances. It is therefore apparent that the nature of kirk session discipline was flexible and could vary significantly depending on the circumstances of cases and the membership in certain years.

This approach can also be seen in relation to interactions with the burgh council. Evidently, there was some overlap between the types of offence convicted by the session and the council respectively, and cases were referred to the burgh court when the session could not administer the punishment they deemed appropriate

themselves. Perth's kirk session and burgh court were generally in close cooperation, and it was the conditions of suspected offences which determined whether it was punished by ecclesiastical discipline or a civil penalty. Considering the changing prevalence of different types of offence that were pursued during this period, it is clear that the nature of kirk session discipline in Perth developed incrementally, and was strongly influenced by the ideals of its changing membership and their wider connections in the local community.

Chapter 4

<u>The Exercise of Discipline</u>

So far, this study has considered the backgrounds of the session members and their relevance to the organisation of discipline, as well as the nature of the transgressions that were prosecuted by the kirk session. This chapter will investigate who was disciplined by the kirk session, and whether parishioners experienced discipline differently according to their gender or social status, by evaluating the frequency of convictions and types of offence prosecuted, as well as the punishments that were administered. Recent historiography has suggested that overall, kirk sessions treated parishioners similarly regardless of gender, often noting the similar numbers of men and women convicted of sexual offences. Regarding social status, some studies of other Scottish towns have identified that despite their efforts, kirk sessions often struggled to discipline social elites, who could be reluctant to appear or undergo public repentance. This chapter will question these arguments and expand our understanding of the kirk session's disciplining of offenders by considering some targeted efforts by the Perth session to regulate the behaviour of certain social groups. It will investigate not only the offences prosecuted and punishments prescribed, but will go further than previous studies by also examining the session's attitudes towards and treatment of offenders according to their gender and social status, as well as considering the disciplining of a wider range of social groups, and analysing the gender breakdown of others involved in cases such as witnesses, complainants and victims. These elements of discipline will be used to examine how the session's approach to discipline evolved in Perth as the session became further established, and what this meant for different groups of offenders.

<u>Did the experience of discipline differ by gender?</u>

The question of whether men and women were dealt with differently by kirk sessions has attracted considerable debate in recent historiography. Some scholars have pointed to the fact that in Calvinist theology, men and women were considered spiritually equal and were to be treated the same.[1] Most studies agree that by and large, there was not a rigid 'double standard' when it came to pursuing sexual offences. Michael Graham, covering the urban parishes of St Andrews, Canongate, Edinburgh and Aberdeen, has stated that the kirk sessions there held men and women equally responsible for sexual offences.[2] John McCallum has argued that in the parishes of Fife, the kirk session's main objective was to administer discipline regardless of gender, with little difference in the numbers of men and women convicted of sexual offences.[3] Studies have also shown that the kirk session assisted women in some ways, for instance by ensuring that their children were supported financially by their fathers, and by prosecuting cases of domestic abuse.[4] Others, such as Gordon DesBrisay, have argued that the view that kirk sessions were 'gender blind' is 'premature', noting that women were more likely to receive harsher punishments than men, and that penalties such as fines had a more detrimental impact on women, who were less likely to have the means to pay them. He has also described how women were often considered by the session as culpable in cases of rape.[5] Outside of discipline, recent historiography has also considered Reformed ideas of gender, including reformers' attitudes towards women. Susan Felch has argued that John Knox's views of women were more complex than has sometimes been assumed from his criticism of female rule in *The First Blast of the Trumpet Against the Monstrous Regiment of Women,* and that his contemporaries did not

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[1] Susan M. Felch, 'The Rhetoric of Biblical Authority: John Knox and the Question of Women', *The Sixteenth Century Journal* 26:4 (1995), pp. 805-810; Mullan, *Scottish Puritanism 1590-1638,* p. 151. See also *BUK*, p. 42 for an example of a declaration that male and female fornicators should be punished the same.
[2] Graham, *The Uses of Reform,* pp. 286-289.
[3] McCallum, *Reforming the Scottish Parish,* pp.207-214.
[4] Knox, '"Barbarous and Pestiferous Women"', pp. 306-307.
[5] DesBrisay, 'Twisted By Definition', pp. 137-138, 141-142, 146.

necessarily agree with this text.[6] Women's status and legal representation in early modern Scottish society has also been studied; several scholars have argued that women were active participants in courts, and appeared for an array of actions concerning family, property and other legal matters.[7] While surviving minutes do not record the specific views of individual session members, they provide important evidence regarding men and women's experiences of discipline. In the majority of cases pursued by Perth's kirk session, men and women were dealt with in the same way, receiving a standard punishment for their given offence. However, as will be seen, there were some limitations to how far discipline was administered equally.

Sabbath breach by gender

Overall, more men than women appeared at the Perth kirk session for an offence. Of the 1,567 offenders recorded in Perth, 58% of suspects were male, and 42% were female. This difference can be explained by the fact that men accounted for the majority of Sabbath breach cases – the second most commonly recorded offence. Only 1 in 7 of those charged with Sabbath breach was female. While men may have committed Sabbath breach more often, another potential factor in this disparity is the fact that many of the cases of men working on the Sabbath occurred in public places, such as in shops on the high street and adjoining vennels, or in the town mills. While women were also found working on the Sabbath, two-thirds of such cases occurred either in their own homes, for instance grinding malt, weaving, or selling ale, or working in the fields outside the town walls.[8] For instance, in December 1588, the wife of wobster Androw Ruderfurd was ordered to make public repentance for weaving in their home on the Sabbath.[9] In another case from June 1599, Bessie Cowstand and Elspet Watsone appeared to confess 'that they wer in the feildis absent fra the heiring of the word on the Sabboth efternune', for which they were

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[6] Felch, 'The Rhetoric of Biblical Authority', pp. 805-822.
[7] Cathryn Spence, *Women, Credit and Debt in Early Modern Scotland* (Manchester University Press: Manchester, 2016), pp. 34-56; Sanderson, *A Kindly Place?,* ch.8; Finlay, 'Women and Legal Representation', p. 166.
[8] *PKSB*, p. 406; CH2/521/2, ff. 71r, 85r, 87r, 148v-149r, 151v, 171r; CH2/521/3, pp. 56-57, 150 for some examples.
[9] *PKSB*, p. 407.

both fined.[10] The session did not necessarily focus on investigating men's acts of Sabbath breach, but they may have been more visible to the searching elders than Sabbath breach committed by female offenders.

Sexual offences by gender

Conversely, women accounted for 58% of all recorded sexual offenders in Perth. Despite the fact that in 97% of these cases, a male partner was named, these men did not always appear. This percentage of 58% female sexual offenders is not dissimilar from Michael Graham's figures of male and female sexual offences in other urban areas of Scotland, and is closest to his data for Edinburgh, where women accounted for 59.8% of sexual offences from the 1560s to 1580s.[11] This means that in Perth, around 125 fewer men than women appeared for a sexual offence, even though each offence was committed by both a man and a woman. Unfortunately, few of these cases record a reason why the woman appeared but not the man. As will be discussed further in the next chapter, some men were able to avoid conviction for a sexual offence by denying the charge, despite the woman's confession. However, those were the men who did appear, unlike the 125 who did not. It is possible that these 125 men did not reside in Perth; however, as only 8% of these were stated to be from another parish, and 3 were described as Highlanders, this seems unlikely to explain many of these cases. As some studies have noted, men may have been more able to avoid punishment by reason of their occupation, which could involve travelling and being out of town for some time.[12] This would suggest that upon their return, many were not pursued for their past offence. Others, such as the male servants of local elites, seem to have received some protection from discipline, as they could state that they were required to work, and had to delay their repentance. For example, when Oliver Donaldson confessed to fornication, it was noted that he was in the king's service at that time, and could not make his repentance at that time.[13] While Donaldson agreed to make repentance at a later date, it seems that other male

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[10] CH2/521/3, p. 85.
[11] Graham, *The Uses of Reform*, p. 90-110.
[12] Glaze, 'Women and Kirk Discipline', p. 128.
[13] *PKSB*, p. 149.

servants simply did not appear. For example, George Schaw, a servant of the laird of Lawers, never appeared for his fornication with Nans Williamson, who was convicted in 1591, although he did appear five years later for fornication with another woman, Isobell Elder.[14] A similar observation has been made with certain female domestic servants elsewhere in Scotland – Gordon DesBrisay has noted how in seventeenth-century Aberdeen, the employers of convicted wet nurses could delay their employees' repentance out of necessity.[15] In comparison, this does not appear to have been a common practice in Perth, as only three wet-nurses were recorded as having their sentence delayed there, while others were warded until their repentance or in one case, threatened with banishment.[16] As the discussion of social status later in this chapter will show, it seems that Perth's session was less lenient towards female servants than male servants. Of the 125 men who did not appear, only 16% can be positively identified as servants who may have been able to avoid punishment because of their work. Another 1% were described as currently travelling abroad, and 4% were men of quite high social standing, named as lairds, barons or relatives of one. It appears then, that there was some link between a suspect's absence from the session and connections to important local figures. While it cannot be shown that this accounts for the total difference in prosecution of sexual offences between men and women, this evidence suggests that the overall disparity was not necessarily due to the session focusing more on women's sexual offences, but that men were more able to evade the session simply by absenting themselves in various ways.

Changes to discipline by gender

While the figures discussed above show the overall percentages of male and female offenders, disparities in discipline by gender did not stay the same over time, and in some years, could be significantly more pronounced. Within this period there were seven years in which female offenders accounted for over two thirds of sexual

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[14] CH2/521/2, ff. 54r, 140r-140v.
[15] Gordon DesBrisay, 'Wet Nurses and Unwed Mothers in Seventeenth-Century Aberdeen', in E. Ewan and M. Meikle (eds), *Women in Scotland, c. 1100-c. 1750* (Tuckwell Press: East Linton, 1999), p. 214.
[16] *PKSB*, pp. 81, 103, 126, 193, 239, 440; CH2/521/2, f. 60r.

offenders, with the highest figure in 1590, when 78% of those who appeared for a sexual offence were female.[17] 1590 was also one of the few years where women outnumbered men in the total number of parishioners appearing, accounting for 72% of all offenders that year. Between 1588 and 1590 in particular, there appears to have been a crackdown on offences committed by women, as several acts were made specifically relating to women. This included declarations against receiving harlots, against midwives assisting fornicators, against women living alone, and against women brewing on the Sabbath.[18] The acts themselves suggest that these actions were perceived as common and required a watchful eye, such as when it was 'ordanit that na browsters mask their fat on Sonday...seing it is the common use of sum browsters to do the samyn', and that visitors were to make lists of women seen fetching water for brewing.[19] In an act entitled 'ressait of harlots' from November 1588, it was noted that that there was an influx of 'harlotes' coming into the town to work, and that 'everie man [must] try his awin house quhere ony sik is'.[20] During this time, a higher number of women received particularly harsher punishments than usual. There were five sentences of banishment or threats of banishment in three years, compared to two in the previous decade, and the only case in the records where an offender was threatened with branding.[21] Similarly, in the seven years where women made up over two thirds of sexual offenders, there were slight increases in women being convicted of flyting, which accounted for roughly 3.5% of all cases, compared with 1% of cases in the other years covered in this study.[22]

Considering all of these points together, this would suggest that there were periods when women's offences became a focus of the session. The acts and punishments mentioned above are unlikely to have been coincidental, and it is improbable that the increased disparity in sexual offences was wholly caused by certain male offenders' absence from the town. Furthermore, these changes, and the declarations made in

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[17] 1578, 1581, 1584, 1588, 1589, 1590 and 1592.
[18] *PKSB*, pp. 403, 405-406, 453.
[19] *PKSB*, p. 453.
[20] *PKSB*, p. 406.
[21] *PKSB*, pp. 416-417, 433, 404, 456-457. Janet MacDuff was warned she would be branded with the town's mark on her cheek if she reappeared.
[22] In the seven years mentioned, 12 women were convicted of flyting, compared with 11 convicted in the other 17 years in this study.

these years, were not reflections of acts made by the General Assembly or parliament at the time, as far as can be seen from their records.[23] They also cannot be explained by the arrival of a new minister with different priorities, as Galloway returned to Perth in November 1585. A potential explanation as to why there was a greater gender imbalance in discipline in certain years is the change in session membership, which was subject to an unusually high turnover in Perth. In the four last years where more than two thirds of convicted sexual offenders were female (1588, 1589, 1590 and 1592), 35 different men were elected as elders. Of these, 22 were new to the session in 1587 or later. This was a significantly high number of new elders, even for Perth's session, which could suggest that the changing focus was a result of a shift in the evolving session's priorities, leading to the implementation of these new acts. This is in addition to the fact that these years saw a higher than average turnover rate, with 100% turnover of elders in 1588. Of the 13 elders who were not new to the session, eight were elected in more than one of these four years with this significant gender difference, and so while elders' personal priorities were not made explicit in the records, it would appear that there was some correlation between particular elders being elected and this increased gender disparity.

The frequency of offences and specific acts against particular behaviour were not the only differences in the session's approach to disciplining men and women. More generally, women attracted greater suspicion relating to sexual offences than men – as can be seen with the fact that at least three times more women than men were warned not to arouse suspicion by entertaining guests late at night. Women working as innkeepers, laundresses, servants and others were sometimes questioned over their relationships with the men they worked for. For instance, Janet Justice had to explain that she had resorted to Henry Adamson's house 'upon na evil intention, bot because scho was his lainstar [laundress]'.[24] Similarly, 'Jonet Moresone being inquyrit quhat wes the caus of the resorting of Robert Fleming to hir hous anserit scho wes ane browster [brewer] and commone oster [innkeeper] redy to receive any honest man in ludging'.[25] Only women were summoned for living alone, which risked certain

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[23] *BUK*; *RPS (1567-1625)*, at https://www.rps.ac.uk/static/statutes_jamesvi.html [accessed 20 February 2019].
[24] *PKSB*, p. 421.
[25] CH2/521/3, pp. 108-109.

connotations. A declaration was made in 1588, 'consideering the greit sclander that arysis of young women taking up housses and dwelling togidder as codrois...it is ordanit that na honest man set them ane house without the avyse of ane of the bailyeis and elders'.[26] One example of this occurred in 1599, when Jonet Hall appeared, 'accusit for keiping a hows alone', and consequently suspected of fornication, she was 'commandit to tak hir to service' within a fortnight, presumably so she could be supervised.[27] In another, two sisters were ordered to go into service separately 'quhar thay may be best intertenit [without] sclander', after their other sister had confessed to fornication.[28] Evidently, approaches to regulating the sexual behaviour of female parishioners were more thorough than those for male parishioners.

Verbal offences by gender

As explained in the previous chapter, most verbal offences were classified either as 'slander', or 'flyting' in Perth, and these are likely to have been considered as different offences based on the type of action and consequences of the incident. There was a marked separation between slander and flyting in terms of the gender of offenders and victims. For verbal offences as a whole, the number of men and women convicted were quite similar, although with a female majority. 35 men and 46 women appeared suspected of a verbal offence, although with the distinction that men accounted for 60% of offenders accused of slander, and women made up 87% of those who appeared for flyting. This suggests that to some extent, the session classified forms of verbal offence by the gender of those involved, particularly in distinguishing flyting. This also sets Perth apart from studies of other parishes, which have shown that women were generally much more likely than men to be convicted of any form of verbal offence, in both urban and rural parishes.[29] Michael Graham has argued that there was usually a greater association of women with

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[26] *PKSB*, p. 405. 'Codrois' are defined in the *Dictionary of the Scots Language* as 'an idle person of a low class'.
[27] CH2/521/3, p. 124.
[28] *PKSB*, pp. 362-363.
[29] McCallum, *Reforming the Scottish Parish*, pp. 209-213; Graham, *The Uses of Reform*, pp. 87-119, 211-225. This is with the exception of Graham's data for slander in Canongate.

verbal violence, and that men were more likely to use physical violence.[30] Indeed, in Perth, 84% of those convicted of physical assault were men. It should be kept in mind, however, that the breakdown of cases brought forward before the court was not necessarily an accurate reflection of people's behaviour – it is highly unlikely that most instances of conflict were reported to the session.

Differences were also present in the number of men and women recorded as victims of verbal offences. Across the period covered by this study, there were 77 named victims of a verbal offence, comprising 40 men and 37 women. 75% of named flyting victims in Perth were female, and 56% of recorded slander victims were male – figures that differ from some other studies that have found women more likely to be victims of slander.[31] As demonstrated in Chart 4.1 below, the proportions of victims changed drastically by the early 1590s. While in the 1570s and 80s the numbers of male and female slander victims were roughly equal, by the 1590s 80% of recorded verbal offence victims were male, or 93% of slander victims. Flyting was rarely pursued in the 1590s.[32] Combined with the drop in slander cases against women, this suggests that by this time, the session began to move away from pursuing offences committed against women, instead placing priority on slander committed against men, and more specifically, session members themselves, as was discussed in the previous chapter. This is reinforced by the figures presented for physical assault victims in Chart 4.1, which demonstrate that by the 1590s, there was also an increase in convictions of physical offences committed against men. Again, it is likely that this shift in priorities was a result of the changing session membership at this time, as in 1591 John Malcolm was appointed as the new minister of Perth. There was also a considerable change to the eldership in the 1590s – just over half of those elected in the 1590s had never been an elder before, and as discussed in Chapter 1, the membership of the session in the 1590s was considerably different from the membership in the 1570s and 1580s.

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[30] Graham, *Uses of Reform*, p. 287.

[31] Ewan, 'Many Injurious Words', p. 176. Additionally, in Perth 82% of recorded victims of physical assault were male, and so the most common form of physical violence convicted was of a man injuring another man.

[32] The disparity in male and female verbal offence victims seen in Chart 4.1 for 1577-1581 is explained by the greater prevalence of flyting in the records at that time.

Chart 4.1: Victims in Verbal and Physical Cases[33]
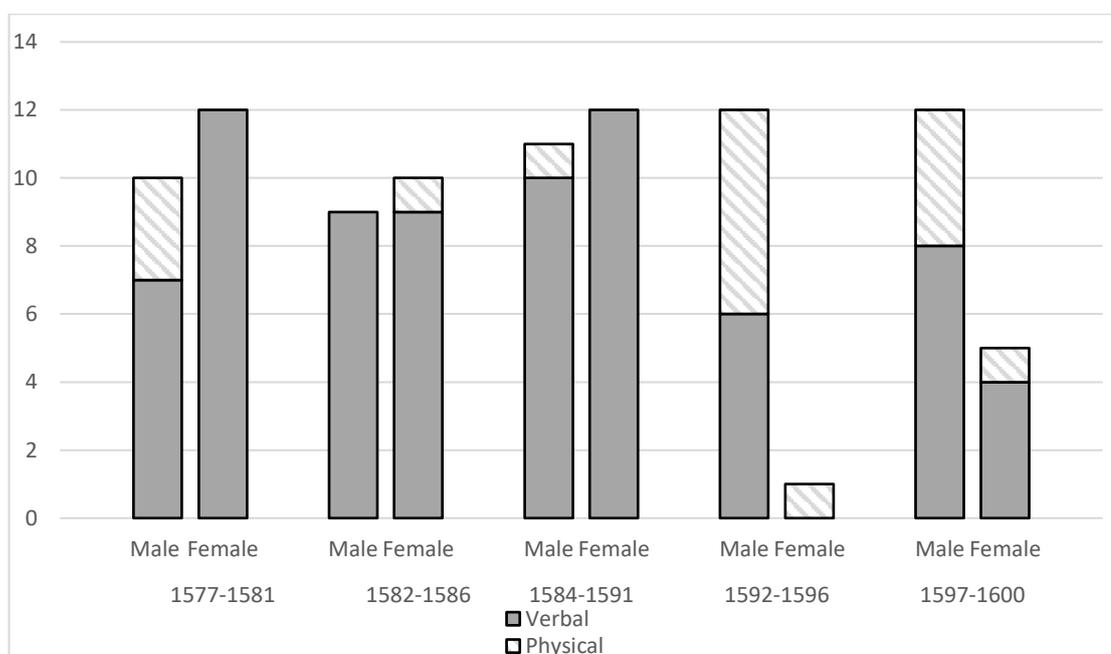
Miscellaneous offences

Certain types of offence appear much less frequently in the records than Sabbath breach, fornication and slander. The kirk session pursued 48 parishioners (in 17 cases) for involvement in pastimes they considered superstitious or otherwise immoral. One such act, participating in traditional plays, only involved men. As this was the most common traditional activity pursued and involved large groups, men accounted for 92% of individuals convicted of participating in a traditional pastime.[34] Other offences – such as singing offensive songs and dancing, as well as

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[33] This chart has been arranged in five-year blocks in the interest of clarity.
[34] This figure does not include unorthodox religious rites such as baptism and wedding feasts – these are counted in Table 3.1 as 'Unorthodox religious practice' and were committed by roughly the same number of men and women.

visiting holy wells, included both men and women. In May 1580 the session recorded the 'act of dragon hole', concerning young men and women visiting a nearby cave associated with May celebrations and playing pipes and drums. It was recorded that those found participating, 'every persone alsweill men as wemen' would have to make public repentance, so it was the intention of the session to administer the same discipline regardless of gender.[35] However, only two men and one woman were ever named as having been involved in these activities – a number very unlikely to accurately reflect people's activities. Some studies have suggested that there was a gendered element to certain activities: for instance, Margo Todd has suggested that there are more recorded instances of women visiting wells.[36] In the few cases concerning pastimes recorded, some differences can be seen in how men and women were disciplined. In January 1590, Henrie Arnot appeared for Sabbath breach, slandering his neighbours, along with blasphemy and 'singing of silly and ungodly sangis'.[37] The session showed some leniency towards him, stating that he was not required to undergo any punishment. In a similar case a few years earlier, Bessie Glass was convicted for 'singing of filthy and ungodly sangis and ballandis', as well as making 'inordinat jestis', 'contrare to the dewetie of ane godly or weill reformit woman', for which she was to be punished as a flyter, and banished if she repeated her offence.[38] While the outcomes of these cases are very different for one man and one woman, records do not show whether this was typical, or provide detail about the content of these songs. In order to understand whether men and women received different treatment, it is necessary to examine the punishments they received.

Punishments by gender

Most types of offence attracted a standard punishment that was administered equally to both men and women, in theory at least. Yet in reality it appears that women were more likely to receive harsher sentences than men, even after allowing for the fact

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[35] *PKSB*, p. 151.
[36] Todd, 'Profane Pastimes and the Reformed Community', pp. 140-141.
[37] *PKSB*, p. 437.
[38] *PKSB*, pp. 377-378.

that the punishments handed out were recorded in only 57% of cases, and that some of those refer to acts stipulating punishments that have not survived, meaning that the punishment was not recorded in full. While sentences of banishment and excommunication were uncommon, of the 17 offenders who received them, 15 were women. This is especially surprising since the offences that led to these punishments were not types of offences that were primarily committed by women. Speaking of secular authorities in the sixteenth century, Elizabeth Ewan has argued that 'there were no set regulations for carrying out banishment', and that it could depend on particular circumstances of the case, while also noting that banishment 'included connotations of low social status'.[39] It has been possible to determine the social status of only a few of the women in the Perth cases studied here – one was a servant, another a poor woman, and one was the wife of a wealthy merchant burgess.[40] One possibility is that some of these women were from outside of Perth, and had moved there to work, and so were no longer welcome. Perth's session, like many others, was suspicious of women moving to the town to work as servants or nurses, as can be seen from several declarations in the records.[41] However, none of the 15 excommunicated or banished women can be shown with certainty to be from elsewhere, and three were definitely from Perth, as can be seen from their relatives' involvement in cases, or from mentions of their property.[42] What they did have in common was that most of them had committed a sexual offence, or had disobeyed the session in some way. For instance, Violet Patersone was banished 'becaus of hir opin blasphemy of the minister and elderis, stubborne inobedience unto the kyrk, and sclanderous lyf and conversation in mony wayis'.[43] Similarly, several women, that is Elspet Carvor, Margreat Ruthven, Jeine Thornton, Margret Watson and Margret Oliphant were all excommunicated in various years as a result of refusing to submit to the kirk session and make their repentance after committing an offence.[44] Women were not more likely than men to refuse to obey the session – in similar cases involving men, the session appear to have given the men more warnings, and

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[39] Ewan, 'Crossing Borders and Boundaries', pp. 245, 252.
[40] *PKSB*, pp. 231, 234, 269, 316, 416-417, 480.
[41] PKSB, pp. 405-406, CH2/521/2, ff. 51v, 57r, 83r for some examples of acts concerning workers from outside Perth. DesBrisay, 'Twisted by Definition', pp. 138-139 for discussion of suspicion of servants.
[42] PKSB, p. 457; CH2/521/2, ff. 73r, 132r. Three can be identified as having committed their offence elsewhere, though it is unclear where they were from.
[43] *PKSB*, p. 161.
[44] *PKSB,* pp. 93, 122, 269, 306, 316 for their respective excommunications.

eventually administered less harsh punishments than those given to women who committed the same offences.[45] In another case in May 1589, Cristane Gray was banished after committing fornication, with the reason given that she was 'onabill to sustene hir self in waird'.[46] Her partner in fornication, the servant William Baxter, never appeared at the session for his offence. In June 1591, Janet Fendor and Piter Stowp both appeared at the session for their disobedience, having continued to keep each other's company after their conviction for fornication a year earlier.[47] While Fendor was threatened with banishment if she continued to disobey the session, Stowp was warned that under the same circumstances, he would have to make repentance as a relapsed fornicator. In contrast, of the two men excommunicated, one was a convicted papist who had been given several chances to renounce his Catholic faith, and the other had been involved in a murder.[48] These men were excommunicated for much more serious offences than those committed by the women who suffered the same punishment. As these circumstances of disobedience and poverty were certainly not unique to women, it appears from this small number of cases that the session was less tolerant of female disobedience.

Banishment and excommunication were not the only forms of punishment administered more commonly to women. As has been shown in studies of some other Scottish parishes, records suggest women were more likely than men to receive corporal punishment for the same offence.[49] Twice as many women were recorded as being placed in irons at the market cross compared to men.[50] It is also particularly noticeable in certain fornication and adultery cases that the female partner tended to receive corporal punishment, whereas the male partner did not. For example, when Elspet Burdone confessed to her second fault of fornication with the servant Patrik Steill in October 1594, she was sentenced to spending two hours in the jougs [an iron collar] at the market cross, imprisonment in the tower for 15 days, and six days of

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[45] CH2/521/2, ff. 63r-64r, 81v, 141v; CH2/521/3, p. 104 for some examples.
[46] *PKSB*, pp. 416-417.
[47] CH2/521/2, ff. 50r-50v. *PKSB*, pp. 446-447, 452 for their original conviction.
[48] *PKSB*, pp. 122, 158; CH2/521/3, p. 66, for the excommunications of Andro Trumpet and Thomas Lathreische.
[49] DesBrisay, 'Twisted by Definition', pp. 141-142.
[50] *PKSB*, pp. 87-88, 419 for some examples. That is 35 women in total, although considering the inconsistent recording of punishments the actual number is likely to be significantly higher.

public repentance.[51] When Steill confessed a month later, also for his second fault, no mention was made of any corporal punishment.[52] Women were also slightly more likely than men to be warded, possibly because they were not able to afford a fine. While in this circumstance, the kirk session did not ostensibly seek to punish women differently, they did so indirectly, as women were generally less able to afford fines. It should be noted that in some cases poor offenders were let off their fine without having to face warding, but all but one of these offenders were men.[53] This is similar to a case study of Aberdeen, where at one time it was observed that while a poor man had his fine lowered, a poor woman did not, despite it being her first offence, but not his.[54]

Far more men than women (100 compared to 17) in general are recorded as having their sentence reduced or waived altogether, and the reason for this is not usually recorded.[55] To give an example, when David Fleming was found drinking during the preaching in April 1596, his punishment was reduced to private repentance, and a lowered fine of half a merk, 'becaus it is the first tyme that he was deprehendit in the lyk falt'.[56] In this case, Fleming's good reputation was taken into account. At least 17 relapsed offenders (16 male) were also shown some leniency, and in some cases this was clearly a result of the man's high social status, as will be discussed further below. 88% of offences where the punishment was recorded as being reduced or waived were cases of Sabbath breach, which may suggest that this difference in leniency shown towards men and women was an indirect result of how Sabbath breach was punished. It is possible, however, that this correlation of Sabbath breach, a male-dominated offence, with lessened punishments, was not merely coincidental. Nevertheless, these cases show that there were differences in the way men and women were punished. Women were much more likely to receive the harshest punishments meted out by the kirk session, regardless of offence, and men were more likely to have their penalty reduced, and so while many men and women

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[51] CH2/521/2, f. 109r.
[52] CH2/521/2, f. 112r.
[53] *PKSB*, pp. 90; CH2/521/2, ff. 148r, 158v-159r; CH2/521/3, p. 19. I have only been able to find one instance of a poor woman being exempted from a fine without warding, probably because she had an infant to care for.
[54] DesBrisay, 'Twisted by Definition', p. 143.
[55] 11 are stated as young or their first offence, 8 were clearly of high social standing, 5 shown leniency due to poverty and 7 offered money to have their penalty reduced.
[56] CH2/521/2, f. 147v.

received the same standard penalty for offences, there was a distinct gender divide at the extreme ends of punishment.

Interactions with the kirk session

Although there were gender differences in the treatment of offenders, when it came to the exercise of discipline more generally, both male and female parishioners played an active role. Both men and women reported fellow parishioners to the kirk session and submitted bills of complaint, and parishioners of both sexes could act as witnesses. While in a third of cases where witnesses are mentioned, the records simply state that 'famous witnesses' had testified against a suspect, in the other two-thirds the witnesses are named. From these records it appears that women were called to act as witnesses less often than men, as 56 male witnesses were named in a total of 17 cases, and 19 women were named in a total of nine cases. 12 of these women were called to testify for or against other women, two women testified against a suspected pair of fornicators, and seven women testified in cases involving a male suspect. Therefore, while it was less common for a woman to act as a witness against a man, it was not unheard of.[57] For instance, in an entry from September 1582, the former elder Henry Adamson protested that two women had appeared to give evidence against him.[58] The session rejected his complaint, stating that their testimonies would be 'reseavit as far as the law permittis', alongside the evidence of 17 men who also appeared on various dates. Though it was uncommon, this study has found five instances of women acting as cautioners for offenders, again showing that women played an active role in the proceedings of disciplinary cases.[59] For instance, in September 1579, when Catherin Kynloch's punishment for fornication was deferred until after her child's birth, her mistress Isobel Pyper 'layit in pledge for the said Catherin for the sowm of ten pundes to the puir ane goldin ring', which

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[57] In contrast, male witnesses were involved in the cases of a roughly even number of male and female offenders.
[58] *PKSB*, p. 238.
[59] *PKSB*, pp. 78, 93, 98, 133-134; CH2/521/2, f. 108r.

she was to give to the kirk officer to keep until Kynloch had satisfied the kirk by repentance, showing that she was to be trusted to act as cautioner for a convicted fornicator.[60] It should be noted that all recorded female cautioners found for this study acted as caution for female offenders, and so it is possible that women were not permitted to act as cautioners for male offenders. Nevertheless, in some cases, women were trusted to act as cautioners and witnesses for offenders.

Recent studies have observed that the kirk session protected women in certain ways, for example by prosecuting husbands for incidents of domestic abuse and ensuring that fathers supported their children.[61] In addition to disciplinary cases, the kirk session also sometimes played a role in reconciling spouses. The entries from Perth's records show that in general, the session attempted to resolve marital disputes even-handedly. These disputes included accusations of abandonment, disobedience and abuse. For instance, in February 1592, it was recorded that Jhone Robertson had estranged himself from his wife, Bessie Gibson, 'without ony laull [lawful] caus and behaifs him selffe towards hir not as ane husband'.[62] The session concluded that he must 'receave hir hame againe utherwayis presently to be wairdit quhill better he learne his dewtie'. In turn, women were sometimes ordered to 'obey' or 'adhere to' their husband, as was considered their duty as a wife.[63] In around a third of cases, the session decided that neither was solely at fault, and aimed to reconcile both spouses to each other. For example, in July 1599, Margret Niving complained to the session that her husband, Androw Allane, had been in Germany for six years, and upon his return continued to refuse to live with her.[64] Allane replied that her sons had threatened his life, and it was decided that the elders would travail with both of them. In addition to the entries discussed above, there were 17 fornication cases where men were specifically ordered to support illegitimate children they had fathered, ensuring that the burden did not fall solely on women. In others, the session presided over the discussion of who should care for the child. In June 1589, James Rettray appeared

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[60] *PKSB*, pp. 133-134.
[61] Knox, '"Barbarous and Pestiferous Women", p. 17; McCallum, *Reforming the Scottish Parish*, p. 210; Graham, 'Women and the Church Courts in Reformation-Era Scotland', pp. 187-198; DesBrisay, 'Twisted by Definition', p. 137.
[62] CH2/521/2, f. 57v.
[63] *PKSB*, pp. 130, 305, 454
[64] CH2/521/3, pp. 89-90.

having been recently convicted of fornication, which had resulted in two children. He denied he had promised to marry the woman, Helen Watson, and it was decided that he was to have custody of their son, and she to take their daughter.[65] This is not to say, of course, that the session considered both parents as having the same responsibilities in caring for children, as only women were prosecuted for acts of child neglect, regardless of their marital status.[66] While this was an indirect result of contemporary gender roles, and not a particular bias held by the session, it nevertheless shows differences in how men and women interacted with the kirk session. Generally, the session appears to have mediated between couples evenly, taking into account the perspectives of both parties.

While it was not as common as other disciplinary cases, the session also investigated some incidents of domestic violence. For instance, when Elspet Campbell described to the session a particularly vicious attack by her husband David Gray, it was ordered that he was to be warded until an inquest of neighbours had been held.[67] Notably, the session also recognised husbands as victims of domestic abuse. In August 1579, the session requested that order be taken with Cristian Mackinfry 'for the scheding of Jhon Andersonis hir housbandes bluid', and in March 1599, Margret Huntar was referred to the burgh court after three witnesses testified that she was 'ane abuser of hir husband'.[68] It seems that in such cases involving session members themselves, the decision made was not always as even handed. When Elspet Dundie appeared to complain that her husband, the recent elder Duncan Macgregor, had 'strikkyn hir, spulyeit hir house, and done utheris mony injureis to hir', he was not punished, but the elders agreed to travail with the couple and 'bring them to ane unitie'.[69] Similarly, when Effy Tully entered a bill of complaint against her husband, the deacon James Sym, he refused to 'adhere' to her, and the session did not continue the matter.[70] In these cases, the judgement made was affected by the

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[65] *PKSB*, pp. 417, 419.
[66] *PKSB*, pp. 193, 408; CH2/521/2, f. 58v for examples of child neglect cases. These were usually punished with repentance in linen cloth, and the child's death put down to the mother's 'negligence and slewth'.
[67] *PKSB*, p. 239. The entry notes Gray allegedly 'bruk hir leggis, armis, and suldaris, quhilk sche schew befoir the assemblie'.
[68] *PKSB*, p. 129; CH2/521/3, pp. 71, 73.
[69] *PKSB*, p. 432.
[70] *PKSB*, p. 278.

reputation of the session members, rather than any specific gender bias. However, these cases are in the minority, and overall, entries involving marital disputes or domestic abuse show that the session did not favour the husband or the wife, but focused on the circumstances of the incident and the evidence brought forward. This supports studies which have argued that women were able to seek protection from the kirk session, but also shows that men could bring similar disputes to the session.[71]

Overall, both men and women played an active role in session proceedings, and generally in an even manner. From these cases it is certain that there were gender disparities within certain aspects of discipline. While it has been shown that both men and women were involved in session proceedings, there was a significant difference in the numbers of men and women convicted of offences such as Sabbath breach, physical assault and flyting. The difference in the number of men and women convicted of sexual offences, as well as the greater level of suspicion surrounding suspected female fornicators also suggests that experiences of discipline varied. Evidence showing increased restrictions on women's behaviour in specific years also suggests that these differences were partially caused by the views and agendas of the rotating session membership. This is further supported by the fact that women received more severe punishments than their male counterparts, and were less likely to be shown leniency, showing limitations to arguments that kirk sessions showed little discrimination when it came to prosecuting men and women. With this in mind, this chapter will now consider whether this level of variation also applied to disciplining offenders from different social backgrounds.

Discipline by social status

So far, it has been possible to identify several differences in the experience of discipline according to gender. It is much more difficult to determine the social

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[71] Knox, '"Barbarous and Pestiferous Women"', p. 17; Graham, 'Women and the Church Courts', p. 187.

status of parishioners, as it was rare for the records to record any information about those who appeared other than their name. This was especially the case for women, who were even less likely than men to have an occupation or social rank noted in the records. However, it is possible to draw cautious conclusions about the influence of social status on discipline by using a combination of details from certain entries, the recording of some offenders' occupations, and surviving lists of poor relief recipients in the minutes. These provide valuable evidence relating to whether discipline varied according to social status, and whether this was a result of the session's priorities. Possibly due to the difficulties in identifying social status, this aspect of discipline has not received as much attention in secondary debate. Studies that have previously considered discipline and social status often focus on those of higher social status, particularly the disciplining of lairds and other elites, although there has been some discussion of other groups such as servants.[72] Michael Graham has suggested that kirk sessions did not deliberately administer discipline differently to certain social groups, although with the observation that they were limited in their ability to pursue action against those of elite social status.[73] The evidence provided in Perth's records allows for examination of a wider range of social groups. In Perth, offenders from many different social groups were convicted, although the way in which their cases were dealt with could differ.

Social composition of offenders

This study has identified the occupation or title of 273 of the 1,567 offenders that appeared before the session during this time period. 25% of male offenders had their occupation noted by the session, and from these records 148 male offenders can be identified as having been a merchant or craftsman, while a further 13 were millers and 17 were servants. A further six were lairds or their heirs. The rest of the men identified were from an assortment of occupations, although these are too few in

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[72] Brown, 'In Search of the Godly Magistrate', pp. 259-279; McCallum, *Reforming the Scottish Parish*, pp. 217-220.
[73] Graham, *The Uses of Reform,* pp. 259-279.

number to offer meaningful analysis of these groups.[74] In comparison, 42 (6%) female offenders had their occupation or social rank recorded.[75] The remaining number have no occupation listed so their status cannot be known for certain, but it is probable that those of a higher social status were much more likely to have their occupation recorded than others. Offenders from poorer backgrounds are more difficult to identify since lists of poor relief recipients appear quite irregularly in the records, and very few offenders were listed on these.[76] Because occupations were not consistently recorded, church records are challenging sources for analysing the social status of offenders, and how this correlated to the social composition of the overall population. Nevertheless, the evidence collected for this study shows that at least 16% of male offenders (9% of total offenders) were merchants or craftsmen. A further 100 other male offenders match names entered in *The Perth Guildry Book* over the late sixteenth century, meaning that the proportion of merchants and craftsmen may be a maximum of 27% of male offenders (16% of all offenders), and so is likely to be somewhere between these two figures.[77]

Using the evidence of offenders' backgrounds identified in this study, it is possible to estimate how the number of merchant and craftsmen offenders recorded compared to the proportion of Perth's population from this social group. Mary Verschuur has stated that in sixteenth century Scottish burghs, merchants and craftsmen were not generally the most populous social group.[78] Michael Lynch has calculated that in Edinburgh in 1558, there were around 768 burgesses, from which it can be estimated that around 7% of Edinburgh's population were burgesses at that time, not including dependents of burgesses.[79] To put into perspective, Joyce McMillan has asserted that

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[74] This was 17 cases involving the town porters, five fishermen, four innkeepers, four cases involving the schoolmaster, three masons, three sons of craftsmen, two fishmongers, two farm workers, two cooks, one cadger, one messenger, one mariner, one apothecary and one stable-man.
[75] Recorded occupations and status of women were eight servants, five nurses, five hucksters, three brewsters, three innkeepers, four burden bearers, one midwife, one lady, five wives and daughters of craftsmen, two wives of merchants, four wives of labourers and one wife of a porter.
[76] Only 38 offenders match names which appear on lists of poor recipients in the session minutes, and for the majority it cannot be shown for certain that they are the same person.
[77] Stavert (ed.), *The Perth Guildry Book.*
[78] Verschuur, *Politics or Religion?,* p. 8.
[79] Lynch, *Edinburgh and the Reformation,* p. 10.

around 94% of Edinburgh's burgesses were merchants or craftsmen.[80] Taking these studies into account, this would suggest that merchants and craftsmen were represented fairly proportionately in the numbers of offenders. That is, assuming Perth's burgesses made up a proportion of the population similar to Edinburgh's 7%, as compared to the proportion of 9–16% of total Perth offenders being merchants and craftsmen. This is a somewhat higher proportion than in Michael Graham's figures of other Scottish towns, in which he was able to identify 7% of offenders as either nobles, burgesses, degree-holders or local officials, although he too notes difficulty in identifying social status and considers these low estimates.[81] Outside of Scotland, studies of Reformed churches have noted a similar problem, with Raymond Mentzer finding that in sixteenth-century Nimes, the social composition of offenders correlated closely to that of the overall population, with around a quarter of identifiable offenders being nobles or professionals (such as merchants, lawyers, etc), while nearly two-thirds were artisans. Mentzer also noted that less prominent individuals were less likely to have their occupation recorded.[82] In Perth, closer estimates of the social composition of offenders can be found when looking at offences where a higher percentage of offenders' occupations can be identified, such as Sabbath breach – an offence for which 44% of men and women accused had their occupation noted, probably as it was often relevant to the details of the case. 30% of men convicted of Sabbath breach had their occupation recorded in the minutes as either a merchant or craftsman, not including those who match names entered in *The Perth Guildry Book*. This therefore suggests that this group, to which most of the session members themselves belonged, were certainly not underrepresented for this offence, suggesting that a broad range of parishioners were regularly convicted for moral offences. This significant representation of merchant and craftsmen offenders leads to questions over how far the session discriminated in convicting offenders of different backgrounds in general.

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[80] Joyce K. McMillan, 'A Study of the Edinburgh Burgess Community and its Economic Activities, 1600-1680', (Unpublished PhD Thesis: University of Edinburgh, 1984), p. 12. Most of the remaining 6% were lawyers, which was not as common an occupation in Perth.

[81] Graham, *The Uses of Reform*, p. 266. The highest proportion he identified as such was in Edinburgh (11%).

[82] Mentzer Jr, 'Ecclesiastical Discipline and Communal Reorganization Among the Protestants of Southern France', pp. 165-166.

Wealth and social status certainly played a role in the way that kirk session discipline was exercised in Perth. There were only seven suspects who can be identified as a laird or relative of one, and the session apparently struggled to persuade them to appear when summoned. In January 1599 it was reported that 'my lady Errol of contempt absentis hir self from the heiring of the word on the Sabboth and on uther preching dayis'.[83] Rather than call her to appear at the session, it was ordered that a bailie and three of the elders were 'to speak to hir and try the caus of hir absenting hir self continually fra the heiring of the word and give scho hes no reasonabill caus...the sessione will proceid aganst hir with the censuris of the kirk'. She was not mentioned again in the records, or referred elsewhere, and so the final outcome of this case is unclear. Similarly, in January 1593, the lady of Innernytie, who was presumably a relation of the laird of Innernytie, an excommunicated papist, did not appear at the session to explain why she and her family had been frequently absent from the sermon, but instead sent a bailie on her behalf to explain that she was ill.[84]

In some other cases involving prominent individuals, however, the session was persistent, and also required that they appear in person. In June 1596, Katrine Ross confessed that she had been persuaded by Donald Thomsone and his wife to spend the night with John Campbell, the laird of Lawers, having been told that he was not married.[85] The session summoned the laird, but he did not appear until after repeated summons a month later, and 'with great humilitie and sorow as appearit confessit his manifold adulterys', for which the session referred his case to the presbytery.[86] While the presbytery's records have not survived, its verdict is referred to in the session records, which appears to be that he was to make repentance for his offence. Having failed to do so, the session followed the presbytery's order to begin with admonitions before excommunication.[87] Eventually, in December 1597, the session's

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[83] CH2/521/3, p. 61.
[84] CH2/521/2, ff. 69v, 71r, 138v-139r.
[85] CH2/521/2, ff. 150v-151r.
[86] CH2/521/2, f. 154r.
[87] CH2/521/3, pp. 2, 3.

warnings took effect, as it was noted that Campbell had begun making public repentance, with the records indicating that he appeared in the public place of repentance on at least four Sundays.[88] In the same month, the laird's son, Coline Campbell, also submitted himself to public repentance, a year after he had been accused of fornication, and so the session was not entirely unsuccessful when it came to disciplining elite members of society.[89] However, it was notably difficult for the session to bring these individuals to accept their punishment.

Other cases in the records show that not only did the session take a different approach when disciplining wealthier individuals, but they were also more lenient in the punishments meted out. An example of this can be seen with the case of William Donying, who was accused of physically assaulting James Stewart, a poor resident of the hospital.[90] Donying's father, James, was a patron of the hospital, and this seems to have been factored into the session's judgement, as William was only given a 'gentill admonition' not to repeat his offence, with no further action taken.[91] Another case from July 1594 seems to involve the same father and son. It concerned an act of slander committed by James Donning and his son William, who fixed libellous writing onto the kirk doors on a day of public fasting, defaming two prominent burgesses. It was noted that, usually, this offence would have incurred a heavy penalty, but, 'the sessione having regaird in speciall to James Donning...hes mitigatit ther censuris quhilk justlie micht [have] bene extendit against them'.[92] Evidently, on certain occasions the session adjusted punishments in relation to an individual's social standing. A broader example of this is the fact that some more wealthy offenders were permitted to pay a sum in order to avoid a more humiliating punishment. For example, in May 1579, Jhon Bachlan was given the option of paying 40 shillings instead of making public repentance for his fornication.[93] A few entries suggest that this was not intended to be a standard procedure – for instance, when Thomas Monipenny was permitted to pay 40 shillings to avoid warding and

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[88] CH2/521/3, pp. 7, 9, 10.
[89] CH2/521/2, f. 162r; CH2/521/3, p. 7 for his lover's confession and his appearance, respectively.
[90] *PKSB*, p. 360.
[91] *PKSB*, pp. 156-157.
[92] CH2/521/2, ff. 101r-101v, 8th July 1594.
[93] *PKSB*, p. 120.

punishment at the crosshead for his fornication, it was allowed 'provyding it prejudge na man in tyme cumming' – suggesting that the session did not wish to set a precedent.[94] Similarly, in November 1587 Thomas Dundie, who had already paid 40 shillings to avoid warding and crosshead for his fornication, was also allowed to avoid public repentance in exchange for a penalty of £4: it was noted that the agreement would be revoked if the session received criticism for it, which they may have anticipated.[95] The fact that this was not considered by the session as a standard procedure reflects arguments made in recent studies that generally, the session did not consciously aim to administer discipline differently.[96] However, it is apparent that punishments were sometimes adjusted for wealthier and more prominent individuals.

As with many aspects of discipline discussed in this study, evidence shows that the treatment of offenders of differing social statuses fluctuated over time, and that certain sessions were more influenced by social status than others. All but one case recorded of a person buying their way out of corporal punishment or public repentance occurred before the end of 1583; as mentioned above, this does not appear to have been a standard procedure, suggesting that the punishments prescribed could vary in different years.[97] Interestingly, all cases involving lords, lairds, ladies or their heirs, albeit few, were prosecuted between 1591 and 1597, suggesting that by the 1590s, the session was either more able, or more willing, to pursue cases involving these elites.[98] This trend may also be a result of the addition of landward elders to the session in 1592, which as discussed in a previous chapter enabled the session to increase their scope, as lairds and their families often lived, and hence committed offences, outside of the urban centre of Perth. This can be seen in the cases of October 1591, when Colyne Eviot, the laird of Balhousie (in the north landward), opened Balhousie mill on the Sabbath, and when in February 1592, Jhone Pitscottye, heir to the laird of Luncarty, confessed to playing football on the Sabbath

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[94] *PKSB*, p. 247.
[95] *PKSB*, p. 381, 382.
[96] McCallum, *Reforming the Scottish Parish*, p. 217; Graham, *The Uses of Reform*, p. 274.
[97] *PKSB*, pp. 120, 130, 181, 246, 247, 248, 272, 381, 382. These were Isobel Murdoch (1581), Jhon Blak (1581), Thomas Moneypenny (1582), Thomas Moneypenny (1582), Gilbert Blyth (1582), Margaret Oliphant (1582), Duncan Finlason (1583) and Thomas Dundie (1587). The suggestion that this was an option was also made once each in 1579, 1581 and 1582.
[98] CH2/521/2, ff. 53v, 57v, 69v, 71r, 144r, 147v, 154r; CH2/521/3, pp. 3, 7, 61.

in Muirton, which was also situated in the north landward area.[99] Whether by the increasing numbers of the session, or by changing approaches to pursuing certain individuals, the nature of this aspect of discipline in Perth was certainly not static. It is evident that not all wealthier offenders experienced discipline in the same way, and as will be shown here, the experience of poorer parishioners could also vary.

Disciplining the poor

Poorer offenders who could not afford to pay the standard penalty for an offence were sometimes subjected to harsh corporal punishment or warding instead. A number of convicted fornicators in the records were ordered to be warded on bread and water for a length of time, along with appearing in irons at the market cross, instead of the usual fine and public repentance.[100] This reflects the Act of Parliament of 1567, 'concerning the filthy vice of fornication and punishment of the same', which states that fornicators who could not afford the usual fine were to be subjected to 'corporal pains' instead of 'pecuniary pains', which was warding for a week and two hours chained to the market cross for a first offence.[101] As mentioned above, one woman was banished for not being able to sustain herself in ward, and Elizabeth Ewan has observed an association between banishment and low social status.[102] In Perth's records, it was usually stated that a person was to be warded without a reason given, and there are relatively few cases which state that a punishment was changed due to an offender's circumstances. This creates some challenges in evaluating whether the number of poor offenders warded instead of having to pay a fine changed over time. However, it is evident that Perth's session's approach to disciplining poor parishioners varied. While in the cases mentioned above, poor offenders received relatively harsher punishments because they could not afford the standard penalty, this was not the experience of all those of similar financial status. Some were excused fines with no additional punishment required of them, while

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[99] CH2/521/2, ff. 53v, 69v.
[100] *PKSB*, pp. 109, 391-392; CH2/521/2, ff. 108r, 109r, 125r.
[101] *RPS,* iii 25, c. 14, at https://www.rps.ac.uk/trans/A1567/12/13 [accessed 14 February 2019].
[102] Ewan, 'Crossing Borders and Boundaries', pp. 252-253.

others had their punishment reduced from repentance to admonition.[103] To give an example, Thomas Finnick, who was previously listed as a recipient of poor relief, appeared in March 1598 for committing Sabbath breach. The session recorded that while he ought to pay a fine of 20 shillings, specifically because of his poverty 'for this tyme dispensis with thair penalty', with certification that if he repeated the offence, he would be put in irons.[104] In a more serious case, Alexander Moncreiff appeared in September 1596 for 'customabill and continuall breking of the Sabboth', which included 'at the last fair in slaying ane goat in presense of strangeris'.[105] Despite the fact that the session believed that his continuous offences 'deservis to be punischit with death', they considered that because Moncreiff was 'a sensles man without feling litill regarding publick repentance and also that he is pure thairfoir hes for the present dispensit with his repentance publick'. Bearing in mind that specific punishments were not consistently recorded in the minutes, it is apparent that there was not an entirely consistent approach to disciplining poor offenders, and the session applied some flexibility when it came to the punishments they administered.

Committing an offence could have a more drastic impact on those who were recipients of poor relief. As John McCallum has noted, such transgressions could result in a poor parishioner no longer receiving relief, and this was also distinctly the case in Perth.[106] In November 1597, a woman named only as Cristen, described as 'ane of the ordinar pur', was found to have received harlots into her house, and it was consequently declared that she was no longer to receive any poor relief.[107] In a similar case in April 1596, it was recorded that 'the twa schilling that was gevin weklie to Jonet Lasone ordinar pur for hir support to be abstractit from hir in tyme cuming becaus scho hes abusit hir self in whordome & fornicatione'.[108] Another poor woman, Jonet Carnie, was removed from the hospital after committing fornication.[109] In October 1599, when it was noted that 'many of the ordinar pure' did not attend sermons, it was declared that they must attend on all preaching days,

[103] *PKSB*, p. 90; CH2/521/2, ff. 158v-159r, 165v for some examples.
[104] CH2/521/2, f. 144v; CH2/521/3, p. 19.
[105] CH2/521/2, ff. 158v-159r.
[106] McCallum, *Poor Relief and the Church*, p. 192
[107] CH2/521/3, p. 5.
[108] CH2/521/2, f. 145v.
[109] CH2/521/3, p. 25.

and sit in a specific aisle where they could be seen.[110] If they failed to do so, the deacon tasked with distribution would not give them any of the alms – in this way, punishments could be much more harmful to poor parishioners who relied on the kirk than those of higher social standing. This is not to say, however, that all those who had previously committed an offence could never subsequently receive poor relief. For example, the baxter William Schippert confessed to selling bread on the Sabbath day in July 1587, and must have satisfied the kirk, as he appears on a couple of lists of poor relief recipients a few years later; on one receiving 10 merks.[111] John Swenton, the master of the songschool, received items of clothing on more than one occasion after his conviction for fornication, despite his unwillingness to confess, and his two relapses.[112] While evidence from the records presents challenges in assessing whether poor parishioners were convicted of offences more often than other social groups, they undoubtedly faced consequences unknown to offenders of higher social standing.

Servants

It was not only the very poorest in society who could suffer harsher consequences than those of higher status for committing offences. Servants were often under particular scrutiny from the kirk session, with numerous declarations associating servants with sexual offences. One such typical declaration from November 1588 indicated the concern of the session that 'ther ar sundry harlotes and filthy leiffars enterit in this town in service', having fled from discipline elsewhere.[113] To act against this, it was ordered that Perth's householders should only employ servants who could supply a testimonial of good behaviour from the minister of their previous parish. Another act from February 1584 shows a close association of servants with fornication, as it noted the abundance of fornicators who had evaded punishment by avoiding the kirk officer, and that this would be remedied by ordering masters and

[110] CH2/521/3, p. 115.
[111] *PKSB*, p. 371; CH2/521/2, ff. 102r, 141v.
[112] *PKSB*, pp. 69-72, 341-342, 397, 414.
[113] *PKSB*, p. 406.

mistresses to present their servants to the session.[114] It is therefore apparent that servants attracted a higher level of suspicion than some other social groups.

Being found guilty of an offence could be very damaging for some servants – not only would their reputation suffer, and they were unlikely to receive a good testimonial should they choose to relocate, but they were also at risk of losing their employment and accommodation. For example, in September 1582, the session had grown suspicious of Issobel Sempill, the servant of Jhon Makgregor.[115] Despite the fact that she does not seem to have been subsequently convicted of an offence, it was ordered that 'for removing of the said sklander it was ordenit that the said Jhon suld put hir away immediatly out of his house under the paine of xx £'. There are several similar cases of masters being required to dismiss their accused servants, more specifically, female servants, as there are no cases of male servants being removed in these records.[116] This may be because women were more likely to be employed as domestic servants.[117] This is not to say, however, that the livelihoods of male servants were not also affected by rumours of offending – in one case, the servant Jhone Burrye complained to the session that the mere suspicion of stealing had brought him out of employment, although it should be noted this was not by the demand of the session themselves.[118] Moreover, servants were not the only workers who may have been affected in this way. An entry from November 1590 indicates that the business of midwives, too, could be affected by their moral conduct, as the midwife Marion Stewart was threatened with 'dischairge of hir office' for concealing the identity of an illegitimate child's father from the session.[119] Clearly, punishment from the kirk session could impact heavily on certain parishioners, and offenders who relied on their personal reputation for employment, housing or assistance in the form of poor relief faced greater risks than those of higher social standing. Furthermore, these effects of discipline were not an indirect result of contextual

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[114] *PKSB*, p. 278.
[115] *PKSB*, p. 237.
[116] *PKSB*, pp. 205, 249, 273, 282, 457 for some examples.
[117] Helen Dingwall, 'The Power Behind the Merchant? Women and the Economy in Late-Seventeenth Century Edinburgh', in E. Ewan and M. Meikle (eds), *Women in Scotland, c. 1100-c. 1750* (Tuckwell Press: East Linton, 1999), pp. 153-155.
[118] CH2/521/2, f. 64v.
[119] *PKSB*, p. 456.

circumstances – the session actively decided to impose punishments such as eviction and banishment, showing limits to the argument that the session generally aimed to administer discipline equally.

Conclusion

This chapter has analysed the differentiated approach that the kirk session took to disciplining parishioners in relation to gender and social status, and how the approach in Perth differed to that in other parishes. At first glance, it appears that male and female offenders often received similar treatment, reflecting arguments in historiography that that the session did not generally administer discipline differently by gender. Men and women were both active participants in disciplinary proceedings, and their marital disputes were dealt with evenly on the whole. However, this study has found that there were multiple ways in which discipline could differ by gender. Men and women were convicted of certain offences in significantly different numbers, including sexual offences which involved two partners. It has been shown that women were often treated with more suspicion than men for the same offence, and received harsher punishments once convicted. In contrast, men were more likely to be shown leniency for their offences, suggesting that the session viewed their actions differently. While some of these differences may have been an indirect result of contextual circumstances, such as men's greater mobility and financial status, it is more probable that the session's own decision-making resulted in these opposing outcomes. This has been shown in findings from the analysis that women were more likely to be banished, excommunicated or receive corporal punishment, the decline in cases of verbal offences committed against women, as well as the significant increases of female convictions and acts concerning women in certain years, which correlates with the changing eldership of the session.

As for the social status of those convicted, this chapter has shown that the session pursued offenders from all kinds of social backgrounds. Again, merchants and

craftsmen, a group that most of the session's elders belonged to, were definitely not underrepresented as offenders. However, approaches to discipline certainly differed according to parishioners' circumstances – the session often took a more lenient approach to wealthy and powerful offenders, and their cases were often carried out over a longer course of time. On the other hand, offenders of a lower social standing often faced more detrimental sentences, not only through forms of corporal punishment, but their means of income, accommodation or other support could be threatened. From this, it is clear that some differences were actively caused by the session's judgements, which to some extent challenges secondary arguments that variations in discipline by social status were out of the kirk session's control. The kirk did however have discretion to modify its approach. Some poor parishioners were shown more leniency, and by 1591 the kirk's influence had grown to the point where lairds were successfully summoned to appear. Nevertheless, it is unmistakable that it was those of lower social status who were hit hardest by the punishments meted out, and that the exercise of discipline was far from even-handed.

Chapter 5

The Kirk Session and the Congregation

Many members of the congregation in Perth had some dealings with the kirk session for one reason or another at some point in their lives. This was not just for matters of discipline. Parishioners appeared to declare their marriage banns, or to receive poor relief, and they engaged with session members during regular catechetical examinations. Within disciplinary proceedings, a person might appear as a suspect, witness, cautioner or accuser, and so could either assist with the process of conviction or alternatively support offenders. It has been suggested that local communities were generally in favour of kirk session discipline, and Margo Todd has shown that Perth was an especially good example of this.[1] More recently, studies have begun to consider a more nuanced understanding of the kirk's relationship with the local community, going beyond arguments about the congregation being either in support of or opposed to discipline, as well as examining how much flexibility local sessions displayed in making judgements.[2] This chapter will further this approach by considering a number of forms of interaction between Perth's kirk and congregation. It will examine rates of recidivism, as well as forms of disobedience from offenders, evaluating what these aspects of discipline reveal about parishioners' relationship with the kirk, and how the kirk responded to these interactions. While in the majority of disciplinary entries it is recorded that the accused person confessed to their offence, and submitted themselves to discipline, this was not always the case. Studies of kirk sessions have noted the prevalence of such confessions with little analysis of cases in which suspects denied the charge. Evidence from Perth shows that a notable number of people denied committing an offence. This chapter will consider how parishioners attempted to prove their innocence, as well as how the kirk session responded to these denials. It will also examine how these aspects of

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[1] Todd, *The Culture of Protestantism*, pp. 194-224.
[2] Glaze, 'Women and Kirk Discipline; Langley, *Worship, Civil War and Community*, ch. 2.

discipline changed towards the end of the sixteenth century, and why these began to be dealt with differently by the kirk session.

Responses to Discipline

Between 1577 and 1600, Perth's kirk session recorded a total of 1,146 cases, and an average of 65 people each year appeared at the session suspected of an offence. The kirk session records suggest that the session dealt with very few acts of opposition to the implementation of discipline from Perth's congregation, or to the Reformed teachings of the kirk. Only 12 offences involved accusations of Catholic practice, or opposition to the content of sermons, indicating that these offences were not a priority for Perth's kirk session. As Mary Verschuur has stated, by the late 1570s, 'recusant activism was almost non-existent in Perth'.[3] The findings from this thesis show that this pattern continued into the 1580s and beyond. This was despite the fact that, as stated by Michael Graham, 'the Kirk at the national level in the late 1580s and early 1590s became very concerned about the perceived Catholic threat'.[4] There were isolated cases of parishioners interrupting the sermon, but only one is recorded in any detail – in 1584, Thomas Andersone denounced Patrick Galloway as 'ane dr[u]nkin minister', and 'declynit fra the judgement of the minister because he was partie unto the presbiterie', most likely because Galloway was suspected of involvement in the Stirling conspiracy, and had opposed increasing episcopal policies.[5] Most parishioners who appeared submitted themselves to the discipline of the kirk without objection, although it is usually not stated whether this was voluntarily, or after travailing with the session. A few more detailed entries suggest that some felt guilt, or feared the shame associated with the offence they had committed. In February 1582, Maige Mertyn appeared for concealing evidence from the session.[6] She appears to have been the servant of Maige Paterson, who was suspected of adultery. Mertyn recalled that she had heard Paterson tell her lover that

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[3] Verschuur, *Politics or Religion?,* p. 131.
[4] Graham, 'Social Discipline in Scotland', p. 147.
[5] *PKSB*, p. 281; MacDonald, *The Jacobean Kirk,* pp. 25-26.
[6] *PKSB*, p. 213.

in 'the morne they wald tholle mekle [suffer much] shame for the thing they war doand'. Despite this, Patersone did not appear at the session for her adultery until February 1585.[7] In September 1596, Jhone Cudbert appeared for his fourth sexual offence, and 'with great humilitie and tearis gives a simpill confessione of his adulterie', 'craving also the ministrie and sessione pardone quhome he had often offendit by his obstinacie & stuburnes'.[8] As Nikki Macdonald has argued, session members considered physical expressions of sorrow such as this an important sign of sincere remorse, and a step towards genuine repentance.[9] Not only was it possible that Cudbert felt truly sorry for his actions, or at least realised that it helped to put on a show of remorse, but the record notes that he was brought to his confession not only by the session, but after long travail by 'utheris voluntarlie', probably meaning that his own acquaintances also took action in bringing him to confess. Overall, there were few incidents of outright rejection of the kirk session and its business, and evidence suggests that some of those who committed offences did feel remorse for their actions or could be persuaded to confess, and that those acquainted with them could be active in bringing them to confess.

Some entries in the records show parishioners criticising the session for failing to discipline particular individuals, which shows that some members of the congregation valued the process of discipline. In August 1587, Effie Tully, the wife of the deacon James Sim, complained to the session that she believed he had committed adultery. When the session refused to investigate the matter, she stopped attending church, exclaiming that 'the minister dois not his dewetie'.[10] This suggests that Tully considered the minister responsible for investigating her claim and administering discipline. This is despite the fact that she herself had previously been convicted of both slander and absence from the communion over four years, supporting the idea that those who offended were not necessarily opposed to the disciplinary system in general. [11] On the contrary, they may have wanted to see

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[7] *PKSB*, p. 297.
[8] CH2/521/2, f. 157v.
[9] Nikki M. MacDonald, 'Reconciling Performance: the drama of discipline in early modern Scotland, 1560–1610 (Unpublished PhD thesis: University of Edinburgh, 2013), pp. 93-94
[10] *PKSB*, p. 374.
[11] *PKSB*, pp. 251, 261-262. In June 1583, Tully declared that her absence from the communion was because of enmity between herself and her neighbours.

others being subjected to the same disciplinary process as themselves. In August 1582, Oliver Peblis, a local bailie, criticised the session for their reluctance to proceed against Henry Adamson, an elder who had committed adultery with Peblis' wife, stating that they had 'denyit to gif him justice be reason they driftit tyme'.[12] While these cases were clearly of personal interest to the complainant involved, other research has suggested that this form of criticism occurred more broadly. Chris Langley has argued that across seventeenth-century Scotland, congregations held high expectations of their elders, and the fact that kirk sessions were scrutinised in this way shows that parishioners 'sought to strengthen rather than undermine discipline'.[13] In 1591, the session noted that 'ther is ane hevie and suspicious sklander arissin that Effie Barnis suld have alledgit that scho haid gewin to the minister his wyff and the reider certane gold and silver...to beir with hir abuse'.[14] As Effie Barnis denied this charge, and no conviction was recorded, it is possible that her neighbours, who suspected her of adultery, were suspicious as to why she had not been summoned by the session, and believed that her behaviour warranted a punishment.[15] This supports the argument that some of the congregation held the session to a certain standard, and expected them to act against those they suspected. As has been noted in studies of other Scottish parishes, it was not uncommon for parishioners to report their neighbours to the session, and the actions of session members were 'governed by popular consent'.[16] In March 1591, Janet Law appeared at the session, having raised suspicion because she lived alone, managing an alehouse.[17] It was recorded that the matter was 'greitly cryit out against be the haill nytbors', indicating that the session's concern about her reputation was shared by those who knew her, and it is likely that several of her neighbours initiated the case. Not only did parishioners report their neighbours to the session, but some also seem to have been proactive in investigating them. For instance, in September 1587, Margreit Gall was summoned to the session 'for sundrye and divers bruites araisit [rumours raised] upon hir be the nychtboures dwelling about hir'.[18] They had seen

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[12] *PKSB*, p. 231.
[13] Langley, 'In the Execution of His Office', p. 508.
[14] CH2/521/2, f. 51v.
[15] CH2/521/2, f. 52v. Both this entry and the one above note how Barnis was suspected of adultery with the miller Thomas Scott.
[16] Todd, *The Culture of Protestantism*, p. 32; Burns, 'Enforcing Uniformity', p. 113; Langley, 'In the Execution of His Office', p. 499.
[17] CH2/521/2, ff. 47v-48r.
[18] *PKSB*, p. 376.

numerous men enter her home at different times, and they seem to have kept her under surveillance, not only reporting the specific times and names of these men, but even noting 'the laird of Ruthven being found at ten hours afoir none in hir bed there lying'.[19] It is likely that, as Gall had been previously convicted of fornication a year earlier, her neighbours kept an especially close eye on her.[20] Others went as far as to directly criticise acquaintances for their poor conduct. When Isobell Ranking was suspected of committing adultery with Thomas Smith, Bessie Ruthven reported to the session that she had seen Ranking go into Smith's shop late at night many times, 'for the quhilk scho rebukit hir'.[21]

In addition to reporting suspicious neighbours, parishioners also willingly acted as witnesses when requested by the session and testified against suspects. In the aforementioned adultery case of Isobell Ranking and Thomas Smith, eight neighbours appeared to give evidence against them, each giving specific times and places they had seen the pair together. In June 1600, when the kirk officer Jhone Jak gave in a bill of complaint against Bessie Lowdien for slandering him, he was backed up by her own neighbours, with the session specifically noting it was their testimonies which proved the case, highlighting the respect some of the congregation held for session members.[22] These reports from witnesses show the active role played by parishioners in the exercise of discipline, and this contribution was undoubtedly important to the session's proceedings – in some cases, where no neighbours appeared to give evidence despite a declaration being made, the case could not continue, and some were consequently absolved.[23] Perth was not unusual in the importance that society placed upon personal reputations, and this was tied to the session's judgements, as is demonstrated by the following case involving two mill servants from July 1592. One, Jhone Burrye, gave a bill of complaint against the other, Michaell Lyell, stating that Lyell had falsely accused him of stealing malt from the mill. Burrye explained the hugely detrimental impact the accusation had

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[19] *PKSB,* p. 376.
[20] *PKSB*, p. 341. She was also fined £10 for failing to marry George Low.
[21] CH2/521/2, f. 154v.
[22] CH2/521/3, p. 148.
[23] CH2/521/3, p. 19 – for example, none appeared to testify against Cristen Fergusone, and she was allowed to swear an oath of innocence.

had – that it had brought 'him out of all gud fame and service places'.[24] The session questioned Lyell, and finding that he had indeed lied, communicated this to Burrye. Burrye asked that the session give him a testimonial of his innocence, so that the accusation would no longer 'be ane hinder to him...especially to his service seing he is bot ane puir boy haiffing na thing to leife on bot his service', suggesting that his employers and acquaintances placed ultimate importance on the session's judgement of him. Clearly, Perth's parishioners were able to negotiate with the session when they felt that discipline was required. Parishioners could be actively involved in the implementation of discipline, and often valued the judgements that were made. In order to evaluate the multi-layered relationship between Perth's kirk session and its parishioners further, particular interactions between them will be examined in more detail below, beginning with cases in which parishioners denied the charge of which they had been accused.

Denying an offence

Studies of discipline in Scotland and elsewhere have observed that the vast majority of those who were accused by a kirk session or consistory confessed to their offence, a fact which has sometimes been used to reinforce arguments of parishioners' support for ecclesiastical discipline.[25] In his study of St Andrews, Geoffrey Parker stated that 'almost all of those summoned came, confessed [and] made whatever amends were required of them', arguing that most cases were clear-cut because they were publicly known.[26] Speaking of consistories in general, Philippe Chareyre has also specified that suspects admitted their offence in the majority of cases, noting the various methods implemented in Reformed territories to bring offenders to making repentance.[27] This was not the case in all forms of church court, however. In his study of English church courts in the sixteenth and seventeenth centuries, Martin

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[24] CH2/521/2, f. 64v.
[25] Todd, *The Culture of Protestantism*, p. 170; Benedict, *Christ's Churches Purely Reformed*, pp. 487-488.
[26] Parker, 'The "Kirk by Law Established"', p. 184.
[27] Philippe Chareyre, 'Programs of Moral and Religious Reform: Consistories', trans. Charles H. Parker, in C. Parker and G. Starr-LeBeau (eds), *Judging Faith, Punishing Sin: Inquisitions and Consistories in the Early Modern World* (Cambridge University Press: Cambridge, 2017), pp. 158-160.

Ingram has stated that defendants usually denied what they were accused of rather than giving a confession.[28] Why so many parishioners in various areas confessed is a subject which has attracted interesting discussion. It is generally not stated whether those accused had come forward and voluntarily confessed, or were brought to a confession after interrogation from the session, although in some more detailed cases this is occasionally recorded. Referring to kirk session discipline across Scotland, Margo Todd has stated that many confessions were voluntary, and that this can partly be explained by 'the anxiety of offenders to be reconciled to the source of their spiritual solace'.[29] The prevalence of spontaneous confessions of guilt across consistories has also been used to argue that 'the pressure of church discipline helped to inculcate a new moral sensibility', and that it was evidence of the effectiveness of consistorial discipline.[30] Jenny Wormald has criticised this view, arguing that kirk session records 'actually tell us about the failure to make Scotland godly', as they contain numerous examples of resistance to discipline.[31] Little has been said, however, about those who denied committing an offence. In most cases in Perth, it is stated that the offender confessed their wrong-doing. However, this was not always the case. Of all suspects pursued by Perth's kirk session between 1577 and 1600, approximately 9% were stated as having denied the charge that the session accused them of. This is not to say that those who denied an offence were against the process of discipline, or that they were not concerned for their own spiritual well-being. They may have been telling the truth, or if not, may have feared the immediate consequences of their actions, such as public humiliation. As we will see, the proportion of denials increased substantially to 22% of suspects by the late 1590s. At present, there are no comparative figures of denials for other Scottish parishes, and little attention has been given to this subject. Denying a charge could involve a parishioner simply stating that they had not committed an offence, or less commonly, arguing that there were mitigating circumstances.

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[28] Ingram, *Church Courts, Sex and Marriage in England,* p. 48.
[29] Todd, *The Culture of Protestantism,* p. 170.
[30] Benedict, *Christ's Churches Purely Reformed,* p. 488.
[31] Wormald, 'Reformed and Godly Scotland?', pp. 207-211.

Table 5.1:   Types of offences denied by suspects, 1577-1600

Fornication	36
Sabbath breach	35
Adultery	26
Hosting outsiders or offenders	9
Slander	6
Physical assault	4
Fornication and/ or pregnancy	4
Prostitution	3
False promise of marriage	3
Paternity of an illegitimate child	2
Fornication and theft	2
Brothel-keeping	1
Rape	1
Catholic worship	1
Drunkenness	1
Fortune-telling	1
Theft	1
Total	136

As can be seen in Table 5.1 above, parishioners denied a range of offences, with fornication and Sabbath breach being the most common. As explained in Chapter 3, these were the most common types of offences pursued by Perth's kirk session in general. Bearing in mind that cases of adultery and hosting offenders were far less common, a comparatively high proportion (both 22%) of people accused of these offences were recorded as having denied the charge. A high rate of denial might be expected for suspected adulterers, given that conviction could mean more severe consequences than other offences and usually harsher punishments. Rarer offences shown in Table 3.1 such as theft, rape and fortune-telling accounted for 0.4% of the

total pursued. Table 5.2 below shows the differing outcomes for suspects denying an offence.

Table 5.2:   Outcomes of denying an offence, 1577-1600

Found guilty on same date	46	34%
Found guilty after further trial	15	11%
Found not guilty	14	10%
Remitted to further trial	28	21%
Not proved/ no outcome recorded	27	20%
Referred to another authority[32]	4	3%
Unclear outcome	2	1%
Total	136	

Denying a charge could lead to a number of different outcomes for the accused parishioner. Around a third of those who denied a charge were convicted on the same day. In some cases, this was after thorough questioning of the accused. In the case of Isobell Elder, the conviction was reached after she finally confessed 'efter long dealing by the ministeris and session'.[33] However, confessing after interrogation was not often recorded. In other cases, it was simply stated that despite the denial, 'it was sufficiently knawin' that the accused person was guilty, or that, 'the sessione being persuadit of the contrar', ordered a punishment anyway.[34] A further 15 people were convicted on a later date, either after they had failed to provide sufficient proof of their innocence, or after witnesses had been summoned to give evidence. Not all those who denied the charge were judged only by the session – four were referred to another authority, such as the presbytery or burgh court.

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[32] That is, two suspects were referred to the presbytery, one to the synod, and one other to the burgh court.
[33] CH2/521/2, f. 140v.
[34] CH2/521/2, ff. 54r, 147r.

Since these records have not survived, it can not be known what the final outcomes of these cases were. A significant proportion of trials had a less clear-cut conclusion, either with the accused not being proved guilty or innocent, or with no outcome being recorded.

Only 10% of denials were accepted, so that the individual was found not guilty. Denials were not taken at face-value, and the onus was on the accused to prove their innocence, rather than on the session to prove their guilt. One way in which a suspect could prove their innocence was to swear an oath. This was sometimes an effective way of catching out dishonest offenders, who could be reluctant to swear a false oath. For instance, in May 1587, when James Fergusson refused to swear an oath that he had not committed fornication, this was taken as an admission of guilt.[35] In contrast, other suspects agreed to give an oath and were subsequently found not guilty. An example of this can be found in 1595, when Andrew Moncreiff and Jonet Bruce appeared to declare their marriage banns.[36] Having heard rumours from neighbours that they had committed adultery while Moncreiff's previous wife was still alive, the session questioned them about this. Both denied the charge, and two weeks later 'purgit them[selves] by ane solemne oth befoir the sessione that thay never had carnall copulatione togither and therfoir cravit ther mariag to go forewart without any farder impediment the sessione was satisfeit and yeildit to thair sut'.[37] As mentioned above, parishioners could also claim that their circumstances should be taken into account by the session when issuing summons. Mitigating circumstances were most commonly claimed for accusations of Sabbath breach. For example, in December 1597, the session agreed not to convict Patrick Bruce because he had an injured leg and could not travel to the kirk.[38] Other suspects relied upon trustworthy witnesses to corroborate their version of events. When the wife of George Horne was questioned about selling ale to a group of men during the Sunday sermon, she replied that she had stayed at home due to illness, and that James Young had threatened her with a sword to provide him with drinks.[39] Fortunately for her,

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[35] *PKSB*, p. 369.
[36] CH2/521/2, f. 131v.
[37] CH2/521/2, f. 133r.
[38] CH2/521/3, p. 7.
[39] CH2/521/3, pp. 72-77.

the visitors had come across Young on the same day, when he had drunkenly drawn his sword against an elder, and she was deemed to have told the truth. These cases show that parishioners could sometimes enter into discussions with the session in an effort to prove their innocence or reduce their punishment. However, those found not guilty by the session were in the minority, and it could be difficult to prove one's innocence.

The measures used by the session to determine that a parishioner was not guilty were by no means reliable. This is highlighted by the case of Jonet Bow in 1594. On 27 May 1594, Robert Ross, the son of a tailor, appeared at the session to confess fornication with Jonet Bow.[40] Ross recounted three occasions he and Jonet Bow had slept together in various locations, and even handed over a book to the session, in which he had recorded these encounters. The minister and elders read this, but believed that 'the allegancis therin contenit ar falsefeit and that be ressone off monie contradictionis in the buk'. Nevertheless, Bow was summoned to the next week's meeting. On 3 June, she denied the charge, and 'protestit befoir the living god that scho never had carnall deall with him or with any uther man livand', and that she could prove she was elsewhere at the times Ross had recorded.[41] On 11 June, Bow returned to the session, accompanied by six witnesses, who all swore on the damnation of their soul that they would tell the truth.[42] Each gave an alibi for her, giving specific times she had served them in her mother's alehouse that coincided with Ross' allegations. As a result, it was ordered that Ross make repentance for lying, 'and the said Jonet Bow to be declairit innocent in so far as thay can ather know or try'.[43] This process of using neighbours to vouch for a defendant, known as compurgation, seems to have been used much more frequently in English church courts.[44] Despite this lengthy trial, involving several witnesses under oath and repeated questioning of Bow, the session was later to find that they were mistaken in declaring her innocent. Six months later, on 16 December, she appeared again,

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[40] CH2/521/2, ff. 97v-98r.
[41] CH2/521/2, f. 98r.
[42] CH2/521/2, f. 99r.
[43] CH2/521/2, f. 99r.
[44] Ingram, *Church Courts, Sex and Marriage in England,* pp. 51-52.

having given birth to a child, and confessed that the child's father was Ross.[45] Taking into account she had constantly lied with 'horribill exortationes...& othis', the session remitted Bow to the presbytery. While the presbytery's judgement has not survived, another entry for this same case appears in May the next year.[46] The session, who seem to have been especially and personally offended by the case, further punished Bow for 'abusing off the sessione by hir impudent othis & behaviour', placing her and her mother in ward until they paid a fine of 20 merks. The case shows how, while it may be the case that potentially as many as 91% of suspects confessed to offences they had committed, others may not have had a guilty conscience, or feared the kirk's punishment, and were even prepared to lie under oath to protect themselves and their peers.

Presumption of guilt

While cases such as these show that the kirk session did occasionally accept a person's denial of a charge, most evidence supports the view that generally, session members did not believe the accused, and that in fact there was usually a presumption of guilt. The fact that barely 1% of suspects were explicitly found not guilty points to a clear predisposition against the accused by the session. Of those who denied a charge, 45% were subsequently convicted of the suspected offence. A further 21% were remitted to further trial with no follow up recorded. While the outcomes of these cases cannot be known for certain, what is clear is that the session did not accept or believe the majority of denials, and aimed to reach a conviction. One question concerning these outcomes is whether those who denied an accusation were treated differently to those who confessed immediately. In his study of French Reformed churches, Raymond Mentzer stated that the consistory specifically categorised defiance against the court as 'rebellion', and that some suspects were even excommunicated for denying an offence that the consistory was convinced they

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[45] CH2/521/2, f. 112v. The entries do not record what happened to Ross after this admission.
[46] CH2/521/2, f. 123r.

had committed.[47] While she does not give any examples, Margo Todd has suggested that accused parishioners were 'best advised to confess the offence', as avoiding doing so could result in a harsher penalty.[48] As mentioned above, the session took particularly seriously the case of Jonet Bow, who, six months after being found innocent, was discovered to have lied. However, as recorded punishments were often unspecific, it is uncertain whether this was typical. In the records of 54 of the 61 people who denied a charge and were found guilty, there is no indication that they received a harsher punishment than those who confessed straight away.

While, as demonstrated above, oaths could be used as evidence to prove one's innocence, the kirk session did not usually allow suspects the opportunity to swear one. Only around 10% of those recorded as denying the charge were given this opportunity.[49] In June 1596, George Macgregor appeared at the session after suspicions over his relationship with Jean Brown, having stayed late at her home eating and drinking. Denying that he had committed adultery with Brown, Macgregor 'offerit to purg him self be ane oth quhilk the sessione refusit to tak becaus thay thocht him giltie'.[50] Instead, he was ordered to be warded 'quhill [until] he be movit to give a simpill confessione of his adultery'. The fact that Macgregor was to be imprisoned until he confessed also strongly implies there could be a certain presumption of guilt. Moreover, Macgregor was not the only suspect to be pressured into confessing by this method. In May 1596, Helene Patillock denied fornication with Thomas Peblis, claiming she had been drinking with his mother, and had rejected his advances. Despite Patillock offering to swear an oath, the session referred to the mounting suspicion surrounding her and ordered 'hir to be committit in ward ther to remane quhill scho be movit to confess the trewth and forder tryell to be had of hir'.[51] Again, the session refused to accept an oath, or anything other than a confession. Combining the detail of these cases with the fact that the majority of

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[47] Raymond A. Mentzer, 'Marking the Taboo: Excommunication in French Reformed Churches', in Raymond A. Mentzer (ed), *Sin and the Calvinists: Morals, Control and the Consistory in Reformed Tradition* (Truman State University Press: Kirksville, 2002), p. 114.
[48] Margo Todd, 'Tribunals and Jurisdictions: Consistories', in C. Parker and G. Starr-LeBeau (eds), *Judging Faith, Punishing Sin: Inquisitions and Consistories in the Early Modern World* (Cambridge University Press: Cambridge, 2017), p. 46.
[49] That is, 9 men and 4 women.
[50] CH2/521/2, f. 151v.
[51] CH2/521/2, ff. 149r-149v.

suspects were not given the opportunity to swear an oath of innocence again suggests that the session did not believe suspects. Rather, the session was keen to bring them to confess and submit to the direction of the session.

Another form of evidence that could be requested by the session was a written testimonial, usually when another parish was involved in the investigation. In February 1591, Elspeth Crystison appeared to declare her marriage banns with Hew Stewart.[52] The session, having been informed by others that she was already married, questioned her on suspicion of adultery. Crystison denied the charge, claiming that her husband had died in Flanders some time ago, as she had been told by his fellow Edinburgh merchants. The session ordered her to produce a testimonial of his death from the kirk of Edinburgh. It appears Crystison was unable to acquire the testimonial, as three months later she and Stewart were prescribed punishments as adulterers.[53] Other parishioners were able to provide testimonials, usually to prove they had made repentance for an offence elsewhere. However, while testimonials could be accepted as evidence, such was the presumption of guilt that even with a valid testimonial, suspects were not automatically believed or acquitted. When the surgeon Thomas Lathreische denied adultery with the daughter of Hew Hering, he produced a testimonial from the minister of Kinnaird, George Haitlie.[54] The testimonial stated that the child born to the woman was fathered by a David Lathreische, and that she had confessed as much before the presbytery of Dundee. The session, noting the testimonial and Thomas' offer to swear an oath, refused him, and instead remitted him to further trial. The fact that even with evidence, the session was not prepared to rule out the charge of adultery, again suggests a considerable level of suspicion and distrust of those who denied accusations.

Parishioners could claim mitigating circumstances for their illicit actions. Again, these were subject to scrutiny by the session. As previously mentioned, nine parishioners blamed illness for being unable to attend sermon. Ignorance was another

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[52] CH2/521/2, ff. 46r-46v.
[53] CH2/521/2, f. 49v.
[54] CH2/521/2, f. 166v.

defence given in a few cases, and generally, the session saw this as no excuse. In a case from July 1598, Agnes Robertson denied hiding her servant's pregnancy from the session, stating that she did not know of the pregnancy and that the woman was no longer her servant, or living with her. The session, evidently disagreeing that Robertson had no responsibility under these circumstances, ordered her to locate the servant and present her within twenty days.[55] Not only did the kirk session not consider ignorance as a sufficient excuse for committing an offence, it appears that they were also sceptical of claims of ignorance. In November 1596, Jeane Keir and Beatrich Scot denied their guilt in hosting the Earl of Angus, an excommunicated papist, stating that while they had indeed received him in lodging, they had not known who he was, and that his servant had misinformed them.[56] The session dismissed this defence, pointing out that there had been a public proclamation about him so the two women could not be unaware of the earl's identity, and both of the accused were ordered to make repentance. There are entries in the records stating that 'the minister and elderis ordenis that the cheiff actis off the session quhilk concerns the discipline off the kirk be red publicklie in the kirk twys in the yeir be the minister or reader that nane off this congregatione pretend ignorance'.[57] Here, the assumption that parishioners might 'pretend ignorance' again suggests that by and large, the session did not trust suspects to tell the truth. The fact that such proclamations were recorded in the minutes also demonstrates that it was not uncommon for parishioners to claim ignorance.

Table 5.2 shows that no judgement was recorded for 44% of suspects. Four of these cases had been referred to another authority whose records have not survived. In 28 cases, the suspect was remitted to further trial, but no further trial was subsequently recorded. For another 27 suspects who denied the charge, the entry does not explicitly state a judgement: it either simply declares that the suspect denied the charge against them and nothing more, or it records a warning to the accused not to do the same again. In these cases, there is no indication that the session believed the accused person's denial. It appears that in these instances, no judgement was made

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[55] CH2/521/3, p. 37.
[56] CH2/521/2, f. 162r.
[57] CH2/521/2, f. 81v.

against the suspected offender, highlighting a limit to the session's ability to prosecute parishioners without their compliance. If it is the case that these parishioners were not convicted, then it would seem that denying a charge gave parishioners a relatively good chance of avoiding punishment. Noting the importance of confession to the process of repentance, Alice Glaze has shown how in the parish of Canongate, women sometimes attempted to protect their sexual reputation by denying charges of fornication with varying levels of success. She states that overall, any ability to protect themselves from prosecution was very limited.[58] In Perth, both men and women denied a range of offences, and it appears that, as in Canongate, a lack of confession could impede the process of discipline. Denying an offence could even enable a suspect to avoid conviction when there was other evidence against them. There are 21 instances in the records where a person denied a sexual offence, despite the fact that their alleged sexual partner had already confessed. This accounts for 28% of those who denied a sexual offence. Of these, ten of the accused were not convicted. In November 1594, James Balfour denied committing adultery with Elspeth Carstairs, swearing 'that scho had filthele & falslie & onjustlie sklanderit him'.[59] Despite the fact that Carstairs had confessed nine months earlier that she was pregnant with his child, and had been ordered to make repentance, the session accepted his oath and he was not punished.[60] From this case it is noticeable how there was not necessarily a standard approach to dealing with denials – Balfour's oath was accepted, while as mentioned above, others' were refused. Balfour, described in the record as the (former) prior of the Charterhouse, may have been given the benefit of the doubt due to his reputation. Similarly in January 1589, Alexander Chalmer denied adultery and received no punishment, despite his alleged partner having already been banished for the offence.[61] In January 1596, Henry Adamson was permitted to swear an oath in front of the congregation that he had not committed adultery with Isobel Elder, despite her own confession.[62] It is, therefore, apparent that the process of conviction was not always straightforward, and as will be shown, was not always consistent or even-handed in its treatment of suspects.

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[58] Glaze, 'Women and Kirk Discipline', pp. 131-132.
[59] CH2/521/2, f. 111r.
[60] CH2/521/2, f. 92r. She had also confessed to the kirk session of Cupar.
[61] *PKSB*, p. 408 for Chalmer's appearance; p. 373 for Marion Wobster's confession and banishment.
[62] CH2/521/2, f. 124r.

Change in denials over time

This study has shown that parishioners often denied committing offences and that the kirk session's response to these denials was variable. While Tables 5.1 and 5.2 above show the total of denials from 1577–1600, it was not the case that the proportion of denials and their subsequent outcomes stayed the same across this time period. The proportion of suspects recorded as denying the charge increased from an average of 4% of suspects in the 1580s to 12% in the 1590s, rising to 22% of suspects in 1598. It is possible that this is partly attributable to the move towards taking increasingly detailed minutes in later records. However, the presence of a denial is not the sort of information that is likely to have been missed from the record, even when these were less detailed. After all, those earlier entries normally included information about whether the accused had confessed. Another point worth noting is that the standard outcomes of these cases changed considerably over the time period. Before 1591, only around one in five of those who denied an accusation was recorded as being convicted. It was more common for the entries of these cases to conclude not with a punishment, but with a warning that the accused must not act suspiciously again. In 15 cases from the 1580s involving a sexual offence, it was stated that a suspected fornicator should avoid being seen in the company of their alleged lover, so that they would not bring further suspicion upon themselves. For instance, when Alistair Menzies denied fornication in October 1589, he was warned not to keep company with the woman in question, and that 'gif ever he be found heirefter to hant [engage in] hir company it salbe haldin and reput *pro ipso facto* and as a fornicator he sall satisfie'.[63] Similarly, in March 1587, when Girsell Bisset denied fornication, she was ordered not to arouse further suspicion, and not to drink in her home after nine o'clock in the evening.[64] While these entries suggest that the session did not consider Menzies and Bisset innocent, it also appears that no further action was taken against them, possibly because of a lack of evidence at the time of trial. As mentioned above, this was the case for most of those who denied offences in

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[63] *PKSB*, p. 430.
[64] *PKSB*, pp. 361-362.

the earlier records, suggesting that at that time, the kirk session was either willing to overlook some faults, or more probably, not especially thorough in investigating offences.

In contrast, between 1591 and 1600, almost half of those who denied an offence were explicitly stated to be guilty, compared to the previous one in five. During the 1590s, the kirk session remitted six times more suspects to further trial than in 1577-1589, sometimes pursuing suspects for months on end until they had sufficient proof.[65] One example of this is the case of John Forbrand, a mason who originally appeared before the session on 16 August 1596, accused of fornication.[66] Upon denying the charge, he was asked to give an oath of his innocence, which he delayed until a later date. On 6 September 1596, he again denied the charge and delayed giving his oath.[67] After another similar appearance on 25 October, Forbrand finally confessed on 6 December 'efter sindry warning' and interrogation from the session.[68] Perhaps the longest running case pursued by the session in this period was that of Walter Anderson, who first appeared in October 1591 to deny adultery and paternity of three children.[69] After several appearances and citations both at the session and presbytery, where he refused to confess with 'stuburnes and...stiff denyall', Anderson finally admitted to the offences in August 1593, by which point one of his children was five years old.[70] As mentioned above, suspects could have neighbours appear to give evidence of their innocence. Likewise, the session could summon the accused's neighbours to give evidence against them, and there are ten recorded instances of this in the 1590s, compared to only two between 1577-1589. In one such case from 1596, Jean Brown denied adultery after her neighbours reported being disturbed by her drinking late at night with three different men. Her excuse that she was an innkeeper and had done no more than sell the men ale was deemed to be 'leyis and ontrewthis [lies and un-truths]'.[71] At the next meeting, four witnesses,

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[65] Of 43 suspects remitted to further trial, 37 were in 1590s cases.
[66] CH2/521/2, f. 156v.
[67] CH2/521/2, f. 157v.
[68] CH2/521/2, ff. 161r, 163v.
[69] CH2/521/2, f. 54r.
[70] CH2/521/2, ff. 59r, 73r, 76r, 79v, 81v.
[71] CH2/521/2. f. 149v.

including Brown's servant, declared they had seen her acting suspiciously with men late at night, leading to her confessing to adultery with one of the men.[72]

Taking these cases into consideration, it seems that the session's approach to testing the strength of a suspect's denial changed by the early 1590s. There are several factors that may have caused this change. This change in process coincided with other changes to the kirk session in Perth. It has been noted by Mary Verschuur that in the 1570s, Perth's kirk session was functioning adequately, but that discipline was limited in its range.[73] As has been demonstrated in previous chapters, by the 1590s, the scope of discipline in Perth was increasing, with more types of offences being pursued, and in greater numbers. The number of session members also increased in this period, and visitations of the town became more common. The session also began to meet more frequently: it went from having one session a week for all kirk business to setting up two additional meetings a week that were allocated solely to the administering of discipline. This increase in activity and in the scope of discipline points to a determination to increase the effectiveness of the session in punishing sin, and this is reflected by the increased efforts to convict those who denied accusations of wrongdoing. Studies of other Scottish parishes have noted a similar increase in disciplinary activity towards the end of the sixteenth century. Michael Graham has demonstrated how in St Andrews, fewer parishioners failed to appear when summoned between 1582–1600 than in the previous two decades, and takes this as evidence of the 'increased effectiveness' of the kirk session there.[74] He also notes that during this time, harsher punishments were imposed, and that these were prescribed much more frequently.[75] John McCallum has also argued that in the parishes of Fife, punishments became stricter by the 1580s, with more use of public repentance and warding, as well as demonstrating the fact that parishioners undoubtedly feared having to make public repentance.[76] Session minutes show that in Perth, the use of punishments such as warding and fines increased, although it should be noted again that punishments were not recorded consistently. As shown in

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[72] CH2/521/2, ff. 150r and 151v-152r.
[73] Verschuur, 'Enforcing the Discipline of the Kirk', pp. 215-217.
[74] Graham, *The Uses of Reform*, p. 211.
[75] Graham, *The Uses of Reform*, pp. 212-213.
[76] McCallum, *Reforming the Scottish Parish*, pp. 42-43, 223-224.

Chapter 3, cases of Sabbath breach, which had hardly even led to conviction before 1587, were regularly punished in the 1590s with a fine of a merk and public repentance. Similarly, in 1596 the session decided that adulterers had previously been treated too lightly, and that from then on, adulterers would have to spend fifteen days in ward, perform public repentance on six consecutive Sundays and pay a fine, as well as spend three market days standing at the market cross wearing a paper hat labelled with their offence.[77] The high turnover of elders on the session meant that the membership of the 1590s session was almost entirely changed from earlier decades, which may partly explain the changing approach to discipline. Moreover, the minister William Cowper, who arrived in Perth in 1595, was considered to have been a particularly strict disciplinarian in his later career as bishop of Galloway, and it is likely he used a similar approach during his time in Perth.[78] This increasingly strict approach may explain the increase in denials of this period, as parishioners may have been more apprehensive of harsher punishments, and consequently less willing to confess. This is not to say, however, that all denials were false – as mentioned above, some suspects were able to prove their innocence, which was difficult to do given the session's procedures. This difficulty may itself be a factor as to why a minority of people attempted to deny the accusations made against them. Overall, the changing rates of denials, as well as the changing responses to these denials by the session indicate that over time, Perth's kirk session became more thorough and persistent in its pursuit of offences, and that this was part of a wider increase in disciplinary activity.

Denials and confessions by gender

As was reviewed in the previous chapter, there is much contemporary debate surrounding the treatment of men and women by the kirk session, with many historians questioning whether discipline was equal.[79] How the kirk session responded to cases involving denials may provide further insight into how the

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[77] CH2/521/2, f. 141v.
[78] Todd, 'Bishops in the Kirk', p. 302.
[79] Katie Barclay, Tanya Cheadle and Eleanor Gordon, 'The State of Scottish History: Gender', *Scottish Historical Review* 92 (2013), p. 99.

experience of discipline differed between men and women. By and large, both men and women in Perth denied a range of offences, and mostly in similar numbers. However, the details in these records suggest that the ways in which these denials were handled by the session could differ significantly by gender.

The records show that more men than women denied charges brought against them than women: the numbers were 87 men and 49 women denying offences between 1577 and 1600. This is broadly proportionate with the numbers of male and female accused: roughly 10% of men and 8% of women were recorded as denying offences. Men and women had an equally slim chance of being explicitly found not guilty, with nine men and five women recorded as such during this time period. This included cases of sexual misconduct and Sabbath breach involving men and women, as well as two men who were cleared of committing physical assault. The process by which these men and women were found not guilty was not the same. The five women stated to be not guilty all relied upon more evidence than solely their own word. Three appeared with their future husbands to deny antenuptial fornication, with both partners' oaths being required by the session.[80] The other two women found not guilty, Jonet Bow and the wife of George Horne, both discussed above, relied on corroborating eyewitness statements to prove their innocence. Of the nine men found not guilty in the same time period, the recorded entries are shorter and more straightforward. Most of them were judged by their own word, without the use of witnesses or any other corroborating evidence. While this is a small number of cases to consider, it does suggest that the way in which men and women were tried could differ, and, significantly, that for women, attempting to prove their innocence was a more difficult process altogether.

Considering all cases involving denials, men and women were found to be guilty at similar rates.[81] However, when looking at specific offences, it can be seen that rates of conviction could differ significantly. For instance, women who denied fornication were more than twice as likely to be convicted than men who denied such offences.

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[80] *PKSB*, pp. 229, p. 238 and CH2/521/2, f. 131v.
[81] 41% of women and 46% of men who denied the charge were found guilty.

Why the session convicted more women than men who denied sexual offences is not immediately clear. One possible reason is that the women who denied sexual offences were pregnant and could not hide this from the session. Alice Glaze has noted how in the parish of Canongate, fornication cases were usually initiated due to a pregnancy, and the same has been observed in Stirling.[82] Michael Graham has also commented that this was often the case in other Scottish parishes.[83] Referring specifically to denials in English church courts, Martin Ingram has argued that fewer women than men denied sexual offences because they were unable to deny pregnancy, but also states that married women and single women who were not pregnant were less likely to confess to a sexual offence.[84] However, for 84% of sexual cases in Perth, it is not stated or suspected that the woman was pregnant or had had a child, and so it cannot be known for sure that this was a factor in the higher rate of conviction for women. Margo Todd has argued that in fact, sexual cases were most commonly initiated by either a confession, or by observant neighbours, with the whole congregation participating in uncovering illicit behaviour.[85] In Perth, there are a few cases in the records where women denied being pregnant. In June 1590, Janet Burnet was specifically asked whether she was pregnant, which she repeatedly denied. As she would not confess, the session gave her a week to give an oath.[86] She did not return to give it, and three months later appeared to confess that she was in fact pregnant.[87] Three of the four women who specifically denied pregnancy during this time were referred to further trial, and for three of the four, there are no subsequent entries, suggesting that the session did not continue these cases.[88] Sadly, the session had to deal with cases of concealed pregnancy and infanticide, which the session used as evidence of illicit sexual conduct by the woman. For instance, when Margret Gibson denied harlotry in November 1582, the record notes the session's suspicion that she had buried unbaptised infants in the kirkyard.[89] The session also dealt with at least two cases of unmarried women allegedly committing infanticide, hiding their birth with the

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[82] Glaze, 'Women and Kirk Discipline', p. 129; Davies, 'Law and Order in Stirlingshire', pp. 83-86.
[83] Graham, 'Women and the Church Courts', p. 190.
[84] Ingram, *Church Courts, Sex and Marriage in England*, p. 330.
[85] *PKSB*, p. 47.
[86] *PKSB*, p. 443.
[87] *PKSB*, p. 450.
[88] *PKSB*, pp. 348-349; CH2/521/2, f. 51v.
[89] *PKSB*, p. 243.

assistance of others, rather than confessing their pregnancy.[90] But regardless of whether there was a pregnancy involved, women were more likely to be convicted after denying offences other than fornication. Women denying adultery were almost twice as likely as men to be convicted. This was not the only way in which the disciplinary process could differ by gender for those who denied offences.

Punishment of denials by gender

One of the most notable differences in the outcomes of denials is that, overall, women received harsher punishments than men, and were more likely to be given a punishment to be carried out in public. That is, 40% of women who denied a charge were convicted and received a punishment involving public repentance and/ or a fine, compared to 23% of men. This disparity is partly explained by the fact that a significant number of men – 32 compared to three women were accused of Sabbath breach, which attracted a less severe sentence, and 25 of the men who denied Sabbath breach were shown some leniency by the session. For some, there was a private admonition, but more commonly, the session simply stated that they should not break the Sabbath again in future. However, these cases of Sabbath breach do not fully account for the disparity in punishments between men and women. To use adultery as an example, women were not only more likely to be convicted after a denial, but more also faced harsher punishments: a few were banished for the offence or threatened with excommunication – punishments that were never used for men who denied adultery.[91] For other offences, such as slander, men and women were equally likely to be convicted. However, their subsequent punishments could differ. While not nearly as prevalent as denials of sexual offences or Sabbath breach, the fourth most common offence denied by parishioners was hosting offenders or outsiders in their home. During this period, six women and three men denied committing this offence. Each of the three men were admonished, with a warning not to repeat the offence.[92] For example, when in 1600 Peter Balmanno denied hosting

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[90] *PKSB*, pp. 153-154, 259-260.
[91] *PKSB*, p. 321; CH2/521/2, f. 51v, for instance.
[92] CH2/521/2, f. 54r; CH2/521/3, p. 133

Patrik Stewart, an 'excommunicat apostat', the session simply 'admonishit him that in tyme cuming he suffer not the said Mr Patrik to com in his hows to be ludgit or interteneit'.[93] Of the six women who denied the same offence, one was similarly admonished, while two were ordered to make public repentance.[94] Additionally, Helene Lowdian, who denied receiving idle people and vagabonds into her home, was warded and fined a merk for her offence, with the unusual warning that she would be banished if she repeated the fault.[95] Two other women were also convicted of the same offence, with the punishment to be decided later once the extent of their actions had been fully investigated by the elders.[96] Considering the similarity in details of these cases, it is apparent that the way in which the session dealt with men and women who denied accusations of hosting outsiders could be quite different. A reason for this difference in treatment may be the particular attitude of Perth's kirk session, which was concerned about any women living without male supervision, as they believed they may be led astray without guidance. This was the case in other Scottish burghs, where it has been noted that young single men did not face the same restrictions.[97] It is likely that receiving people of poor reputation would exacerbate this concern. In Perth, single women not living under male supervision were sometimes ordered to enter service, in order to make sure they were not led into sin, as was the case of two sisters in 1587, threatened with banishment if they did not comply.[98] While it cannot be known for certain that these women lived alone, none of them are recorded as being married, and so it is possible that this was factored into these judgements. Even if this was not the case, it seems likely that a greater stigma was attached to women receiving unrelated men into their homes. Consequently, women received harsher punishments for this offence, as they did overall.

There were cases in which a person denied a sexual offence and was not prosecuted, despite their alleged partner having already been convicted and punished for the

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[93] CH2/521/3, p. 133.
[94] CH2/521/2, ff. 54r, 162r.
[95] CH2/521/2, f. 147r.
[96] CH2/521/3, pp. 3, 11, 12, 37 for their various appearances.
[97] Elizabeth Ewan, 'Crime or Culture? Women and Daily Life in Late Medieval Scotland', in in Y.G. Brown and R. Ferguson (eds), *Twisted Sisters: Women, Crime and Deviance in Scotland since 1400* (Tuckwell Press: East Linton, 2002), pp. 126-127; DesBrisay, 'Twisted by Definition', pp. 138-139.
[98] *PKSB*, pp. 362-363.

fault. In ten such cases that can be identified within this time period, it was always the male suspect who went unpunished, despite a woman's confession. This is not including the many other cases in the records in which a woman confessed to a sexual offence, and her partner never appeared at the session at all, as discussed in the previous chapter. Regarding fornication cases involving a pregnancy in Stirlingshire, Stephen Davies has stated that while it was rare for a man to deny paternity of a child, the usual procedure for those who did was to refer him to the presbytery, with oath-taking only considered after he had been presented there.[99] In Perth, all but one who denied a sexual offence in these circumstances were not referred to the presbytery, but only dealt with by the session. Some of these men can be identified as being of high social standing. A few are described as craftsmen, and one, Henry Adamson, was a wealthy merchant, who had once been an elder himself.[100] Another, Laurence Drummond of Cargill, may have been related to the Lords Drummond of the same region, one of whose sons was an elder at the time of the case.[101] In January 1598, Jean Gibson confessed to bearing two children in Cargill by Drummond, and produced a testimonial verifying this from the elders and minister of Cargill, William Edmonston.[102] Just over a year later, she appeared again to confess more recent fornication and having had another child, submitting herself to the kirk's discipline.[103] When Drummond appeared at the session, he denied the accusation, saying she had left his house years ago and 'with attestationes and cursing saying god plage him in saull and body give he wes the father of that barne'.[104] The case does not appear again in the records. Others also had connections to the kirk session. For example, when George Macgregor denied fornication, the kirk officer Patrik Ross acted as a witness in his case.[105] Therefore, it seems likely that the social status of these men was a factor in the relative leniency they received.

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[99] Stephen J. Davies, 'The Courts and the Scottish Legal System 1600-1747: The Case of Stirlingshire', in V. A. C. Gatrell, Bruce Lenman and Geoffrey Parker (eds), *Crime and the law: the social history of crime in Western Europe since 1500* (Europa: London, 1980), p. 124.
[100] *PKSB*, pp. 234-8; CH2/521/2, f. 142r.
[101] Balfour Paul (ed.), *The Scots Peerage, vii*, pp. 40-47; *PKSB*, p. 470 The elder, James Drummond, was the second son of the second Lord Drummond.
[102] CH2/521/3, p. 13.
[103] CH2/521/3, p. 68.
[104] CH2/521/3, pp. 70, 77, for his two appearances on 12 March and 9 April 1599.
[105] CH2/521/2, ff. 149v-151r, for George Macgregor's denial of fornication. He may also be the elder of the same name, although this is not explicitly stated in the record. *PKSB* pp. 254, 408 for Alexander Chalmer's marriage banns and denial of adultery. His marriage banns show that he and his wife were connected to some session members.

While with more of a focus on lairds and other nobility, studies of kirk session discipline have considered that kirk sessions could face difficulties in disciplining prominent locals, as did consistories across Europe.[106] However, evidence from Perth's records cannot confirm that all those who avoided conviction in these circumstances were prominent individuals, or at least of a higher reputation than the woman who had confessed. It is possible to identify that in certain cases, the man and woman belonged to the same social circle, or even family. In 1595, Bessie Gothray appeared at the session, suspected of adultery.[107] While she admitted fornication with one man, she initially denied the session's accusation of adultery with her master, Thomas Watson, who was also her uncle by marriage. There is no indication that she was given the opportunity to swear an oath. After witnesses appeared to give evidence against her, and long interrogation from the session, Gothray confessed to both adultery and incest with Watson. Three months later, Watson appeared at the session. After he repeatedly refused to confess, the session allowed him to 'purg him self be ane solempne oth', and the case was not taken further, despite the seriousness of the charge.[108] Again, a lack of confession impeded the process of discipline, but it also seems that the woman's confession was not considered enough to convict the man in these cases. As mentioned earlier in the case of the former prior James Balfour, who claimed his servant had lied in her confession of adultery, his word was taken over hers. The fact that no women were able to avoid conviction under the same circumstances does suggest that the session did not respond to men and women's pleas completely evenly. In combination with the fact that no women were judged to be not guilty by their word alone, it is also probable that in practice, women's testimonies were not always viewed as carrying the same weight as a man's, despite the belief that they were equal before God. In 1570, the General Assembly considered this very circumstance. 'Quhen a woman beares a bairne to a certain man, and, in the tyme of her birth, before the midwife, alleadges the bairne to be this man's...and this man is ready to swear the contrare, and that he never had carnall dealings with this woman...whether shall credence be

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[106] Brown, 'In Search of the Godly Magistrate', pp. 566-567; Graham, *The Uses of Reform*, p. 279; Benedict, *Christ's Churches Purely Reformed,* p. 481.
[107] CH2/521/2, ff. 129v-130r.
[108] CH2/521/2, f. 136v.

gine to the man's oath or to the woman's?'[109] The answer to this question was 'neutri credendum' – believe neither – with the clarification that 'the kirk may proceed to excommunication for their contempt', and so both parties were to be convicted, with neither the man or woman's testimony trusted over the other. While Perth's kirk session did not always believe the man in this situation, the fact that most were allowed to swear an oath shows that these guidelines were not followed when making a judgement.

Overall, it appears that in several circumstances, the session responded to men and women's testimonies differently, with women generally facing tougher consequences for denying offences than men. While the majority of offenders confessed to the offence they were accused of, these cases involving parishioners denying the charge show that parishioners could play an active role in defending themselves from the exercise of discipline, whether truthfully or not; however, the session's interactions with them show that there was a clear presumption of guilt in most instances, and that it was the session who steered the interactions between themselves and the accused.

Reoffending

One interesting measure of the relationship between the kirk session and the congregation is the extent to which offenders were deterred from relapsing. While it is apparent that many parishioners did actively support the exercise of discipline, or at least accommodated it, this did not necessarily mean that parishioners would follow the session's instruction. By using a combination of qualitative analysis and examining data under the names of offenders, this study has identified a significant number of relapses in the kirk session records, providing further information on a neglected aspect in studies of the congregation's relationship with discipline. 301 entries explicitly state that an individual had relapsed, and 125 of these give the number of times they had offended. For instance, when Agnes Boy appeared in

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[109] *BUK*, p. 122.

November 1581, it was stated she had confessed to fornication and 'submittit hir to the disciplyne of the kyrk for the third fault'.[110] Others, such as Agnes Macgibbon, were described as 'quadrilaps in fornicatione', that is, having committed a fourth offence.[111] More reoffenders can be found by looking at names which appear more than once in the records alongside other information given, for example the name of the suspect's spouse, or occasionally, their occupation. Of all the suspects who appeared at Perth's kirk session, at least 18% reoffended within this time frame, when counting instances where the entry itself states that the person had relapsed. When adding name-matches that can be shown to be the same person, this rises to 20%. The proportion of reoffenders may be as high as 32%, if taking into account names that appear more than once in the records, but cannot be confirmed to be the same person. Compared to studies of some other Scottish burghs, this may be a particularly high figure. Speaking specifically of sexual offences in St Andrews, Geoffrey Parker stated that between 1573 and 1600, 81 people appeared more than once for fornication, from a total of 876 fornication cases.[112] Margo Todd has stated that in general, the numbers of reoffenders in Lowland parishes 'are remarkably small' – both when compared to first-time offenders and overall populations of the parishes.[113] She has argued that these low rates of recidivism were a result of the effectiveness of the kirk session in dealing with offenders, and the especially rigorous punishment of those who repeated their offence.[114] Outside of Scotland, studies have shown that the annual rate of recidivism recorded by the consistory of Geneva ranged between 6.8% in 1569 and 2.4% in 1582, and that in Nimes, the number of offenders was only 'slightly smaller' than the number of offences.[115] In comparison, the rates of recidivism demonstrated here for Perth were high. While this significant number of relapsed offenders may not have rejected the teachings of the Reformed kirk or the exercise of discipline in general, this did not necessarily extend to their own behaviour, showing some limitation to the effectiveness of kirk session discipline.

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[110] *PKSB*, p. 201.
[111] CH2/521/3, p. 129.
[112] Parker, 'The "Kirk by Law Established"', pp. 177-178, 185.
[113] Todd, *The Culture of Protestantism,* p. 43.
[114] Todd, *The Culture of Protestantism*, p. 259.
[115] Manetsch, 'Pastoral Care East of Eden', p. 301 n. 104; Mentzer, 'Ecclesiastical Discipline and Communal Reorganisation', p. 165.

Cases of recidivism occurred with most types of offence pursued by the kirk session. It is little surprise that the offence with the most recorded relapses was fornication, which was also the most common offence in general, for the majority of this time period. Fornication accounts for approximately half of all recorded relapses, with Sabbath breach being the second most common and making up around a quarter of relapses. This was followed by adultery (8%) and hosting individuals (3%). Four relapses involved men who had taken part in religious plays. These took place early on in the records, and do not appear to have continued into the 1590s. However, it appears that some of those convicted of taking part in a play in the 1570s and 80s later went on to commit Sabbath breach, and so continued to defy the session in other ways.[116] Reoffending rates were similar for men and women, with men making up 54% of reoffenders, and women 46%, based on cases where the relapse was explicitly stated. Bearing in mind that more men were convicted of offences in general, this means that women were slightly more likely than men to be convicted more than once. However, this difference is marginal. As was the case in general, men accounted for the majority of Sabbath breach relapses (93%), which often took place in public places, and women the majority of sexual relapses (64%). Speaking especially of sexual offences, more women than men (27 compared to 5) appeared at the session for multiple relapses that were explicitly recorded, such as the 'quadrilaps' women mentioned above, indicating that the session or community kept an especially close eye on those women who had gained a poor sexual reputation. Studies of other sixteenth-century Scottish burghs have noted the particular scrutiny placed upon women's activities in the towns, as well as their sexual reputations, and Alice Glaze has speculated that relapsed women in Canongate may have attracted 'greater suspicion' from their community, and so this may have been the case across parishes.[117] For other types of offences, such as slander and hosting offenders, the rates of reoffending are approximately the same for men and women.

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[116] PKSB, pp. 84, 204, 364; CH2/521/3, p. 79, for example, show James Stobbie's and Robert Farg's convictions for plays and Sabbath breach.

[117] Nicholas Mayhew, 'Women in Aberdeen at the end of the Middle Ages', in T. Brotherstone, D. Simonton and O. Walsh (eds), *Gendering Scottish History: An International Approach* (Cruithne Press: Glasgow, 1999), pp. 148-152; Graham, 'Women and the Church Courts', pp. 189-194; Glaze, 'Women and Kirk Discipline', p. 133.

Reoffending was treated seriously by the kirk session. Those who had relapsed generally received harsher punishments. As Margo Todd has noted, the punishment for fornication increased with each subsequent relapse.[118] For example, the standard punishment for a first offence of antenuptial fornication was a 40 shilling fine and performing public repentance on three consecutive Sundays. For the second offence, the fine was doubled and repentance increased to six consecutive Sundays, nine for the third fault, and so on. Some convicted fornicators, such as Jonet Baskat, Cristen Fergusone and Isobell Grant, committed the offence as many as four times or more, and were subsequently given the standard punishment used for adulterers, which was much harsher.[119] Punishments also increased in severity for other offences, such as Sabbath breach. This could be either by an increased fine, or by having to make public repentance.[120] This appears to have been the case across Scotland, as similar increases in punishments have been noted by John McCallum in the parishes of Fife.[121] This was also the case within authorities other than the kirk session. J.R.D Falconer has noted how in Aberdeen, the burgh council actively attempted to prevent recidivism by threatening offenders with additional penalties if they repeated their fault, although these were only occasionally put into action.[122] Conversely, parishioners who had not previously offended were sometimes shown leniency by the session, who specifically noted that this was their first fault. When Jhone Thomsone appeared for selling ale on the Sabbath, it was recorded that 'becaus he is no commone breker ordenis him to receive ane admonitione', rather than the more standard punishment of a fine.[123] Similarly in September 1595, three men were allowed to make their repentance privately – 'considering that this is the first tyme thay halbe bene callit befoir them and that thay ar nocht malicious brekeris of the Sabboth'.[124] In contrast, sisters Bessie and Vyolet Kinglessie were considered 'commone brekeris of the lordis Sabboth', and had to pay a fine as well as make public repentance.[125] Evidently, the session made distinctions between those who

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[118] *PKSB*, p. 36.
[119] CH2/521/2, ff. 127v, 162r; CH2/521/3, p. 93 for their respective cases.
[120] CH2/521/2, f. 84v, for an example of this.
[121] McCallum, *Reforming the Scottish Parish,* p. 224
[122] Falconer, *Crime and Community in Reformation Scotland,* p. 42.
[123] CH2/521/2, f. 124v.
[124] CH2/521/2, ff. 131v-132r.
[125] CH2/521/2, f. 143r.

had not appeared before, and those who had relapsed. The session employed a certain element of compromise to punishments in particular circumstances. While records lack great detail in showing how far parishioners themselves negotiated their case, as their own words are rarely present, these allowances made by the session, as well as earlier discussion of parishioners displaying their remorse, show that offenders' circumstances were taken into account, and potentially had been put forward by themselves.

These increasingly strict punishments, however, did not always deter parishioners from committing yet another offence. At least 101 instances in the records can be identified as a person's third or more offence. In Perth, the kirk session occasionally referred particularly persistent reoffenders to the presbytery, generally because the session desired assistance in deciding how to proceed. In the case of the aforementioned Jonet Basket, who was 'found so oft to halbe fallin in this filthie sin off fornicatione and hes as it wer mockit god by...not repenting trewlie', the session referred her 'to the presbiterie & brether theroff and ther advys to be cravit be the minister quhat punischment salbe usit against hir'.[126] On a similar note, many of those remitted to the burgh court were reoffenders, probably referred there because the session desired a harsher punishment than they themselves could administer. Of these parishioners who reoffended several times, and could not be discouraged from committing further offences, some were threatened with banishment or excommunication. Thomas Lamb, for instance, who had committed fornication and assaulted two session members on separate occasions, finally submitted to the kirk after they had made a third admonition before excommunication against him.[127] In other cases, the session was uncertain how to discourage further reoffending. The merchant William Malice committed Sabbath breach so many times by selling his goods at various markets, that the session was unsure how to proceed against him. For his third recorded relapse, the session lamented how despite having promised not to reoffend, 'notwithstanding he continewis and can not be movit to desist therfra'.[128] Unable to decide upon an appropriate penalty, they ordered him to be warded until a

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[126] CH2/521/2, f. 114r.
[127] CH2/521/2, f. 161v; CH2/521/3, p. 55.
[128] CH2/521/3, p. 41.

decision could be made. Later on, Malice was made to promise not to reoffend, under the pain of banishment.[129] In other cases, the session went through with their warning, as with Margret Oliphant, who was excommunicated for her third fault of fornication, and Ewfame Leslie, banished for the same.[130] This use of excommunication differs from some other parishes – in Canongate, Alice Glaze noted that those who had committed fornication multiple times received heavier penalties in making public repentance, 'but were not physically harmed or banished like those accused of harlotry'.[131]

For other repeat offenders, it can be seen that the session was concerned for their spiritual wellbeing and did not prescribe an especially harsh punishment. In January 1597, Jhone Scot appeared at the session for both disobedience to the kirk, by ignoring summons several times, and for 'continuall absenting him self fra the heiring of the word on the lordis Sabboth... lyk ane atheist without the feir of god'.[132] It was recorded that, although the session considered him unworthy to reside in the town, in order to ensure that 'he be nocht altogidder lost', he was told to find a cautioner to ensure he would attend the sermon and improve his behaviour. Scot did not appear again until September 1599. Declaring that this most recent offence of Sabbath breach was 'nather in contempt of the sessione or of the word', but illness, he was not punished.[133] The fact that it was specifically noted as not in contempt of the word again shows the session's concern for Scot's religious practice. In a similar case in November 1596, the maltman James Jaksone appeared for continuous Sabbath breaking and receiving 'infamous personis' into his home.[134] While this was the first time his name appears in the records, the session stated he had repeatedly committed these offences, and therefore deserved excommunication. However, in the hope that Jaksone would improve his behaviour, the session stated that they were 'willing [to] gang him hame to god and to reclame fra the godles cours quhairin he hes walkit' and 'hes mitigatit [the cen]suris apointing him to declair his repentance

[129] CH2/521/3, p. 42.
[130] *PKSB*, p. 317; CH2/521/2, f. 132v.
[131] Glaze, 'Women and Kirk Discipline', p. 133.
[132] CH2/521/2, f. 166v.
[133] CH2/521/3, p. 105.
[134] CH2/521/2, f. 163r.

and [pay] ane merk to the pure'. In this case, the session seems to have showed leniency to Jaksone to encourage him to amend his ways. This was not entirely successful, however, as he appeared for Sabbath breach again five months later, when the session 'exhortit him to behave him self lyk a christian in tyme cuming'.[135] The session used various methods to discourage parishioners from reoffending, sometimes prescribing more severe punishments, and other times reducing punishments. Considering the decisions made, it is apparent that there was a level of negotiation between the session and those accused, and that in different cases the session directed either encouragement or deterrents in an effort to reform an offenders' behaviour.

Some of the parishioners who are recorded as reoffenders appear to have been in the same social circles. The most noticeable example of this is that many of the men who relapsed in Sabbath breach appeared on the same dates, often having worked or socialised together during the sermon.[136] Some of their wives can be found elsewhere in the records, also for committing Sabbath breach. Around half of those who relapsed in receiving offenders hosted known reoffenders themselves. One example of this was Isobel Grant, who appears in the records numerous times for both fornication and hosting people of poor reputation. Amongst those she hosted were Margret Robertsone, Agnes Smith, and Agnes Macgibbone, all of whom were relapsed fornicators themselves.[137] Two of Grant's sisters also appear in the records for fornication.[138] Similarly, Agnes Mowat, who was convicted twice – once for Sabbath breach and once for fornication – appears in the cases of reoffenders such as William Malice, mentioned above, George Crambie and James Young, who were often found in her house drinking.[139] A few entries in the session records suggest that a close eye was kept on certain parishioners, and the session placed importance on taking account of their past appearances. Piter Stowp appeared in June 1591, having been found in the company of Janet Fendor, with whom he had previously

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[135] CH2/521/2, f. 171r.
[136] CH2/521/2, f. 141r; CH2/521/3, p. 157, for examples where several the men caught committing Sabbath breach had already been convicted numerous times.
[137] CH2/521/3, p. 11.
[138] CH2/521/3, p. 2 for the case of Elspet Grant; p. 11 for Margret Grant
[139] CH2/521/3, pp. 20, 22, 38, 59 for these cases.

committed fornication. The entry specifically states that if he was found in her company again, he would 'satisfie *de novo* as ane fornicator relaps in fournication according to the act datit at perth the 22 off November last'.[140] The act referred to here was Stowp's last offence from the previous year, when he was ordered to make repentance, and to remove Fendor from his land.[141] Fendor had appeared a week earlier, and was threatened with banishment for staying in his house 'contrair the act'.[142] Similarly, in March 1583, Jein Thornton was convicted for the third time for slander, two of which incidents were against the same woman. The entry notes that this was 'agains hir promes' made in November 1581, that she would not repeat her fault.[143] The fact that the session held these parishioners to their previous agreements, and could specifically refer to when it was made, suggests that to some degree, the session kept close track of certain offenders, and used their minutes to recall specific details of previous offences. This was especially the case for those committing multiple sexual offences, as these are the only cases where an actual number of relapses was recorded. The session sometimes did not trust offenders to keep their promise not to relapse, as in around one in eight cases, generally those concerning serial reoffenders, the session required a cautioner to ensure they did not reoffend, usually under the pain of a substantial fine. For instance, when Elspet Carvor appeared for the fourth time before the session, in this case for her third sexual offence, it was noted that not only had she broken the act made six months previously, but that her cautioner, Jhon Monypenny, had failed in his promise of making sure she would separate from her partner in fornication. Consequently, Monypenny was fined £10.[144] Cautioners' fines seem to have been especially high for particularly troublesome reoffenders. One such parishioner was Margret Watson, who had previously been excommunicated in April 1585, after refusing to make repentance for her second fault of adultery and repeated disobedience to the kirk.[145] When she appeared again in April 1586, the session was apparently wary that she would again refuse to make repentance. Her cautioner, Alexander Anderson, was made to promise that if she did not satisfy the kirk, he would be fined the very

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[140] CH2/521/2, f. 50v.
[141] *PKSB*, p. 457.
[142] CH2/521/2, f. 51r.
[143] *PKSB*, pp. 200-201, 253 for both of her slander cases against Maty Guttry.
[144] *PKSB*, pp. 150, 166 for these appearances.
[145] *PKSB,* pp. 305-306. In addition to these offences, she had also failed to present her children for baptism and was deemed responsible for one of her children's death through negligence.

unusual sum of a hundred pounds.[146] Evidently, the session was aware that certain parishioners were likely to reoffend, and it was considered necessary for other members of the community to assist in ensuring that especially uncooperative parishioners would not continue their poor behaviour.

How the rate of reoffending changed over time is difficult to evaluate because the kirk session was established years before the surviving records begin, and so it cannot be known whether some parishioners appeared in even earlier records. Looking at the cases that can be definitively identified as relapses – as that word or similar is used – the rate of reoffending recorded by the session did not decrease over time, and as this is a minimum number of cases it is likely that the kirk session was not able to curb recidivism. The proportion of relapses being prosecuted seems to have increased by the end of the sixteenth century, as more entries are referred to as relapses and a greater number of names reappear – although, due to the limitations noted above, this cannot be known for certain. This is in stark contrast to Geoffrey Parker's work on St Andrews, in which he states that by 1600, relapses 'were virtually a thing of the past', as were instances of parishioners refusing to appear, leading to his assertion that the congregation there 'had indeed become subject to discipline', as a result of the increased efforts of the session members.[147] However, Parker's use of data has received some criticism – albeit in relation to exaggerating the decline in non-appearances rather than relapses.[148] A similar decrease in rates of recidivism has been observed in 1580s Geneva.[149] While Perth's session also became stricter and more rigorous, this does not appear to have affected the rates of recidivism in the same way. On the other hand, it is possible that this increase in activity from the session resulted in more parishioners being caught reoffending, and that scrutiny from the community intensified, resulting in more reports being made to the session.

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[146] *PKSB*, pp. 342-343.
[147] Geoffrey Parker, 'The "Kirk by Law Established"', p. 185.
[148] Graham, *Uses of Reform*, p. 219 n. 68.
[149] Manetsch, 'Pastoral Care East of Eden', p. 301.

Disobeying the kirk session

Repeat offenders were not the only challenging parishioners dealt with by the session. Though not as common, there were 57 cases of parishioners directly disobeying the kirk session, for instance by refusing to accept the punishment of the kirk. This is quite similar to the proportion of cases involving disobedience in John McCallum's study of Fife, where he states that roughly 15 in 16 offenders appeared without delay and accepted their punishment.[150] One example from Perth of a refusal to submit to being disciplined can be found in March 1592, on 'quhilk day Jhone Adam being callit comperit and being desyrit to fische nane on the Saboth day herefter refusit to giff obedience Thairfoir it was ordanit that the nixt Saboth publick he haiff the first admonition befoir excommunication for his contempteus dissobedience'.[151] Despite this being the first time Adam appeared in the records, the threat of excommunication given suggests that disobeying the session in such a way was considered especially serious. Adam was not excommunicated, but did reappear later in the year for fishing on the Sabbath, with the record specifically stating that this time, he promised to obey the session, and so his attitude towards discipline appears to have changed.[152] The 57 cases of disobedience also include cases of offenders failing to make repentance or complete a punishment for an offence already committed, or concealing evidence or lying to the session. Parishioners who failed to make their repentance usually subsequently received a harsher punishment. In 76% of such instances, their punishment was increased, either with warding, a heavy fine, corporal punishment or with an increase in the number of days making repentance in the kirk. This was not always successful, as some parishioners went to great lengths to avoid making their repentance, indicating that the punishments prescribed by the session were genuinely feared or were considered humiliating by some parishioners. This was a deliberate aim of the session, who drew upon the contemporary values of their community, and the importance that was already placed on personal reputation, to formulate a system of punishments they intended to be

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[150] McCallum, *Reforming the Scottish Parish*, p. 227.
[151] CH2/521/2, f. 59v.
[152] CH2/521/2, f. 63r.

humiliating. By doing so, the session aimed to escalate the social consequences of certain actions, heightening the level of shame surrounding moral offences of the time. As Ryan Burns has noted, the punishment of public repentance was 'designed to be a deeply shameful experience'.[153] In July 1591, Hew Stewart and Elspet Crystison appeared, having not made their public repentance for their adultery.[154] The session ordered them to be warded and doubled their repentance under the pain of banishment. Two months later, the town bailies notified the session that while warding her, Crystison had escaped, and presumably fled the town, as she does not appear again in the records.[155] Crystison is one of six examples of offenders breaking out of ward during this time period.[156] Another, the adulterer Ewfam Barnis, was caught, and admitted she had had assistance, 'being put in the thevis holl by the balyeis that the lock & yronis wer brokin be Jean Browne spous to Thomas Dow & ane Ane Duff'.[157] Browne herself had two previous convictions, again highlighting the connections between certain offenders.[158] In especially extreme circumstances, those who would not make repentance were threatened with banishment and excommunication. A few were consequently excommunicated, such as Margreat Ruthven, previously convicted of adultery, 'and that for hir inobedience, quha being oft and syndry [times] admonisit to cum to hir repentance...wald nocht, but stubburnly rebellit'.[159] Ruthven evidently understood the severity of this sentence, as she returned to submit herself to the kirk a week later. While the majority of convicted parishioners submitted themselves to discipline on the date of their conviction, the cases discussed here shows that for some, the humiliation of public repentance was serious enough to warrant going to great lengths to avoid it.

In addition to those who directly refused to obey the session, or avoided completing their punishment, some were prosecuted for disobeying the kirk in other ways. Parishioners convicted for concealing evidence include midwives who failed to give

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[153] Burns, 'Enforcing Uniformity', p. 123
[154] CH2/521/2, f. 50v.
[155] CH2/521/2, f. 52r.
[156] *PKSB*, pp. 149, 312-313, 440; CH2/521/2, f. 143r; CH2/521/3, p. 35 – involving Thomas Smyth twice, Elspet Kinnear, Ewfam Barnis and Thomas Lamb respectively.
[157] CH2/521/2, f. 143r.
[158] CH2/521/2, ff. 79v, 149v, 151v.
[159] *PKSB*, p. 122.

the name of illegitimate babies' fathers to the session. In November 1590, the midwife Marion Stewart was found to have lied about not knowing the father of fornicator Janet Ray's baby, despite having promised to the session in October 1588 that she would reveal such information about any fornicators to the session.[160] The session noted that she deserved a serious punishment 'for hir haynous offencis that is banisment of the town, dischairge of hir office and publick repentance', but on this occasion, lessened her punishment to public repentance. It was also specifically stated she had concealed the truth 'for avoiding of punisment'. In July 1582, Bessie Pattie was also found to have lied to the session. When asked for the whereabouts of her daughter Janet Paul – who was rumoured to have given birth to a child – she claimed Paul had gone to Balthayock, when in fact she had hidden her under the stairs of her house.[161] Pattie was eventually referred to the presbytery, having failed to reveal where her daughter had since fled.[162] It appears then, that a small proportion of those who appeared at the session were unwilling to fully cooperate, often because they were afraid to face the punishment administered by the session, or because they wanted to protect others.

Not included here is the total count of parishioners who were summoned by the session, but never appeared in the records. Unfortunately, it is rarely stated how these parishioners avoided appearing, for instance, they may have left town or travelled on business, or they may have had another good reason for their absence. Moreover, these cases of disobedience do not include the 35 cases of parishioners slandering or assaulting session members and their relatives, which were analysed in Chapter 3. These offences were often in retaliation to being reported or disciplined by the session member, and so may also be considered as forms of disobedience in relation to kirk session discipline. As well as the cases mentioned above, there are 35 recorded cases of parishioners receiving known offenders or outsiders into their homes, against the declarations of the kirk session. Only nine of the 40 suspects in these 35 cases denied the charge. This offence appears to have been a concern for the session, who made numerous declarations about this. One example from September

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[160] *PKSB*, pp. 403, 455-457.
[161] *PKSB*, p. 228
[162] *PKSB*, pp. 233, 258-259.

1591 noted that 'ther is sundrie in this town honest men and women that ressavis in ther howse sundrye fornicators fled fra the discipline off the kirk', with a warning that hosting such people was punishable by a minimum of a 40 shilling fine.[163] In these cases involving a confession, there is no indication that the parishioner was unaware of their guest's status, and so it seems that not all were unwilling to receive or associate with offenders who had failed to make repentance. This extended to banished or excommunicated offenders, who were from Perth as well as elsewhere. Most worrying for the session was that not only were certain parishioners apparently willing to host convicted fornicators, or 'idell beggars', but some also received excommunicated papists into their homes.[164] In March 1594, Jhone Elder, already notorious for being a continual Sabbath breaker, was accused of receiving the Earl of Angus, 'excommunicat papist', into his house.[165] Elder claimed that he had not known who the man was, and was given the punishment of private repentance and a fine of a merk, 'with certificatione to him that giff he beis found culpabill off the lyk faltis in tyme cuming he sall mak his publick repentance as a contemner [despiser] off god'. In later years, two women appeared for hosting the same Earl of Angus, and one man for communicating with him.[166] Five other parishioners appeared at the session for receiving excommunicated papists on separate occasions.[167] This included one of the session's own elders, Gabriell Merser, who knowingly hosted the laird of Innernytie for three days. In comparisons to consistories elsewhere in Europe, these were quite moderate sentences – in Nimes, for instance, Raymond Mentzer has noted that those who hosted excommunicates risked being excommunicated themselves.[168] In consideration of all these cases together, while the number of cases involving disobedience are a minority, it would appear that for some of the local community, while they may have feared the consequences of their actions, the session's ability to deter people from actually committing offences had limitations. Moreover, the fact that such a significant number of offenders relapsed

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[163] CH2/521/2, f. 51v.
[164] CH2/521/2, f. 56r.
[165] CH2/521/2, f. 93v.
[166] CH2/521/2, ff. 161r, 162r.
[167] CH2/521/2, ff. 138v, 139; CH2/521/3, pp. 132, 133, 152.
[168] Raymond Mentzer, 'Disciplina nervus ecclesiae: The Calvinist Reform of Morals at Nimes', *The Sixteenth Century Journal* 18:1 (1987), p. 112.

suggests that for many, the experience of public repentance and the risk of further punishment was not enough to discourage them from reoffending.

Conclusion

The interactions and cases examined here reveal much about the relationship between Perth's kirk and those they disciplined. There were very few cases of parishioners rejecting the process of discipline and the kirk's teachings, and evidence shows that some parishioners were actively involved in the process of discipline and valued the judgements made by the session. It is also apparent that some offenders felt guilt and remorse for their actions. While the majority of Perth's accused parishioners readily appeared at the session and submitted themselves to the kirk to be disciplined, the numerous cases of denials also recorded tell us much about the session's relationship with the accused. The records show that parishioners denied a range of offences and were obliged to prove their innocence by various methods. Some of these denials were shown to be false, suggesting an unwillingness of some to submit themselves to discipline, and that not all felt guilt for their offence. The slim number of people stated to be not guilty, as well as the response to denials by the session, suggest that Perth's kirk session generally did not believe suspects, and that there was a presumption of guilt in almost all cases they presided over. The session could choose to reject a person's oath, or overlook other evidence they had presented, controlling the direction of negotiation between themselves and those they suspected. Despite this, the outcomes of denials also show how in other cases, a lack of confession could also impede the process of discipline, and hence how the session relied on the cooperation of the congregation. This is also shown by the fact that a considerable proportion of offenders in Perth relapsed, and many did so multiple times, indicating that the experience of discipline and the efforts made by the kirk session were often not enough to encourage parishioners to improve their moral conduct. Consequently, the session often relied on cautioners to ensure good conduct under the pain of especially heavy fines. Various methods were used to dissuade those convicted from reoffending, such as prescribing increasingly harsh punishments, or showing leniency in an attempt to reconcile with wayward offenders

who caused particular concern, highlighting a level of negotiation between the session and offenders.

As with many elements of discipline examined in this study, the differing approaches to these interactions highlights a certain level of flexibility in how these cases were dealt with. Men and women who denied offences were dealt with differently, with women more likely to receive harsher penalties, more likely to be convicted after denying sexual offences, and more reliant on the testimonies of others to prove their innocence. Occasionally, men were able to avoid conviction for sexual offences despite the confession and punishment of the women they were involved with, suggesting some further limitations to the notion that the session administered discipline equally. Moreover, cases of direct disobedience to the session also demonstrate limitations to the effectiveness of discipline, although these account for a small proportion of cases. This is not to suggest that offenders were necessarily opposed to the process of discipline as a whole, or to the practices of the Reformed kirk. However, there was an increasing number of denials by the end of the sixteenth century. This increase in denials appears to correlate with the changing nature of discipline within the burgh, with the kirk session becoming more thorough and strict in dealing with these. This reflects a more general widening of disciplinary activity at the time, with harsher punishments being used more frequently. Despite this, rates of reoffending did not decrease by the end of the century, and are likely to have actually increased. Overall, while the congregation played a very important role in kirk session proceedings, cases involving denials show that most suspects who came before the session had limited control over the proceedings or outcomes of their cases themselves. Moreover, while most offenders accepted their punishments, the session's reach was not all-encompassing, and not all parishioners' moral behaviour could be reformed.

Conclusion

This thesis set out to explore the relationship between the kirk session and its congregation; how far the exercise of discipline was a product of the town and session's composition; and how discipline changed in the decades after 1560. As the first direct study of Perth's kirk session, it has uncovered evidence of a kirk session that was growing in confidence and authority in the latter decades of the sixteenth century. While scholars such as Margo Todd and John McCallum have argued the importance of gradual development and adjustments of discipline to the effective operation of kirk sessions, this study has shown the significance of the individual session members, and their networks, to the changeable nature of many facets of the discipline that was administered. The distinctive local context of Perth and its reformation led to significant variation in the composition of Perth's session membership that was unlike other kirk sessions that have been studied, which in turn made a notable impact on the exercise of discipline. Indeed, overall it was often the personal, professional and social connections of the session members that determined how the session worked and how effective it became. Elders used their standing as guild members and their experience in positions on the burgh council to enhance the cooperation between these institutions, and to widen the scope of discipline to include groups such as craftsmen. Local connections were central to the running of the kirk session, and this study has demonstrated the importance of incorporating a range of local sources to understand how it functioned. Session members had personal knowledge of their parish that they used to good effect in their interactions with the congregation, which actively engaged in the disciplinary process and rarely rejected the Reformed kirk's principles. The nature of relationships between the kirk session and individual members of its congregation were, however, diverse, and individual circumstances such as social status and gender, as well as personal responses to the kirk session undoubtedly affected people's experiences of discipline. By evaluating the backgrounds of session members, and their approaches to proceedings, as well the composition and actions of offenders, this thesis has provided new insight into the nature of kirk

session discipline, and how this developed over the first few decades of its implementation.

The position of the elders and the methods by which they personally administered discipline are central to understanding the processes of the kirk session. While Margo Todd and Chris Langley have previously highlighted some elements of elders' authority, such as the value placed on their roles by parishioners, this thesis has shown that their local backgrounds and connections were evidently of vital importance to the functioning of the kirk session, and these networks were used to further the scope of moral discipline. Elders were generally connected to the quarters they were responsible for, and so were likely to have been familiar with the parishioners within their respective quarters, bringing a further valuable element to their responsibilities of visitations and travailing. Perth was very much a craftsman's town, setting it apart from other parishes, and this was reflected in the unique composition of the session membership, and in the style of discipline. It is of great significance that elders' guild membership was used to encourage good moral conduct from the town's craftsmen, who were more likely to be summoned and convicted by their fellow guild brothers on the session. Certain craftsmen were elected with the express aim of providing a more effective method of disciplining members of guilds. Similarly, the correlation of the introduction of landward elders to the session with a rise in cases involving landward parishioners demonstrates that personal backgrounds of members were relevant to the broadening of discipline that took place over the period. The fact that a third of the elders had sat on the burgh council before becoming elders, and that roughly a third were elected head of their guild at some time, shows that many were already well-established individuals who were experienced in administering discipline in some form. There was also a high level of cooperation between the kirk session and these institutions in relation to discipline, with bailies, council members and guild members called upon to assist the session in individual cases. These connections to other institutions and cooperation were vital to the operation of Perth's session, and further demonstrates that kirk sessions can not be fully understood in isolation. This was an integral feature of kirk session discipline in Perth, and further research at a similar level of detail could

reveal how far it was an important element of discipline in other communities as well. Our understanding of the functioning of kirk sessions would be greatly benefitted by further research into the backgrounds and occupations of session members in other parishes, as well as into how this affected discipline.

This use of the elders' personal authority and local connections allowed for substantial development of the kirk session by the end of the sixteenth century. The session's proceedings became increasingly thorough and wide-ranging. Like other parishes, Perth's session primarily focused on sexual offences and acts of Sabbath breach, generally prescribing typical punishments of public repentance and fines, showing that at the core of kirk sessions there was a common approach to administering discipline. However, the increasing membership of the kirk session by the end of the sixteenth century, along with the addition of landward and suburban elders, more frequent session meetings, visitations and examinations resulted in a large increase in the frequency and range of offences being pursued. Evidence in Perth's records also points to the growing authority of the session over time. The fall in excommunications in the 1590s was a result of the session's increasing ability to convince offenders to submit to discipline before reaching this last resort. By the 1590s, the session also became more persistent in pursuing the cases of suspects who denied the charge. There can be challenges with attempting to measure the effectiveness of discipline using church records, and care should be taken in evaluating what this evidence shows, as records cannot tell us the precise behaviour and mentalities of parishioners themselves. With this in mind, this thesis has demonstrated that the session certainly strove to become more effective in reaching judgements and widening the reach of kirk session discipline. The fact that this occurred under a session with such a high turnover of members suggests the establishment of an office of elder over time, whereby those newly elected adopted certain principles that their predecessors had followed and learned from their experience. There were clear ideals put forward for how elders should carry out their duties, and there is some indication that outgoing session members could be asked to educate their replacements on their roles. The number of elders with previous experience serving the burgh council decreased over time as the eldership as a collective became more experienced and confident in their role, further reinforcing

this concept that gradually, an office of eldership developed in response to the experience of session members.

The purposefully high turnover rate of elders was a distinctive feature of Perth's session, and coupled with the arrival of particular ministers, was a key component in many of the changes to Perth's session's approach to discipline. Rather than being a gradual progression year-by-year, some of these changes took place with a distinct transition, and many occurred at around the same time – in the late 1580s and early 1590s. Changes in this period included the changing treatment of the trades and crafts; the increasing focus on Sabbath breach; the decreasing numbers of cases of traditional festivities; the developing approaches to disciplining those of higher social status; and the shift in the handling of denials. These adjustments coincided with significant changes in the personnel of the kirk session, correlating not only with the appointment of the new minister John Malcolm in 1591, but also significant turnover of the session's eldership. These shifts in membership are very likely to have caused some of the changes, as has been shown with new disciplinary acts recorded at the time, and session members' personal connections to cases. This is less certain for the increase in disciplining of elites and the shift in approaches to denials, but likely to have been a contributing factor. For these aspects, there is not an apparent alternative explanation, and it is important to note that these changes to discipline in Perth were not reflections of rulings made by the General Assembly or Parliament. Not all changes to how discipline was implemented were gradual trends; some were sharp, temporary fluctuations in processes. These include the sporadic frequency of verbal and physical offences, the marked increase in acts and convictions against women in 1588-1590, and spikes in certain offences and punishments in short spaces of time. These are unlikely to have been caused by sudden changes in the behaviour of the congregation, but more feasibly the priorities of the annually rotating session. This development of the kirk session in Perth supports and expands arguments of a 'Long Reformation' in Scotland, where many features of kirk session discipline evolved over the first few decades following 1560. Overall, it suggests that these progressions occurred as new generations of men came to be elected to the session, further highlighting that while the eldership followed and continuously developed a set of principles for the role, members of Perth's kirk

session were not one homogenous voice, and had differing approaches to the exercise of discipline.

While certain trends in Perth's records reflect broader patterns seen across other parishes, the evidence presented in this thesis shows that many trends were a local phenomenon. Some elements of discipline were distinct from that in other parishes, such as the characteristics of verbal cases and traditional pastimes, the disparities in the treatment of offenders, and the temporary fluctuations mentioned above. In turn, some of the major interests of the General Assembly during this time period, such as the establishment and strengthening of presbyteries, and concerns over Catholic infiltration, scarcely made an appearance in the kirk session records. Very few disciplinary cases were referred to the presbytery or burgh council, meaning that the kirk session made the majority of decisions regarding the day-to-day proceedings over local matters. The national tensions of the 1580s and 1590s appear to have had a limited effect on kirk session proceedings, which remained solid throughout this period. This included in times when Perth's own minister was implicated in national events: when Patrick Galloway was exiled in 1584, the elders continued to carry out all manner of the session's business. All of this suggests that kirk sessions enjoyed a certain level of autonomy from both the General Assembly and Parliament, whereby the majority of its processes were relatively unaffected by broader national concerns. That Perth's session continued to operate smoothly and increase its scope and business throughout this period speaks to the strength of session members' authority over local matters.

The relationships between this developing kirk session and its congregation were multi-layered and differed according to individual circumstances. A person's experience of discipline depended on a multitude of factors, such as their gender, social status and connections to session members. Although it has been previously suggested that kirk sessions were unable to administer discipline equally as a result of contextual circumstance, this study has found that differing treatment of certain offenders according to their gender or social status was often a conscious decision informed by contemporaneous views. The kirk session sometimes decided to impose

harsher punishments on female offenders compared to male offenders for the same offences and in practice, women's oaths were not valued as highly as men's, despite their testimonies being equal according to the Kirk's teaching. There were cases of fornication between a man and a woman where only the woman was convicted, even though evidence was available to the session about the man's guilt. The session was similarly inconsistent in their treatment of those of lower social status, who could face more severe punishments of corporal punishment, warding, or losing their poor relief. Servants were also subject to intense scrutiny and were at the distinctive risk of punishments that affected their livelihoods. Crucially, analysis of slander and physical assault cases showed that the personal relationships of session members were also a significant factor in determining which cases reached the kirk session, and how an offender was dealt with, as the session prioritised incidents involving their own members. These findings differ from those of some previous studies, raising further questions over the extent to which kirk sessions really displayed impartiality.

The kirk session relied on the congregation's cooperation to an extent and was willing to display some flexibility. However, the minister and elders exercised ultimate authority over the disciplinary process. The cases discussed show that there was an element of negotiation employed in procedures: while some suspects denied charges and offered evidence to prove their innocence, others disobeyed the session by refusing to submit to the kirk. Both circumstances led to discussions with the aim of encouraging them to make repentance. The session could be flexible in its administering of discipline to offenders based on their personal circumstances, whether it was a first offence or a particularly remorseful sinner, there could be mitigation relating to social status, or careful handling of especially difficult individuals, all with the aim of discouraging further offending. This highlights the session's sincere aim in bringing about reconciliation and repentance, rather than merely inflicting a penalty. This reinforces arguments made by Margo Todd and John McCallum that there was some flexibility to the system of discipline, which was important to the effectiveness of kirk sessions.[1] The session certainly relied in

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[1] Todd, *The Culture of Protestantism*, p. 22; McCallum, *Reforming the Scottish Parish*, p. 225.

part on the cooperation and compliance of offenders, as suspects could impede the process of discipline by not following standard procedure. While many parishioners actively assisted kirk session proceedings, the session also dealt with a high number of relapses, and a significant number of acts of disobedience, contrasting Perth with studies that have estimated recidivism rates in kirk session cases to be low. Others committed offences considered serious enough to warrant referral to the burgh court for a harsher punishment. All these factors show there were limitations to how far people were willing to reform their own moral conduct. In a similar vein, popular festivities remained a feature of parishioners' lives, and the kirk session did not succeed in curbing these activities by the end of the sixteenth century. Bearing this in mind, care should be taken in evaluating what these actions reveal about parishioners' views. While the kirk's relationship with its congregation was clearly complex, these interactions are not direct evidence that parishioners opposed the exercise of discipline as a whole. Local attitudes towards the kirk session should be understood more as a spectrum of relationships rather than a simplistic evaluation of the local community as either 'for' or 'against' the disciplinary procedures of the Reformed kirk. The course of negotiation was tightly controlled by the session, who could reject claims of innocence and threaten increasingly severe punishments, thus demonstrating the extent of their authority. There was a strong presumption of guilt by the session, to the point where a meagre 1% of suspects were found innocent of the offence they were accused of. Nevertheless, this thesis shows that there was an element of compromise employed under individual circumstances, and therefore that there were often deviations in disciplinary proceedings.

The development of Reformed discipline in Perth was gradual, not always consistent, and often sensitive to the circumstances of individual cases. The implementation of discipline was determined by local people, most evidently by elders who were rooted in the local community and understood the congregation well. A person's experience of discipline could be affected by gender, social status and one's relationship with session members. This study has displayed the complex relationship between the kirk and its congregation – parishioners interacted with the session in many ways and varying levels of support for moral discipline were present in the parish. This context significantly influenced the nature of discipline in Perth,

clearly demonstrating that the kirk session was extensively shaped by the local community, and that discipline developed incrementally as the kirk session's influence strengthened.

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