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Men of Law in the Aberdeen Council Register? A Preliminary Study, ca.1450 – ca.1460*

“Men of Law”: A Problematic Term

MacQueen notes that “[f]ifteenth-century [Scottish] sources refer often to ‘men of law’, earlier records to ‘*jurisperiti*’”.¹ The Aberdeen Council Registers, which survive in a near-continuous run between 1398 and 1500 – and indeed beyond – do not disappoint in this regard. Nonetheless, it would appear that the phrase “men of law” itself only appears twice in the corpus transcribed by the “Law in the Aberdeen Council Registers (LACR)” Project, which is soon to make available online a transcript of the voluminous entries in the Council Registers surviving from the period 1398-1415 and 1433-1511.² Regarding the relevant references to “men of law” themselves, first, on 15th February 1449, Malcolm Forbes, David Dun and David Hervy were accused before the Chamberlain’s Court of “disobeying of Androw Alaneson the balyhe” because they had refused to find “borowes of pes” when so required. “Borowes of pes” were pledges to the effect that the behaviour of the pledgers would be peaceable and non-

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¹ Hector L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh: Edinburgh University Press, 2016 reprint), 74.

² For this project, see Aberdeen Registers Online at <https://www.abdn.ac.uk/aro>, to be made publicly available shortly. The project is currently (as of April 2019) described at <https://aberdeenregisters.org/>; the near-final transcript of the entries from the period 1398-1501 is about 1.3 million words in length (see <https://aberdeenregisters.org/2018/02/>). The LACR project team members are Jackson Armstrong, Phil Astley, Edda Frankot, Anna Havinga, Claire Hawes, William Hepburn, Andrew Mackillop, Wim Peters, Andrew Simpson, and Adam Wyner. LACR is funded by the Leverhulme Trust, Aberdeen City Council, and the University of Aberdeen. LACR forms part of the Aberdeen Burgh Records Project, a partnership between the Aberdeen City and Aberdeenshire Archives and the Research Institute of Irish and Scottish Studies at the University of Aberdeen. A preliminary version of LACR Search, a search tool, was used here; it is a web application to facilitate search within the LACR Corpus. This preliminary tool was based on the application created under the supervision of Adam Wyner by Radostin Stoyanov, Marcel Zak, Cameron Beck, Jack Burn, and Jan Siemaszko, and published in 2017 under licence at <https://github.com/team-charlie/lacr-search/blob/master/LICENSE>. References to the corpus follow the online resource which will become live soon; they are in the format “ARO-5-0036-05”, “ARO” being the reference to the Council Registers, the first number, “5”, being the reference to the volume in the registers, “0036” being the reference to the relevant page in the volume in question, and “05” being the reference to the entry on the page in question.

violent, generally in relation to other individuals.³ Against Alanson's charge, Forbes, Dun and Hervy entered a defence. This was to the effect that they were not obliged to find "borowes of pes" so unless those who demanded "borowes of pes" from them were first prepared to take an oath to the effect that they "doutit thaim" – in other words, to swear that they feared violence from Forbes, Dun and Hervy. The dispute was put before assizers to decide the matter. The assizers replied that they did not want to deliver a finding until such time as they had consulted "men of law" as regards the validity of the defence in question.⁴ The second reference to "men of law" arose in a fascinating letter written on 20th March 1467 by the officers of the burgh of Edinburgh in response to a query raised by the officers of the burgh of Aberdeen regarding the law of succession to burgh lands. The Aberdonians had explained that one of their burgesses had married twice; he had had a daughter with his first wife and sons and daughters with his second. During the course of the first marriage, he had acquired lands in the burgh, and now the lands were claimed by the daughter of the first marriage, and also by one of the sons of the second. The Aberdonians were uncertain as to who should succeed. Consequently, they asked their counterparts in Edinburgh to "pas togidder with the consaile of men of law" and to "avise tharapon". The officers of Edinburgh obliged, and the advice was that the daughter ought to succeed "*vt patet in legibus burgorum In capitulo ubi dicit de homine habente duas vxores et cetera*" – i.e. as appears in the laws of the burghs in the chapter discussing a man having two wives *et cetera*.⁵ Opinions on the point were also sought from the burgh officers of Perth and Dundee.⁶

Such references to "men of law" in the Council Registers are intriguing. They reveal is that Aberdonians did, at times, consider it worthwhile to consult individuals they knew as "men of law". Furthermore, one reason they did this was in order to secure advice based on their expertise concerning the law applicable in the courts of the burgh. Nonetheless, the fact that they sent letters to the burgh officers of Edinburgh, Dundee and Perth seeking their advice on a disputed point of law, and the fact that they asked those officers to consult with "men of law" in their own towns is intriguing. It might, therefore, be interesting to consider the extent to which "men of law", who were recognisable as such to fifteenth century Scots, were operational in Aberdeen. It might also be interesting to go further, and explore the extent to

³ See, for example, A. Mark Godfrey, *Civil Justice in Renaissance Scotland* (Leiden: Brill, 2009), 254-256.

⁴ ARO-5-0036-05, 15th February 1449.

⁵ ARO-5-0602-01, 20th March 1467.

⁶ ARO-5-602-01 – ARO-5-603, 20th March 1467.

which they may have formed a *community* of men of law, perhaps entertaining common assumptions about legal procedure or legal rules.

The present article seeks to lay some of the groundwork that might ultimately be used to answer, or at least probe, such broad questions. Yet it will not tackle them directly. This is in part because the explicit references to “men of law” in the record are so thin. This fact should give one pause to consider the extent to which fifteenth century Aberdonians would have held particularly clear cut ideas about who was, and who was not, a “man of law”. Indeed, the category of “men of law” seems to have been rather elastic in fifteenth-century Scotland. There is little to indicate that those labelled “men of law” were expected to possess common educational qualifications, for example. Certainly, they were not expected to hold membership of anything like a modern professional body in order to give legal advice.⁷

Historians who have considered this problem in the past have, rightly, shifted their attention from the rather vague – albeit important – category of “men of law”, so as to consider various representative and clerical roles that were critical to the operation of the courts and the resolution of legal disputes more generally in late medieval Scotland.⁸ Sometimes these roles were discharged by individuals regarded as “men of law”, and sometimes they were not. Yet the focus has tended to be on the roles themselves, and the relationships between those roles, in facilitating the work of the courts. The office of notary public, for example, has attracted considerable attention; the notaries “drew up legal documents” and their “attestation gave such documents especial force as evidence and record of formal transactions or other acts such as the giving of sasine or the taking of procedural steps in court.”⁹ Likewise, historians such as John Finlay have explored the roles *praelocutores* (forespeakers) and *procuratores* (procurators). In principle, the client of the forespeaker trusted him to deliver a message to the court on his behalf, and usually, it would seem, in his presence. The forespeaker could “advise

⁷ See, for example, James J. Robertson, ‘The development of the law’, in Jennifer M. Brown (ed.), *Scottish Society in the Fifteenth Century* (London: Edward Arnold, 1977), 136-152, particularly at 148-151; John Finlay, *Men of Law in Pre-Reformation Scotland* (Phantassie: Tuckwell Press, 2000), particularly at 1-20; MacQueen, *Common Law*, 74-84.

⁸ See Finlay, *Men of Law*, 1-20; MacQueen, *Common Law*, 74-84.

⁹ MacQueen, *Common Law*, 76; see, above all, John Durkan, ‘The early Scottish notary’, in Ian B. Cowan and Duncan Shaw (eds), *The Renaissance and Reformation in Scotland. Essays in honour of Gordon Donaldson* (Edinburgh: Scottish Academic Press, 1983), 22-40; see also Harold W. Booton, *Burgesses and Landed Men in North-East Scotland in the Later Middle Ages: A Study in Social Interaction* (unpublished PhD thesis, University of Aberdeen, 1987), 201-249, for an enlightening study of the work of notaries in Aberdeen in the period from 1400 to 1530; see also the summary of the role of the notary in Andrew R. C. Simpson and Adelyn L. M. Wilson, *Scottish Legal History Volume One: 1000-1707* (Edinburgh: Edinburgh University Press, 2017), 56-59.

and... give counsel” and “speak on his client’s behalf and under his instructions”.¹⁰
Nonetheless,

“By standing at the bar of the court along with his man of law, the principal, in modern terminology, might be viewed as the controlling mind. The responsibility for what was said on his behalf lay with him; if his forespeaker made a statement of which he disapproved then, presumably, he could disavow it...”¹¹

Finlay distinguishes this role from that of the procurator as follows:

“... in court the procurator was the master of the message. His client was not present to contradict or disavow him. Provided the procurator was properly constituted, and was acting within his authority, he bound his client by what he said and did in his name. As an ambassador was employed to negotiate, within his terms of reference, the content of a treaty, so the procurator might, according to his mandate, have responsibility for reaching a settlement judicially or by arbitration.”¹²

While the broad term of “men of law” is mentioned only twice in the Aberdeen Council Registers transcribed by the LACR project, the roles of procurator, forespeaker and notary public are referenced hundreds, if not thousands, of times. They were clearly of great importance to litigants when using the burgh courts to resolve their disputes. The article will seek to explore the nature and scope of the roles as revealed by the Aberdeen Council Registers. First, it will consider Aberdonian procurators, forespeakers and notaries public. In the process, it will show that only a small group of individuals appear acting in such roles reasonably frequently. Second, the article will consider the extent to which that small group may, or may not, have had anything in common beyond the frequency of their appearances before the burgh courts. Third, the article will then discuss whether or not it may be appropriate to speak of a group of Aberdonians who would have accepted the contemporary label of “men of law”. Some comments will be made concerning what that might, and might not, have meant to them.

A final point concerning the limitations of this study should be mentioned here. Constraints of time and space make it impossible to explore all references to procurators,

¹⁰ Finlay, *Men of Law*, 10.

¹¹ Finlay, *Men of Law*, 10.

¹² Finlay, *Men of Law*, 11.

forespeakers and notaries in the transcribed records. As a result, it has been decided to narrow the focus to a particular decade – ca.1450 to ca.1460. The choice is largely arbitrary, albeit not entirely so. During this decade, one Master John Cadiou was active in discharging a range of functions within the burgh court. His career has been studied before, in a brief yet illuminating article published by Harold Booton in 1989.¹³ A notary public, a man prepared to act as a procurator¹⁴ and one who would presumably have been viewed by contemporaries as a rather busy “man of law”,¹⁵ Cadiou was also one of the first named individuals to hold the office of “*clericus et scriba curie dicti burgi*” (i.e. “clerk and scribe of court of the said burgh” of Aberdeen). In addition, he was the first known holder of the office to hold a degree.¹⁶ There is evidence to suggest that Master John Cadiou was active in the role of burgh clerk and scribe between 1452 and 1455, and perhaps for longer.¹⁷ Thus we can safely assume that at least some of the Council Registers of the period reveal the burgh courts of Aberdeen and their personnel as witnessed and recorded by one who was very familiar with the practice of the law in Aberdeen in his capacity as a notary. That, perhaps, makes the evidence of the Registers from this period concerning the operation of dispute resolution in the burgh courts all the more interesting. While this sparked the interest of the present writer in exploring the 1450s further, it should be stressed that otherwise the choice to focus on this period was arbitrary. Methodologically speaking, there is no real reason at the outset to assume that studying this decade should prove any more useful or illuminating than any other.

Procurators, Forespeakers and Notaries Public in the Council Registers, ca.1450-1460

¹³ Harold W. Booton, ‘John and Andrew Cadiou: Aberdeen notaries of the fifteenth and early sixteenth centuries’, (1989) 9(1) *Northern Scotland* 17-20. See also Elizabeth Gemmill (ed), *Aberdeen Guild Court Records 1437-1468* (Edinburgh: Scottish History Society, 2005), 3, where Cadiou’s career is briefly discussed.

¹⁴ ARO-5-0295-03, 7th February 1457.

¹⁵ See Booton, ‘John and Andrew Cadiou’, 17; see also Booton, *Burgesses and Landed Men*, 201-249, for an enlightening study of the work of notaries in Aberdeen in the period from 1400 to 1530.

¹⁶ ARO-4-0039-02, 9th May 1435, a record which was amended by Cadiou acting as burgh scribe on 30th September 1455; see also ARO-5-0147-13, 27th March 1452. Only a single reference to a named “*clericus*” or “*scriba*” of the burgh has been traced prior to this date; he was William Cadiou, who was clerk in 1438. For this reference, see Booton, *Burgesses and Landed Men*, 204, citing James Cooper and James Logan (eds), *Cartularium Ecclesiae Sancti Nicholai Aberdonensis* (Aberdeen: New Spalding Club, 2 vols, 1888-1892), ii, 45. It is not inconceivable that William was the father of Master John; Master John was admitted as a burgher and a member of guild “*ratione libertatis paterne*” (his father is not named) on 5th October 1442; see ARO-5-0660-05. Cadiou’s possession of a degree, evident from his title “Master” (“*Magister*”) is briefly discussed in Booton, *Burgesses and Landed Men*, 203.

¹⁷ See ARO-4-0039-02, 9th May 1435, a record which was amended by Cadiou acting as burgh scribe on 30th September 1455, and ARO-5-0147-13, dated 27th March 1452; the evidence for Cadiou’s activity as *clericus et scriba burgi* in this reference is somewhat circumstantial, but compelling, as will be discussed below. The next *scriba curiae* to be mentioned in the record was Robert Leis; see ARO-05-0437-03, 26th November 1461.

(a) Procurators

Do the Aberdeen Council Registers provide evidence that concurs with Finlay's account, as outlined above, of the broad functions of "procurators" elsewhere in late medieval Scotland? The Registers themselves contain several accounts of the appointment of procurators by their clients, and this seems a useful place to start when attempting to answer this question. A brief example of an appointment of a procurator dating from 9th March 1450 reads as follows: "*Idem Johannes bullock constituit procuratores Johannem fife Johannem kymedy et Ricardum Kyntor*" (i.e. "the same John Bullock made John Fife, John Kennedy and Richard Kintore his procurators").¹⁸ Other entries are, perhaps, a little more illuminating; consider this record of the appointment of procurators in September 1451:¹⁹

Robert Gillespy constituted John Scroggs the father, Alexander Blyndseil and Alexander Armstrong his procurators – with all indispensable and suitable clauses *et cetera* – in all causes affecting him, and in particular in that cause of process led concerning the recovery of land pertaining to Mariota his spouse in the Overkirkgate

Here we see one Aberdonian appointing three men to act as his procurators in all matters concerning him, and specifically in a particular dispute concerning lands in the Overkirkgate. This tallies with Finlay's account of the role of the procurator, who could "according to his mandate, have responsibility for reaching a settlement judicially or by arbitration".²⁰ Not all constitutions of procurators were so general, as Finlay notes; a procurator might be appointed to pursue one particular matter alone.²¹ Again, one can find examples of this in the Council Registers.²² Furthermore, the key power of the procurator to *bind* his principal (i.e. the man or woman he represented in court, that is to say his client) by his acts is well-attested in the Council Registers. Elsewhere in the realm, the appointment of a procurator contained a clause stating that the principal "*promisit de rato*" – in other words, he obliged himself to confirm and

¹⁸ ARO-5-0083-08, 9th March 1450.

¹⁹ ARO-5-0126-08, 11th September 1451; the original reads as follows: "*Robertus gillespy constituit Johannem scroggs patrem alexandrum blyndseil et alexandrum Andirson procuratores suos in omnibus causis ipsum tangen[tibus] et specialiter in illa causa processus ducta super recuperacione terre spectan[tis] ad mariotam sponsam suam in ly overkirkgate cum omnibus clausulis necessarijs et oportunis et cetera*".

²⁰ Finlay, *Men of Law*, 11.

²¹ Finlay, *Men of Law*, 31.

²² ARO-5-0242-07, 12th September 1455 ("*Jacobus hervy... constituit... suos legitimos et indubitatos procuratores ad prosequendum Johannem bullok... Et promisit de rato cum ceteris clausulis necessariis et oportunis cum potestate substituendi et cetera*").

approve the acts of the procurator.²³ Indeed, Sir James Balfour of Pittendreich, a sixteenth century Scottish jurist, stated that a procurator could not proceed without such express ratification or “ratihibition”.²⁴ The records of the appointment of procurators in the Council Registers frequently, but not invariably, include the “*promisit de rato*” clause.²⁵ One interesting example comes from the hand of the *clericus et scriba curiae*, John Cadiou the notary public, who wrote in the Registers the following entry on 27th March 1451:

And I, John Cadiou, make Patrick of Fife my procurator in all causes and especially in the cause between me and William Voket; And I promise faithfully that I will confirm the acts of my procurator; In this matter I have transcribed a record with my own hand and I have marked it with my manual sign²⁶

So far, perhaps unsurprisingly, the Council Registers confirm that the role of the procurator in Aberdeen was very similar to that exercised by procurators elsewhere in the realm. The procurator might represent a client in his legal affairs generally, or in relation to specific disputes; and the procurator bound the client in so acting. Nonetheless, specific points regarding the constitution of procurators in Aberdeen do merit some further discussion. The record of Robert Gillespy’s constitution of procurators, which was quoted above, contains the interesting statement that it was made “*cum omnibus clausulis necessarijs et oportunis et cetera*” – i.e. “with all indispensable and suitable clauses and the rest of such things”. Variants of this phrase appeared in several different records. On 10th November 1451, Alexander Chalmers appointed Gilbert Menzies, John of Mar and Robert Gillespy as his procurators “*cum ceteris clausulis oportunis*”.²⁷ Similarly, on 12th September 1455, James Hervy constituted David Menzies, David Hervy and David Dun his procurators “*cum ceteris clausulis necessariis et oportunis*”.²⁸ These frequent references to the “indispensable and suitable” clauses included in constitutions of procurators indicates that such clauses were those that were normally

²³ Simon Ollivant, *The Court of the Official* (Edinburgh: Stair Society, 1982), 58.

²⁴ Ollivant, *Court of the Official*, 58, citing Balfour, *Practicks*, II.299.

²⁵ Consider, for example, ARO-5-0069-06; ARO-5-0101-06; ARO-5-0132-11; ARO-5-0147-13; ARO-5-0160-01; ARO-5-0242-07.

²⁶ ARO-5-0147-13, 27th March 1452; “*Et ego Johannes Cadiou constituo patricium de fife procuratorem meum in omnibus causis et specialiter in causa inter me et Willelmum voket Et promitto fideliter de Rato In consignum hoc propria manu scripsi et signo meo manuali signavi*”. I have avoided a literal translation of the words “*promisit de rato*”. I am grateful to Professor Roddy Paisley for discussing an aspect of this translation with me; any errors are my own.

²⁷ ARO-5-0132-11.

²⁸ ARO-5-0242-07.

included. This may suggest that the *clericus et scriba curiae* – probably John Cadiou, or at least those over whom exercised oversight – felt that such clauses were well enough known to those likely to consult the Register to require no further comment.

If that is so, then it is perhaps interesting to mention that some constitutions of procurators *did* mention specific powers that were not, it seems, always granted. For example, sometimes procurators were granted authority to act “*cum potestate substituedendi*” – in other words, with the power to substitute another in their place. James Hervy’s constitution of David Menzies, David Hervy and David Dun as his procurators on 12th September 1455 included such a clause.²⁹ The power to appoint a substitute procurator was well known elsewhere in Scotland, as Finlay notes.³⁰ It was also possible to appoint an “irrevocable” constitution of a procurator, as on 17th August 1454 when Nicholas Gleny appointed three procurators to receive sasine of a tenement once it had been resigned according to the terms of an agreement.³¹ This tallies with the normal role of the irrevocable procurator, as Finlay outlines it – “those procurators who were constituted irrevocably tended to be those whose activity involved following a set procedure in a mechanical way without the need for discretion on their part”.³²

The evidence considered thus far indicates that the legal functions of the procurator in Aberdeen in the 1450s were essentially very similar, if not the same, as the functions of procurators elsewhere in the realm. So, who were the procurators? If one takes the period between 1st January 1450 and 31st January 1460, one can find eighty-seven men being appointed as, or acting as, procurators for others in the Council Registers. Constraints of space make it impossible to discuss all of these individuals in detail. It has been decided to focus here on those who appeared frequently in court on behalf of a range of clients; this will be discussed further shortly. Nonetheless, something should first be said about those who appeared only once or twice, or several times for only one principal, or one client. The diversity of the individuals in question underlines the point that “procurators” were hardly a homogeneous group, far less a homogeneous group of “men of law”.

Some procurators appeared only once, and for only one client. There is little or no evidence to suggest that they were in any way “men of law”. For example, Walter Giffard acted as a procurator on behalf of his daughter on 1st January 1450, and did not act as a procurator

²⁹ ARO-5-0242-07, 12th September 1455. See also, for example, ARO-5-0247-10; ARO-5-0069-06.

³⁰ Finlay, *Men of Law*, 33; he also mentions grants “*cum potestate concordandi*”, “*cum potestate tractandi*” and “*cum potestate compromittendi*”.

³¹ ARO-5-0208-02, 17th August 1454.

³² Finlay, *Men of Law*, 29-30.

for anyone else between 1450 and 1460.³³ Likewise, Robert Chalmers was appointed as procurator for his son-in-law on 19th October 1450, on this occasion for a very specific matter.³⁴ Gilbert of Sanquhar was appointed to act as procurator for his wife, Mariora, on 1st January 1450.³⁵ In each case, the choice of “procurator” – in so far as it was a “choice” – was probably based more on the dynamics of family relationships than on any other factors, such as the experience of the procurator in representing the affairs of others in the burgh courts.

Other procurators appeared more frequently, but once again only for one, or occasionally two, clients. Indeed, some of those falling into this category appeared very frequently indeed. For example, Andrew Seras, Chaplain, appeared before the burgh courts nine times between 1450 and 1460 – more frequently than any other procurator – but he only appeared for one client. This was the Altar of the Blessed Virgin Mary, in the burgh kirk of St Nicholas.³⁶ On each occasion, he was seeking payments of annualrents due from certain properties in the burgh. Making protestations for such payments was one of the most common things procurators did in the period under consideration here; more than a quarter of the almost one hundred and ninety appearances of procurators in the Aberdeen burgh courts between 1450 and 1460 were associated with protestations for annualrent. This calls for some explanation. At the outset, it should be noted that the “annualrent” was a device that permitted the “owner” of burgh property³⁷ to burden his or her *land* in favour of another, benefitted party. The benefitted party would be entitled to an annual payment out of the *land*. Consequently, even if the ownership of the land changed hands, the benefitted party would still be entitled to the payment; how this was achieved in practice will be discussed further below.³⁸ For present purposes, it suffices to note that annualrent could be used as a security for debt, and it could serve in place of interest on a loan at a time when strict laws against usury were in force.³⁹

³³ ARO-5-0069-09.

³⁴ ARO-5-0101-06.

³⁵ ARO-5-0069-06.

³⁶ ARO-5-0211-06, 30th September 1454; ARO-5-0222-05, 14th January 1455; ARO-5-0232-04, 7th April 1455; ARO-5-0252-03, 12th January 1456; ARO-5-0265-02, 5th April 1456; ARO-5-0279-10, 4th October 1456; ARO-5-0291-05, 10th January 1457; ARO-5-0302-05, 23rd May 1457; ARO-5-0398-05, 1st April 1460.

³⁷ The word “owner” is used here loosely; medieval Aberdonians talked of the ultimate tenure which could be enjoyed in relation to burgh property as being held “*in feudo et hereditate ac in libero burgagio*” (see, for example, Aberdeen University Library (AUL) Marischal/2/1/6/2/17, dated to 20th February 1450). For these terms, see, for example, George Gretton, ‘The Feudal System’, in Kenneth G C Reid, *The Law of Property in Scotland* (Edinburgh: 1996), paras 41-113 at para.65; the example of AUL Marischal/2/1/6/2/17, and the terms just mentioned, will be discussed further below.

³⁸ An excellent example of a grant of annualrent from the period under consideration here, which shows the steps that parties had to take in order to make the grant, can be found in AUL Marischal/2/1/2/6, dated to 10th August 1460.

³⁹ Gretton, ‘Feudal System’, para.112; MacQueen, *Common Law*, 226-227.

Nonetheless, the annualrent could also be used simply to establish annual payments out of lands. Importantly, these would be enforceable by the benefitted parties against the lands themselves. In medieval Aberdeen it was particularly common for pious individuals, concerned for the fate in the afterlife, to endow altars of the parish church of St Nicholas with annualrents. In exchange, the priests of those altars were required to say masses for the welfare of the granters' souls – potentially in perpetuity.⁴⁰

All that raised an obvious question; what would happen if revenue ceased to be forthcoming from the lands? It was exactly that situation which procurators like Andrew Seras, Chaplain of the Altar of the Blessed Virgin Mary, sought to address. He, and others like him, did this with considerable persistence and frequency. Seras protested for annualrent which had not been forthcoming from debtors, and he did so in successive meetings of the head court of the burgh. In each protestation, he noted that, in relation to the lands, there was “*nichil... distringibile preter terram et lapides*”.⁴¹ In other words, there was nothing available to satisfy the debt due except for the lands themselves. After this had been found to be the case at four successive head courts of the burgh, the lands from which the annualrents were due would be transferred to the creditors.⁴² This does seem to have been a common assumption amongst all the procurators who pleaded on the point.⁴³ One charter dating from 20th February 1450, and preserved in the papers of Marischal College, makes it clear that contemporary Aberdonians believed their practice in this regard was consistent with the “*leges et consuetudines burgorum*”⁴⁴ – which were, in principle at least, the laws of the burghs across Scotland.⁴⁵

⁴⁰ See, for example, AUL Marischal/2/1/2/6, dated to 10th August 1460. For the altars of St Nicholas, see Michale Lynch, Gordon DesBrisay with Murray G. H. Pittock, ‘The Faith of the People’, in E. Patricia Dennison, David Ditchburn and Michael Lynch (eds), *Aberdeen Before 1800: A New History* (Phantassie: Tuckwell Press, 2002), 289-308 at 291-294. See also Iain Fraser, *The Later Medieval Burgh Kirk of St Nicholas, Aberdeen* (unpublished PhD thesis, University of Edinburgh, 1989).

⁴¹ Beyond the references already cited in relation to the work of Andrew Seras, Chaplain, consider ARO-5-0161-05, 2nd October 1452; ARO-5-0171-04, 8th January 1452; (appearances of Thomas Anderson, Chaplain, on behalf of the Altar of the Blessed Ninian); ARO, 5-0199-03; ARO 5-0199-04, both 29th April 1454 (appearances of David Ruthirfurd and William Chalmers, chaplains, on behalf of the Altars of the Blessed Andrew and the Blessed James). Note that David Ruthirfurd also appeared on behalf of all the chaplains of the kirk of St Nicholas within the burgh of Aberdeen as a whole; see ARO-5-0347-08, 2nd October 1458.

⁴² Consider ARO-5-0212-01, 30th September 1454; ARO-5-0252-03, 12th January 1456.

⁴³ For the use of burgh lands to recovery debts owed by the holders of the lands more generally, see W. Croft Dickinson, *Early Records of Aberdeen 1317; 1398-1407* (Edinburgh: 1957), lix-lxi.

⁴⁴ AUL Marischal/2/1/6/2/17. A version of the process is given in c.136 of Sir John Skene of Curriehill’s Latin edition of the *Leges Burgorum*; see J Skene, *Regiam Majestatem* (Edinburgh: 1609), f.151^v.

⁴⁵ On the *Leges Burgorum* and the laws of the burghs more generally, see Hector L MacQueen and William J Windram ‘Laws and Courts in the Burghs’, in Michael Lynch, Michael Spearman and Geoffrey Stell (eds), *The Scottish Medieval Town* (Edinburgh: 1988), 208-227; see also Joanna Kopaczyk, *The Legal Language of Scottish Burghs: Standardization and Lexical Bundles 1380-1560* (Oxford: 2013), 114-135.

Thus far, it has been said that some procurators appeared once, for only one client. By contrast, other procurators appeared many times, but in general only for one or two clients – this was particularly commonplace in relation to those who made protestations for payment of annualrents. A third group of procurators appeared several times for several different clients. They will be discussed shortly, but because there was considerable overlap between this group and those who most frequently appeared as forespeakers or *praelocutores*, it seems appropriate to consider appearances of individuals acting in those roles next.

(b) Forespeakers

There is less evidence to substantiate the suggestions made above concerning how the role of forespeaker (*praelocutor*) was understood in Aberdeen. On one level, this is not particularly surprising. Finlay himself used comparative evidence to establish the distinction between forespeakers and procurators, commenting “[i]n Scotland there is a lack of direct evidence concerning the precise extent of the powers of the forespeaker, and no details are known of when, or even whether, his client might disavow what he said”.⁴⁶ Yet the distinction clearly mattered; Finlay states that while the presence of a procurator was almost always recorded, the presence of a forespeaker was not; it was the presence or absence of the forespeaker’s principal that mattered to the clerks.⁴⁷ Finlay also notes that many men who acted as procurators also acted as forespeakers; so the early sixteenth-century Edinburgh advocate Robert Galbraith is on record as having acted as a procurator on 340 occasions and as a forespeaker on 116 occasions.⁴⁸

When one examines the period 1450-1460, one finds references to at least twenty-nine individuals who acted as *praelocutores* or forespeakers during this period. This makes interesting comparison with the eighty-seven references to those who acted as *procuratores* over the shorter period of 1450-1460, discussed above. Perhaps this suggests that the Aberdeen record reflects the general Scottish practice, noted by Finlay, of always recording the identity of the *procurator* and only sometimes recording the identity of the *praelocutor*. For obvious reasons, it is very difficult to offer more than speculation on this point at present.

As with the procurators, some *praelocutores*/ forespeakers only appeared once to represent one client during the period under consideration here. For example, a local laird, Alexander Irvine of Drum, appeared as procurator and *praelocutor* for John Lilburn in relation

⁴⁶ Finlay, *Men of Law*, 11.

⁴⁷ Finlay, *Men of Law*, 10.

⁴⁸ Finlay, *Men of Law*, 10 n.44.

to a brieve of inquest on 6th April 1457.⁴⁹ On 10th September 1459, William Cummyng represented John of Allardice. Allardice had defied the will of the bailies previously, but Cummyng explained that he was now offering to amend his ways and submit to an ordinance they had made. This offer the bailies accepted.⁵⁰ Yet more commonly, the individuals who appear as forespeakers or *praelocutores* appeared more than once, and on behalf of more than one client. Sometimes they were clearly acting for close relatives. Adam Trail, chaplain, acted for his mother in a protestation for annualrent⁵¹ and for his brother Alexander in raising an exception *de resoluta* to a brieve *de conventione*.⁵² Yet sometimes the links between the forespeakers and their clients are less immediately obvious. So John Kymedi appeared as *praelocutor* twice, on both occasions on behalf of the Blackfriars, but in one instance for John, Prior of the Blackfriars, and subsequently for Brother Robert Sprotoun of the Blackfriars. In both cases, the appearances were to make protestations for an annualrent that was apparently due. Interestingly, while Kymedi represented the Blackfriars as forespeaker in relation to this dispute twice, on 4th October 1451 and 17th April 1452, in between those two dates Robert Gillespy acted as forespeaker for the Blackfriars to claim the same annualrent on 10th January 1452.⁵³

Another forespeaker/ *praelocutor* who appeared more than once in that role on behalf of more than one client was Richard Kintore; for example, he acted for one Hans Snel in a dispute over a *naulum* (a fare, or passage money) and also for Adam Kynnor in a dispute over the nullity of a certification he had produced.⁵⁴ In addition, Andrew Alanson acted for Walter Ewenson in a repledgiation dispute⁵⁵ and in a dispute over a cargo imported from Hamburg for one Sandris Herwour.⁵⁶

The last two forespeakers – Richard Kintore and Andrew Alanson – are examples of a group of thirteen individuals who appeared on more than five occasions as procurators or forespeakers before the burgh courts. The thirteen individuals in question are as follows:

⁴⁹ ARO-5-0596-07.

⁵⁰ ARO-5-0373-02.

⁵¹ ARO-5-0119-05, 17th May 1457.

⁵² ARO-5-0276-6, 26th August 1456.

⁵³ ARO-5-0129-05; ARO-5-0135-02; ARO-5-0149-02.

⁵⁴ ARO-5-0249-09, 10th December 1455; ARO-5-0326-03, 9th April 1459.

⁵⁵ ARO-5-0222-02, 14th January 1455.

⁵⁶ ARO-5-0249, 10th December 1455.

Andrew Alanson,⁵⁷ Alexander Blyndseil,⁵⁸ Master John Cadiou,⁵⁹ Duncan of Clatt,⁶⁰ Andrew Culane,⁶¹ Richard Kintore,⁶² John Kymedi,⁶³ David Matheuson,⁶⁴ Andrew Rede,⁶⁵ David Ruthirfurd, Chaplain,⁶⁶ William Scherar,⁶⁷ Andrew Seras, Chaplain⁶⁸ and Adam Trail,

⁵⁷ ARO-5-0214-07, 14th October 1454 (representing Thomas Scott); ARO-5-0222-04, 14th January 1455 (Walter Ewynson); ARO-5-0249-09, 10th December 1455 (Sandris Harwar); ARO-5-0596-07, 6th April 1457 (Agnes Lilburn – I have assumed that the Andrew “*Alani*” is Andrew Alanson; the records make it clear that “*Alani*” could be given in place of *Alanson* – see ARO-4-0338-06, 24th February 1444; see also ARO-5-0577-07, 17th March 1466, for an example where Andrew Alanson’s name was given as “*Alani*” and “*Alaneson*”); ARO-5-0362-03, 9th April 1459 (James Williamson).

⁵⁸ ARO-5-0126-07, 11th September 1451 (representing Robert Gillespy); ARO-5-0133-05, 15th November 1451 (Mariota Louson); ARO-5-0168-13-14; 20th November 1452 (David Hervy); ARO-5-0173-02, 22nd January 1453 (David Hervy); ARO-5-0195-05, 31st January 1454 (Thomas Club); ARO-5-0200-06, 3rd June 1454 (Megeta Mason); ARO-5-0273-02, 18th June 1456 (Robert Clatt).

⁵⁹ ARO-5-0295-03, 7th February 1457 (representing Marion Ruthirfurd); ARO-5-0297-13, 7th March 1457 (Mariote Ruthirfurd, almost certainly the same as the last individual named); ARO-5-0332-10, 6th February 1458 (Thomas Benyng); ARO-5-0391-09, 19th February 1460 (Henry Hertwikson); ARO-5-0392-07, 10th March 1460 (Henry Hertwikson).

⁶⁰ ARO-5-0208-02, 17th August 1454 (representing Nicholas Glenny, Chaplain); ARO-5-0212-04, 30th September 1454 (Altar of the Blessed Michael); ARO-5-0222-04, 14th January 1455 (Altar of the Blessed Michael); ARO-5-0232-02, 7th April 1455 (Altar of the Blessed Michael); ARO-5-0244-08, 6th October 1455 (Altar of the Blessed Michael); ARO-5-0249-09, 10th December 1455 (Master of the Ber Ship of Hamburg); ARO-5-0252-04, 12th January 1456 (Altar of the Blessed Michael).

⁶¹ ARO-5-0279-06, 4th October 1456 (representing the Altar of the Holy Blood); ARO-5-0291-07, 10th January 1457 (Altar of the Holy Blood); ARO-5-0309-10, 10th March 1457 (Altar of the Holy Blood); ARO-5-0301-07, 23rd May 1457 (Altar of the Holy Blood); ARO-5-0410-03, 1st January 1460 (David Blabre).

⁶² ARO-5-0079-13–ARO-5-0080-01, 16th February 1450 (representing Master Duncan Lichten, Chancellor of the Diocese of Aberdeen); ARO-5-0083-08, 9th March 1450 (John Bullok); ARO-5-0295-03, 7th February 1457 (Adam of Kynnor); ARO-5-0299-09, 17th May 1457 (John Bullok); ARO-5-0304-07, 18th July 1457 (Gilbert Waus); ARO-5-0350-01, 8th January 1459 (John Howison); ARO-5-0360-03, 2nd April 1459 (John Howison); ARO-5-0362-03, 9th April 1459 (Hans Snel).

⁶³ ARO-5-0083-08, 9th March 1450 (representing John Bullok); ARO-5-0119-02, 17th May 1451 (Vmfredus Lask); ARO-5-0129-05, 4th October 1451 (Brother John, Prior of the Blackfriars); ARO-5-0149-02, 17th April 1452 (Brother Robert Sprotsoun); ARO-5-0163-05, 16th October 1452 (Alexander Tulach); ARO-5-0343-06, 5th June 1458 (John Andirson).

⁶⁴ ARO-5-0410-03, 18th February 1460 (representing Elizabeth Gibson); ARO-5-0391-11, 19th February 1460 (Elizabeth Gibson); ARO-5-0391-11, 19th February 1460 (Elizabeth Gibson – separate, but related, matter); ARO-5-0392-04, 1st March 1460 (Elizabeth Gibson); ARO-5-0394-05, 17th March 1460 (Elizabeth Gibson).

⁶⁵ ARO-5-0089-07, 27th April 1450 (representing Andrew Stewart); ARO-5-0119-06, 17th May 1451 (Vmfredus Lask); ARO-5-0276-06, 26th July 1456 (Andrew Kynnynmound); ARO-5-0280-02, 4th October 1456 (the client’s name is given as Alexander Kynnynmound, but this is the same dispute as ARO-5-0276-06, and clearly *Andrew* Kynnynmound is meant); ARO-5-0301-08, 23rd May 1457 (Andrew Kynnynmound); ARO-5-0309-06, 3rd October 1457 (Andrew Kynnynmound); ARO-5-0327-04, 9th January 1458 (Andrew Kynnynmound); ARO-5-0339-05, 10th April 1458 (Andrew Kynnynmound).

⁶⁶ ARO-5-0199-03, 29th April 1454 (representing the Altar of the Blessed Andrew); ARO-5-0211-06, 30th September 1454 (Altar of the Blessed Andrew); ARO-5-0223-03, 14th January 1455 (Altar of the Blessed Andrew); ARO-5-0233-04, 7th April 1455 (Altar of the Blessed Andrew); ARO-5-0244-07, 6th October 1455 (Altar of the Blessed Andrew); ARO-5-0347-07, 2nd October 1458 (Chaplains of the Burgh Kirk of St Nicholas).

⁶⁷ ARO-5-0230-13, 21st March 1455 (representing certain merchants); ARO-5-0269-04, 25th April 1456 (Andrew Knox, curator of John Fraser); ARO-5-0282-09, 28th October 1456 (Thomas Quhelpe); ARO-5-0332-10, 6th February 1458 (Thomas Benyng); ARO-5-0349-02, 8th January 1459 (John Seras, Altar of the Blessed Michael); ARO-5-0352-12, 3rd February 1459 (*procurator in hac parte*).

⁶⁸ ARO-5-0211-06, 30th September 1454 (representing the Altar of the Blessed Virgin Mary); ARO-5-0222-05, 14th January 1455 (Altar of the Blessed Virgin Mary); ARO-5-0232-04, 7th April 1455 (Altar of the Blessed Virgin

Chaplain.⁶⁹ Admittedly rather arbitrarily, it was decided to consider those individuals in more detail for the purposes of the present paper, which is written in part to explore what, if anything, those who acted for others as representatives most regularly before the burgh courts had in common. Constraints of space make it impossible to consider all twelve individuals just mentioned in detail. Again somewhat arbitrarily, this paper will therefore focus on those who represented at least five different clients in the period under study. When one narrows the scope of the study to those individuals who, according to the Aberdeen Council Registers,⁷⁰ appeared in the burgh courts on five occasions or more on behalf of five clients or more between 1st January 1450 and 31st December 1460, one's attention is drawn to a list of five individuals. They are Andrew Alanson,⁷¹ Alexander Blyndseil,⁷² Richard Kintore,⁷³ John Kymedi,⁷⁴ and William Scherar.⁷⁵ The present study will shortly turn to considering what, if anything, these men had in common. This might, in turn, explain why they were so frequently trusted to act as representatives for mid-fifteenth century Aberdonians. Before considering this matter further, it is first necessary to consider one final, and much smaller, group of individuals who were trusted with many of the legal affairs of mid-fifteenth-century Aberdeen: the notaries public. This will result in the addition of two further names to the list of those to be studied here in some detail – those of Master John Cadiou and Robert Leis, Chaplain.

(c) Notaries Public

Mary); ARO-5-0252-03, 12th January 1456 (Altar of the Blessed Virgin Mary); ARO-5-0265-02, 5th April 1456 (Altar of the Blessed Virgin Mary); ARO-5-0279-10, 4th October 1456 (Altar of the Blessed Virgin Mary); ARO-5-0291-05, 10th January 1457 (Altar of the Blessed Virgin Mary); ARO-5-0302-05, 23rd May 1457 (Altar of the Blessed Virgin Mary); ARO-5-0398-05, 1st April 1460 (Altar of the Blessed Virgin Mary).

⁶⁹ ARO-5-0106-04, 11th January 1451 (representing Janet, his mother); ARO-5-0119-05, 17th May 1451 (Janet, his mother); ARO-5-0276-06, 26th July 1456 (Alexander Trail); ARO-5-0280-02, 4th October 1456 (Alexander Trail); ARO-5-0284-06, 15th November 1456 (Alexander Trail).

⁷⁰ It is important to emphasise that I have not looked beyond the Aberdeen Council Registers in compiling the lists given in this paragraph. It is also important to mention that only what seem to be unquestionable references to the individuals mentioned have been counted. An example of a *potential* reference that has not been counted can be found in ARO-5-0219-08, where a client of Andrew Alanson (see note 55 above) appeared in court in relation to a matter where Alanson had been appointed – alongside others – to act as procurator (see ARO-5-0214-07). Due to the fact that no mention is made of Alanson (or any other procurators) in this entry, it has not been counted as an appearance by Alanson. Nonetheless, he may well have been present, indeed he may have been acting as procurator.

⁷¹ See footnote 57 above.

⁷² See footnote 58 above.

⁷³ See footnote 62 above.

⁷⁴ See footnote 63 above.

⁷⁵ See footnote 67 above.

Mention has already been made of the notary public Master John Cadiou, the *clericus et scriba curiae* of the burgh courts of Aberdeen;⁷⁶ as has been noted, he was, on occasion, also prepared to act as a procurator and a forespeaker/ *praelocutor*.⁷⁷ As stated above, there are some useful studies of the fifteenth-century notaries of Aberdeen, which were written by Harold Booton.⁷⁸ He makes the following instructive comments:

“Out of a probable population of between four and five thousand in the fifteenth century burgh there were at maximum one or two active Aberdeen notaries in any given decade during this period. Aberdeen in this context compares with early sixteenth-century Perth which also possessed a very small number of town notaries. In economic and social terms the notaries of Aberdeen were of minor significance. They represented a very tiny part of the oligarchic structure dominating the town.”⁷⁹

Much of what Booton says is in agreement with the research undertaken here. First, Booton seems to be correct in his assessment of the numbers of active notaries in Aberdeen, at least in the 1450s. Apart from Master John Cadiou, only one other undoubtedly Aberdonian notary appears in the Aberdeen Council Registers during the period 1st January 1450 – 31st December 1460.⁸⁰ He was Robert Leis, Chaplain and Notary Public. He appeared in those roles as a witness on 7th October 1460.⁸¹ He was also acting as “*scriba curiae*” by 26th November 1461; whether or not he succeeded Master John Cadiou in this role cannot be ascertained with any certainty, given the lack of surviving information about the burgh clerks at this time.⁸² There are other references in the Council Registers to unnamed notaries active in Aberdeen – so on 29th May 1450 and on 18th June 1456 the clerk writing the entries in the Registers commented that individuals had sought instruments “*a me notario publico*”.⁸³ In the absence

⁷⁶ Cadiou’s office as a notary is mentioned in ARO-5-0755-02, 20th September 1450.

⁷⁷ See footnote 59 above.

⁷⁸ Booton, *Burgesses and Landed Men*, 201-249; Booton, ‘John and Andrew Cadiou’.

⁷⁹ Booton, *Burgesses and Landed Men*, 242.

⁸⁰ There is reference to Hugo Kerr of Den, Notary Public, in the records on 6th June 1451 (see ARO-5-0121-02); he had written a notarial instrument produced by John Hunter of Culross in the burgh courts that day. No real reason has been found in the present student to link Kerr with Aberdeen specifically.

⁸¹ ARO-6-0192-01.

⁸² ARO-5-0437-02. Booton, *Burgesses and Landed Men*, 204 states that “no mention of him holding the post [of town clerk] has survived in printed or manuscript sources”. Based on the evidence cited here, this is incorrect *unless* one distinguishes the roles of town *clerk* and town *scribe* (Leis is not described as “*clericus*” but only as “*scriba*”, unlike Cadiou, who is described as “*clericus et scriba*”, as discussed above). It is not clear whether such a distinction should be drawn, and here it is assumed that there was no distinction between the burgh “*clericus*” and the burgh “*scriba*”.

⁸³ ARO-5-0753-01, 29th May 1450; ARO-5-0273-02, 18th June 1456.

of evidence to the contrary, it seems reasonable to suppose that these were references to Master John Cadiou, given that he seems to have been active as burgh clerk in 1452 and 1455.⁸⁴

Thus Booton seems to be correct in his assessment of the numbers of notaries active in Aberdeen in each decade of the fifteenth century; and in the period between 1450 and 1460, only Master John Cadiou and Robert Leis, Chaplain, appear to emerge from the records as active in this regard. Booton may also be correct to doubt the economic or social power of the notaries, based on the sources that he cites in his doctoral thesis. Nevertheless, there is significant surviving evidence of their activity and regular employment by the people of Aberdeen in transacting their legal affairs. This will be considered in more detail below, in the course of discussions of the notaries' careers.

(d) Conclusions

As already stated, the present study is concerned first and foremost with the identification of those who, according to the Aberdeen Council Registers, were most frequently entrusted with the legal affairs of Aberdonians as procurators, forespeakers and notaries public between 1st January 1450 and 31st December 1460. As regards the procurators and the forespeakers, only those who appeared in the burgh courts on five occasions or more, on behalf of five clients or more, will be considered here. Five individuals have been identified as meeting these criteria; they are Andrew Alanson, Alexander Blyndseil, Richard Kintore, John Kymedi and William Scherar. Only two active notaries have been identified – Master John Cadiou and Robert Leis, Chaplain – and so both will be considered here.

The next section of the present article will briefly discuss the biographies of these seven men, with a view to answering a further question. Did these individuals have anything in common that might explain why they were more frequently trusted with the legal affairs of sixteenth-century Aberdonians than others who were active in the burgh at the time?

Trusted Representatives in the Council Registers

One question that anyone working with the Aberdeen Council Registers has to deal with is that of whether or not two entries mentioning the same *name* are references to the same *person*. Exploring that question fully might undermine the picture of the evidence just presented. Perhaps, for example, Richard Kintore did *not* act so regularly for so many clients; perhaps

⁸⁴ ARO-4-0039-02, 9th May 1435, a record which was amended by Cadiou acting as burgh scribe on 30th September 1455; see also ARO-5-0147-13, 27th March 1452.

there were two – or three, or four – different men named Richard Kintore who were active at the same time. It is rather less likely that there were multiple notaries public named Master John Cadiou roving around the medieval Castlegait, but still the problem should be addressed. Even if one assumes that the trusted representatives mentioned above were indeed single individuals, trying to identify them with – or distinguish them from – those bearing the same name over several decades is, admittedly, challenging.

Two things should be mentioned at the outset in relation to this problem. First, at least by the 1450s those who kept the Council Registers did make some attempts to distinguish those who bear the same name. For example, two men named John Scroggs were distinguished with the labels “John Scroggs the father” and “John Scroggs the son”.⁸⁵ In addition, many individuals were described as “chaplains” and a few with other offices, such as that of notary public, as has already been noted above. While that might not mean that the clerks would make such useful and explicit distinctions between everyone who bore the same name, one might reasonably expect them to make such distinctions where individuals appeared regularly in the records, as was the case in relation to those being studied here.

Second, a tax roll taken on 1st January 1448 – two years before the beginning of the period under study here – gives a list of heads of household who were eligible for the payment of the tax in question.⁸⁶ This provides a mechanism for checking whether or not there were multiple people bearing the same name in the burgh at the time. It should be emphasised that the utility of the list does not really go beyond that for present purposes; even when it lists only *one* person as bearing a particular name in the burgh in January 1448, it does not follow that there was only one such person, because the list is not a census; it is a list of those eligible to pay a particular tax. On that list, only one Andrew Alanson is listed; he lived in what was known as the Even Quarter of the city, and owed ten shillings in tax.⁸⁷ Likewise, only one Alexander Blyndseil is listed; he paid nine shillings, and lived in the Green;⁸⁸ only one Richard Kintore is listed; he paid ten shillings, and lived in the Even Quarter;⁸⁹ and only one William Scherar is listed, and he paid ten shillings and lived in the Crooked Quarter.⁹⁰ It was also noted in the list that William Scherar was the provost at that point in time; this will be discussed

⁸⁵ Consider, for example, ARO-5-0721-02, 6th October 1447; ARO-5-0802-04, 5th May 1458.

⁸⁶ ARO-4-512-01–ARO-518-03.

⁸⁷ ARO-4-0514-01, 1st January 1448.

⁸⁸ ARO-4-0516-01, 1st January 1448.

⁸⁹ ARO-4-0514-01, 1st January 1448.

⁹⁰ ARO-4-0512-02, 1st January 1448.

further below.⁹¹ Master John Cadiou is also listed, living in the Crooked Quarter and paying six shillings.⁹² Richard Leis, Chaplain, does not appear on the list, but presumably he would have been exempt from the tax because of his clerical status.⁹³ The only difficulty the list of 1448 throws up for present purposes is that it lists two men named “John Kymedi”. One was “*Johannes Kymedi Tector*” – i.e. John Kymedi the plasterer – and he lived in the Even Quarter and paid twelve pence in tax.⁹⁴ The other was simply referred to as “*Johannes Kymedi*”; he also lived in the Even Quarter, but paid ten shillings in tax.⁹⁵ The man who acted as forespeaker and procurator was never referred to as a “*tector*”, and it does seem to have been common practice to make reference to a man’s craft – if he had one – when making reference to him in the records.⁹⁶ Highly tentatively, then, it is assumed here that the John Kymedi who acted as forespeaker and procurator was not the *tector*, but rather the man who paid ten shillings in tax in 1448. Nonetheless, given the evident uncertainty on the point, care will be taken not to make general arguments advanced here too dependent on evidence relating directly to John Kymedi.

For the reasons stated in the preceding paragraphs, it will be assumed here that references dating from the 1440s, 1450s and 1460s to the names Andrew Alanson, Alexander Blyndseil, Master John Cadiou, Richard Kintore, Robert Leis, Chaplain, John Kymedi and William Scherar are indeed references to the individuals identified above. This presumption will obviously only be adhered to so long as there is no clear evidence to rebut it.

Now that the assumptions made in the present article have been clarified, it is possible to turn to the question of what the men just listed may, or may not, have had in common – specifically with a view to explaining why they were regularly trusted to represent the legal affairs of others. Constraints of space make it impossible to explore all available biographical information regarding these men; the wealth of surviving materials from the 1450s would facilitate the composition of separate short articles about each of them. Instead, three possible connecting factors will be considered here. First, did they share some experience in the governance and judicial administration of the burgh as burgh officers? Second, did they have

⁹¹ For Scherar’s time as provost, see Alexander M. Munro, *Memorials of the Aldermen, Provosts, and Lord Provosts of Aberdeen* (Aberdeen: 1897), 45-47.

⁹² ARO-4-0513-01, 1st January 1448.

⁹³ No chaplains have been noted on the tax roll of 1448. See ARO-5-0512-0518.

⁹⁴ ARO-4-0514-01, 1st January 1448.

⁹⁵ ARO-4-0515-01, 1st January 1448.

⁹⁶ Consider, for example, ARO-5-0650-04, 18th November 1444; ARO-5-0519-08, 5th November 1465, making reference to Thomas Club, Sutor. It is true that Thomas Club, Sutor was simply referred to as “Thomas Club” in ARO-5-0521-02, 19th November 1464, but this was in the course of a process where he had already been identified with his label of “Sutor” in the records, and so it may not have been necessary to identify him again with reference to his occupation.

extensive family and personal connections that might have commanded respect in close-knit burgh society? Third, did they possess some formal education or training relevant to the practice of the law?

(a) Burgh Officers

It was noted above that William Scherar had been provost in 1448. This raises a question. Did the other men who were frequently trusted to administer the legal affairs of Aberdonians in the 1450s have any similar experience as senior burgh officers? The answer is that they did. William Scherar himself had served on several occasions as a burgh councillor and as bailie prior to 1450; he served as provost between October 1447 and September 1448.⁹⁷ Andrew Alanson had also served as a burgh councillor and as bailie prior to 1450;⁹⁸ he went on to be provost much later in his career.⁹⁹ Alexander Blyndseil, who was admitted as a burgess and a brother of the merchant guild of Aberdeen on 6th November 1437,¹⁰⁰ had served as a burgh councillor prior to 1450;¹⁰¹ he went on to serve as a bailie repeatedly from October 1451.¹⁰² Richard Kintore was admitted as a burgess and guild brother of Aberdeen on 13th May 1440. After a brief – and occasionally celebrated – time in the role of “Abbot of Bon Accord”, in which capacity he organised a play entitled the “Holy Blood” on Windmillhill on the south-west side of the city,¹⁰³ he held office as burgh councillor, bailie, dean of guild and provost during the course of the 1440s and 1450s.¹⁰⁴ John Kymedi was made a burgess and guild brother on 28th September 1442;¹⁰⁵ he then served as bailie on many occasions during the 1440s

⁹⁷ See, for example, ARO-4-0112-03, 14th September 1433 (bailie); ARO-4-0023-01, 14th September 1434 (bailie); ARO-4-0045-02, 3rd October 1435 (burgh councillor); ARO-4-0139-01, 6th October 1438 (burgh councillor); ARO-4-0180-02, 19th October 1439 (bailie); ARO-5-0659-02, 4th October 1443 (burgh councillor); ARO-5-0683-02, 9th October 1444 (burgh councillor); ARO-5-0705-02, 8th October 1445 (burgh councillor); ARO-5-0715-02, 21st October 1446 (burgh councillor); ARO-4-0489-02, 2nd October 1447 (provost); he was succeeded as provost by John of Fife on 30th September 1448 (ARO-5-0017-02).

⁹⁸ See, for example, ARO-5-0721-02, 6th October 1447 (burgh councillor); ARO-5-0017-02, 3rd September 1449 (bailie).

⁹⁹ ARO-6-0048-02, 24th September 1468.

¹⁰⁰ ARO-4-0183-08 (read with ARO-4-0182-02).

¹⁰¹ ARO-5-0721-02.

¹⁰² See, for example, ARO-5-0129-03, 8th October 1451; ARO-5-0768-03, 15th September 1452; ARO-5-0211-03, 30th September 1454; ARO-5-0219-03, 9th December 1454; ARO-5-0244-02, 6th October 1455; ARO-5-0279-03, 4th October 1456.

¹⁰³ ARO-4-0203-11, 13th May 1440.

¹⁰⁴ See, for example, ARO-4-0281-02, 1st October 1442 (bailie); ARO-5-0705-02, 8th October 1445 (burgh councillor); ARO-5-0715-02, 21st October 1446 (burgh councillor); ARO-5-0721-02, 6th October 1447 (burgh councillor); ARO-5-0059-03, 6th October 1449 (bailie); ARO-0755-02, 20th September 1450 (bailie); ARO-5-0099-02, 5th October 1450 (bailie); ARO-5-0769-03, 6th October 1452 (dean of guild); ARO-5-0775-02, 5th October 1453 (dean of guild); ARO-5-0781-02, 4th October 1454 (dean of guild); ARO-5-0347-02, 2nd October 1458 (provost); ARO-5-0375-02, 1st October 1459 (provost); ARO-5-0457-03, 5th October 1462 (provost).

¹⁰⁵ ARO-5-0656-06.

and the 1450s.¹⁰⁶ By contrast, Master John Cadiou and Robert Leis, Chaplain, do not seem to have held such roles. As has been explained above, they do seem to have held the office of *clericus et scriba curiae* (although Leis was only described as *scriba curiae*). Nonetheless, it is worth noting in passing that Cadiou – but not Leis, presumably again due to his clerical status – was a burghess and guild brother of Aberdeen, and had been so since 1442.¹⁰⁷ It is worth emphasising what this meant; Cadiou, like all of the men being considered here with the exception of Leis, was a member of the guild, which Gemmill describes as “the association of those in the burgh who enjoyed high trading privileges, the most important of which were the exclusive right to trade in imports and exports which was sanctioned by royal authority”.¹⁰⁸ Put more simply, all these men – again with the exception of Leis – were merchant burghesses.

Regardless, the fact that Alanson, Blyndseil, Kintore, Kymedi and Scherar had all held high office in the burgh probably provides explains in part why they were so frequently trusted to represent the interests of a wide range of clients before the burgh courts. Critically, these offices showed that they had extensive experience of the working of those courts. The role of bailie in particular is instructive here. The bailies and the provost were elected annually from amongst the burghesses. An important part of their role was to preside over the governance of the burgh in the burgh council and over the administration of justice in the burgh within the various burgh courts,¹⁰⁹ such as the head courts, the bailie courts and the so-called *curiae legis*, all of which were described as being “held by the bailies”.¹¹⁰ Nonetheless, it must be borne in mind that they were not just elected representatives of the burghesses; they were also royal officials. When royal justice intervened in the affairs of the burgh, this was achieved through letters or brieves addressed to the bailies and the provost, as Croft Dickinson notes.¹¹¹ To mention two examples noted in the current survey, on 23rd June 1449, Bailie Alanson heard a dispute brought before him by means of a brieve of distraint, which could result in the seizure and sale of property in satisfaction of debt;¹¹² and on 3rd February 1452 Bailie Kymedi heard a

¹⁰⁶ See, for example, ARO-4-0395-02, 5th October 1444; ARO-5-0686-01, 26th October 1444; ARO-4-0411-01, 27th July 1445; ARO-4-0415-02, 4th October 1445; ARO-5-0049-04, 24th April 1449; ARO5-0057-05, 6th August 1449; ARO-5-0129-03, 4th October 1451; ARO-5-0311-01, 23rd October 1457; ARO-5-0347-03, 2nd October 1458.

¹⁰⁷ ARO-5-0660-05.

¹⁰⁸ Gemmill, *Aberdeen Guild Court Records*, 5.

¹⁰⁹ For these points, see Croft Dickinson, *Early Records*, lxxvii-lxxxiii.

¹¹⁰ Consider ARO-5-0099-01, 5th October 1450 (“*curia capitalis tenta per balliuos*”); ARO-5-0101-01, 19th October 1450 (“*curia legalis tenta per balliuos*”); ARO-5-0103-07, 8th January 1451 (“*curia balliuorum tenta per balliuos*”). For the courts, see Edda Frankot, *‘Of Laws of Ships and Shipmen’: Medieval Maritime Law and its Practice in Urban Northern Europe* (Edinburgh: 2012), 56-57.

¹¹¹ For these points, see Croft Dickinson, *Early Records*, lxxvii-lxxxiii.

¹¹² ARO-5-0053-03; on distraint and the brieve of distraint, see MacQueen, *Common Law*, 40, 124.

dispute brought before him by means of a brieve of convention, which dealt with certain disputes which look to modern eyes contractual in nature.¹¹³

The point is that the bailie would, by virtue of his office, acquire extensive experience of the mechanical operation of the law applied in the burghs, in relation to everything from simple actions of debt, to protestations for annualrent, to matters dealt brought before them by means of royal brieves. This is underlined if one explores the bailie's role in relation to the conveyancing of burgh property. One commonly finds that surviving charters from medieval Aberdeen originally carried two seals. The first was that of the grantor, as one might expect; but the second was that of the bailie who had actually given effect to the grant by giving what was known as *sasine* of the lands to the grantee. To explain, "[t]o have sasine was to have been put into possession of land by the grantor, typically although not invariably the lord of whom the lands were to be held".¹¹⁴ In the normal feudal context, then, the grantor would have been the lord of lands. He would have given "sasine" of the lands to a grantee, and he would have articulated the basis on which the sasine was given in various written documents (e.g. sasine could be given for life, or heritably, to the grantee and his heirs). Thereafter, the grantor would be the feudal "superior," and the grantee the feudal "vassal."¹¹⁵ In medieval Aberdeen, the *superior* was understood to be the king. Nonetheless, in practice, his royal officers – i.e. the bailies – were responsible for granting sasines of burgh land on his behalf. One sees this from a charter of 1450.¹¹⁶ This narrated that a grant of lands was made "*a nobis... [i.e. from the granters] de domino nostro Rege et heredibus suis in feudo et hereditate ac in libero burgagio*" (that is to say, "from us, of our lord king and his heirs, in fee and heritage and in free burgage"). This meant that the grant of the lands would be held of the king on a heritable basis – to the grantee and his heirs – and subject to a range of privileges that attached to burgh lands.¹¹⁷ The charter went on to narrate that sasine in this case had been given by Andrew Menzies, who was described as "*unius balliuorum dicti Burgi et datoris sasine*" (that is to say, "one of the bailies of the said burgh and the giver of sasine").¹¹⁸ Every grant of burgh land, then, involved the bailies in the mechanical operation of conveyancing; from other evidence, we know that the bailie was expected to give sasine on the lands themselves, by personally handing to the grantee

¹¹³ ARO-5-0138-09; see MacQueen, *Common Law*, 124.

¹¹⁴ MacQueen, *Common Law*, 140.

¹¹⁵ MacQueen, *Common Law*, 140.

¹¹⁶ Marischal/2/1/6/2/17, 20th February 1450.

¹¹⁷ See MacQueen, *Common Law*, 113, 176-177; Gretton, 'Feudal System', para.65.

¹¹⁸ Marischal/2/1/6/2/17, 20th February 1450.

a symbol of sasine, such as earth and stone,¹¹⁹ or “ly hespe *et* stapil” as it was put in one recorded grant of land in the Guestrow dated to 17th June 1455.¹²⁰ Perhaps simultaneously with this act, or shortly afterwards, the bailie would often add his seal to the granter’s charter confirming the act of sasine. For this reason, one often finds surviving charters granting lands sealed by both the granter and one of the bailies of the burgh.¹²¹ This was one way in which the giving of sasine could be recorded in Aberdeen during the 1450s. Such giving of sasine might follow on from a sale of lands, but it might also follow on from a gift of annualrent – the recipient was saised in the annualrent¹²² – or alternatively from a transfer of lands from a deceased burgess to his heir, which could follow on from a formal inquisition held in the head court, or outwith the head court, for example in the *curia legalis* held by the bailies.¹²³ The bailies also frequently had experience serving on the assizes that undertook these inquisitions, which were themselves initiated by royal brieve.¹²⁴

Simply by virtue of holding the office of bailie, then, Alanson, Blyndseil, Kintore, Kymedi and Scherar would have had extensive experience of the operation of the burgh courts of Aberdeen and the processes and laws they upheld in the transmission of property and the resolution of disputes more generally. It is entirely plausible to suggest that this was one reason why they were so frequently trusted to represent others in disputes before the burgh courts; they knew what they were doing in practice. Nonetheless, this in itself may not explain why they were approached more frequently than others. For example, Duncan of Clatt had only three clients over the same period in which the five men just mentioned had five or more,¹²⁵ and yet he held office frequently as bailie.¹²⁶ It may be the case, of course, that he too was trusted to represent others because of his experience in working the court. It has already been admitted that the basis on which he was excluded from the present study, whilst others were included, is rather arbitrary, turning as it does on the fact that he only had three, rather than five, clients between 1450 and 1460. Nonetheless, perhaps there were other factors at work in

¹¹⁹ ARO-5-0692-01, 16th December 1444.

¹²⁰ ARO-5-0237-02.

¹²¹ Consider, for example, Marischal/2/1/6/2/31, 6 November 1449; Marischal/2/1/6/2/17, 20th February 1450; Marischal/2/1/13/3, 14 November 1450; Marischal/2/1/6/2/2, 5 July 1458; Marischal/2/1/2/6, 10 August 1460.

¹²² Consider, for example, Marischal/2/1/6/2/28, 13 November 1465.

¹²³ See, for example, ARO-5-0251-02, 12th January 1456; ARO-5-0263-02, 27th Februray 1456.

¹²⁴ John Kymedi was an assizer in ARO-5-0263-02, 27th Februray 1456; Richard Kintore was an assizer in ARO-5-0251-02, 12th January 1456; for brieves of inquest at an earlier period, see Alice Taylor, *The Shape of the State in Medieval Scotland* (Oxford: 2016), 318-319, 323-334.

¹²⁵ See note 60 above.

¹²⁶ See, for example, ARO-4-0277-06, 30th July 1442; ARO-4-0359-02, 5th October 1444; ARO-4-0467-07, 6th February 1447.

influencing individuals' choices of procurators, forespeakers and notaries; certainly one cannot explain the trust placed in notaries due to their work as bailies, because they do not seem to have held that office. Other possible factors relevant to the choice of trusted representatives and advisors will be discussed next.

(b) Family Connections

Did the family connections of the five men being considered here help to underpin their standing in the community, and so the trust that was placed in them as procurators and forespeakers? In his doctoral thesis, Harold Booton demonstrated that, in economic and political terms, Aberdeen was dominated by an oligarchy of eleven families of merchants between the 1430s and the 1520s. This "domination" is evinced in part with reference to their control and share of the burgh property market, which is used to estimate their wealth relative to other families in Aberdeen.¹²⁷ Of those families, Booton cites evidence suggesting that six were well-established by the mid-fifteenth century. They were the Blyndseils, the Chalmers family, the Fichets, the Kintores, the Menzies and the Rutherfords.¹²⁸

What is immediately clear from this is that only two of the five men who were most frequently trusted to act as procurators and forespeakers belonged to the dominant families – at least, in the male line. This trend remains true even if one considers the larger dataset of the thirteen individuals who appeared on five occasions or more as a procurator or a forespeaker between 1450 and 1460. The list included Andrew Alanson, Alexander Blyndseil, Master John Cadiou, Duncan of Clatt, Andrew Culane, Richard Kintore, John Kymedi, David Matheuson, Andrew Rede, David Ruthirfurd, Chaplain, William Scherar, Andrew Seras, Chaplain and Adam Trail, Chaplain, only three of whom bore the names of the dominant families.¹²⁹ It follows that there is no immediately obvious correlation between membership of one of those families – at least in the male line¹³⁰ – on the one hand, and regular activity as a procurator or forespeaker, on the other. Indeed, there is no obvious correlation between the wealthiest individual members of the families in question, on the one hand, and regular activity as a procurator or a forespeaker, on the other. It was noted above that the five men who acted most regularly in those roles for five or more clients paid nine or ten shillings in tax in 1448. As

¹²⁷ Booton, *Burgesses and Landed Men*, 23-104; the genealogies of these families are reconstructed at 430-441.

¹²⁸ Booton, *Burgesses and Landed Men*, 62-66, 69-72, 73-78, 80-82.

¹²⁹ The Cullens only became one of the dominant families as the fifteenth century wore on – see Booton, *Burgesses and Landed Men*, 66-68.

¹³⁰ It is difficult to reconstruct the cognatic relationships of these men fully.

Booton has shown, other individuals paid much higher taxes, presumably indicating greater wealth, including Thomas Blyndseil (twenty-four shillings), John Cullen (thirty shillings), Mathew Fichet (twenty-four shillings), Gilbert Menzies (twenty-four shillings) and Richard Rutherford (twenty-four shillings).¹³¹ None of these men can be found even on the expanded list of the thirteen most frequent procurators and forespeakers.

What one may conclude is that, in general terms, there is no immediately obvious correlation between membership of a particular family, or membership of the small group of the wealthiest members of burgh society, on the one hand, and regular activity as a procurator or forespeaker, on the other – at least in the period 1450-1460. What is perhaps intriguing is that all five of the most frequent forespeakers and procurators possessed similar levels of wealth. They were still members of the burgh elite, but, in purely economic terms, they were not amongst the most powerful. It is certainly true that the family connections of Alexander Blyndseil and Richard Kintore may have recommended them to some of their clients. Nonetheless, in the round what is more striking is the correlation between holding high office in the governance and judicial administration of the burgh, on the one hand, and regular activity as a procurator or a forespeaker, on the other.

(c) University Education and Formal Legal Training

Did university education, or any sort of formal legal training, help to underpin the trust Aberdonians placed in the men who administered their legal affairs? As regards university training, in general terms the answer must be in the negative. Of the five most regular procurators and forespeakers, and the two notaries under consideration here, only one – Master John Cadiou – possessed any university-level education. This is indicated by his possession of the title “Master”; but, as Booton notes, there is no record of where he studied, or of what he studied.¹³² It should not be presumed that his degree was *in utroque iure* (in Roman law and canon law as taught in the universities).

Furthermore, there is no reason to think that those who acted most frequently as procurators or forespeakers had any formal training to equip them for those roles; they had learnt the requisite skills and knowledge through long experience of how the Aberdeen burgh courts operated. By contrast, Cadiou and Robert Leis must have had some formal training in exercising the role of notary. The educational background of notaries in the fifteenth century

¹³¹ Booton, *Burgesses and Landed Men*, 63, 67, 69, 74, 80 (Booton makes the link between higher taxation and higher wealth).

¹³² Booton, ‘John and Andrew Cadiou’, 17.

was diverse. Generally speaking, a novice would learn his profession through what was effectively an apprenticeship to a senior notary. Durkan notes that “[f]or an apprentice notary some acquaintance with Latin grammar would be as much a desideratum as some training in a legible hand to be perfected and extended to other feats of penmanship in the service of another notary”.¹³³ The novice would have learnt the styles used by his senior in the composition of charters and notarial instruments; and he would also, presumably, have learnt the art of adapting them to the needs of his clients, and ultimately of developing his own revised styles.¹³⁴ Once the apprenticeship was complete, it would be necessary for those with the necessary power – such as bishops acting on privileges granted by the papacy – to make an act investing the entrant to the profession with authority to act as a notary public. In the 1450s, notaries could still only be created on papal or imperial authority (i.e. on the ultimate authority of the Holy Roman Emperor).¹³⁵ Both Master John Cadiou and Robert Leis, Chaplain, fell into the latter category.¹³⁶

Nothing is, as yet, known about the specific training these men had to act as notaries. Nonetheless, there is something rather intriguing evidence in surviving charters of the period to indicate that they may have held slightly different approaches to notarial practice. In turn, this may – just possibly – indicate that they had served apprenticeships with different senior notaries; or it may indicate that they had developed their own distinctive styles of work. It was noted above that several charters survive from mid-fifteenth century Aberdeen to which were originally appended two seals, one belonging to the granter and one to the giver of sasine. All charters cited in the next footnote below were witnessed by Master John Cadiou, and they followed this pattern. It is not implausible to suggest that Cadiou actually prepared them.¹³⁷ Their evident utility lay in the fact that a reader could find in the charter proof of the grant and of the act of sasine required to complete it.¹³⁸ Yet not all charters from the period follow this

¹³³ Durkan, ‘Early Scottish Notary’, 29.

¹³⁴ A similar point is made in Durkan, ‘Early Scottish Notary’, 28 – “Protocol books of dead notaries could be used as working models by their inheritors, and styles were copied into their own books.”

¹³⁵ Durkan, ‘Early Scottish Notary’, 30-31; after 1469, Scottish monarchs denied the authority of the emperor to create notaries who could act in the Scottish civil courts. See *RPS* 1469/20.

¹³⁶ Joseph Robertson, *Collections for a History of the Shires of Aberdeen and Banff* (Aberdeen, Spalding Club: 1843), 281-283, 347.

¹³⁷ AUL Marischal 2/1/6/2/17, 20th February 1450; AUL Marischal/2/1/2/5, 31st May 1451; AUL Marischal/2/1/2/6, 20th May 1454. While Marischal/2/1/6/2/21, 10 September 1465 and Marischal/2/1/6/2/16, 13th August 1467 are not witnessed by Master John Cadiou, they bear a notarial mark that looks like the letters “I” and “C” combined; it is possible this was Master John’s own notarial mark, given that no other Aberdeen notary has been found with those initials at this time (compare this with Cadiou’s undoubted mark at ARO-5-0147-13, 27th March 1452). This is speculative, but if the charters were produced by Master John then they strengthen the argument presented here, as they contain the “*dator sasinae*” clause.

¹³⁸ See Robertson, ‘The Development of the Law’, 148-149.

approach; two charters witnessed, and perhaps prepared, by Robert Leis, Chaplain, made no reference to the role of the bailie as *dator sasinae*, and they bore only the seals of the granters.¹³⁹ Perhaps Robert Leis had adopted the increasingly common practice of providing a separate instrument of sasine to record the act of sasine itself.¹⁴⁰ Further work is required to establish whether there really were differing trends in notarial practice in medieval Aberdeen, but such a study might reveal much about which notaries were influenced by which past practices; it might even reveal something about the specific legal training they received.

What the Council Registers do make clear is that medieval Aberdonians began to be explicit in the value they placed on the work of notaries from the 1440s onwards. In January 1442, one finds the first entry in the Registers which declares that someone had sought a notarial instrument “*a me notario publico*” – in other words, from the notary who was writing the records.¹⁴¹ It is not inconceivable that the individual in question was Master John Cadiou, but this is far from certain. Ten such requests are recorded in the Registers dating to the years 1442-1450.¹⁴² It is not clear whether or not a particular type of business called for notaries’ involvement; what is clear is that Aberdonians valued the evidential force that would be attached to the notarial instrument. For example, on 14th August 1445 lands were resigned into the hands of the bailie so that they could be granted to one John Bertlotsen, and the granter promised not to do anything to prejudice the grantee in the interim. Concerning this, the grantee sought an instrument; perhaps the issue was that he had not yet received sasine of the lands, meaning that he had not yet really acquired infeftment or “ownership”, to put it in anachronistically modern terms. Perhaps he wanted some security in the form of the evidence of the instrument that his position as grantee would be protected prior to the point at which sasine would be forthcoming.¹⁴³ A notarial instrument was requested for the same reason on 26th October 1444, and perhaps for a similar reason on 6th April 1445 (no reference was made here to the granter’s duty to avoid interfering with his grant following resignation of his lands into the hands of the bailie).¹⁴⁴ It is perhaps tempting to suppose that the early notarial instruments were sought where some legal process was ongoing but incomplete, making

¹³⁹ AUL Marischal/2/1/6/2/12, 9th June 1460; AUL Marischal/2/1/6/2/19, 10 March 1453.

¹⁴⁰ See Robertson, ‘The Development of the Law’, 149.

¹⁴¹ ARO-4-0262-02, 8th January 1442.

¹⁴² ARO-4-0262-02, 8th January 1442; ARO-5-0686-01, 26th October 1444; ARO-5-0699-03, 6th April 1445; ARO-4-0399-05, 16th April 1445; ARO-5-703-01, 14th August 1445; ARO-4-0414-03, 12th September 1445; ARO-4-0444-08, 26th September 1446; ARO-4-0470-09, 23rd February 1447; ARO-5-0057-02, 2nd August 1449; ARO-5-0753-01, 29th May 1450.

¹⁴³ ARO-5-703-01.

¹⁴⁴ ARO-5-0686-01; ARO-5-0699-03.

trustworthy evidence of the current state of affairs within that process extremely valuable. While this may have been the case on some occasions, sometimes notarial instruments were sought to provide evidence of the firm conclusion of a legal process.¹⁴⁵ What is clear is that in the 1440s and the 1450s Aberdonians expressly wanted secure written evidence of the transactions in which they were engaging – and providing such authoritative evidence was, fundamentally, the business of the notary.¹⁴⁶ For that evidential security, they turned to the notaries; this was what generated the business given to men like Master John Cadiou and Robert Leis, Chaplain.

Conclusions

Is it appropriate to speak of a group of mid-fifteenth century Aberdonians who might have accepted the contemporary label of “men of law”? Given the elasticity of the term, it is quite possible that some of those considered here – in particular Cadiou and Leis – might have been prepared to accept it. Nonetheless, to apply a quote from John Finlay’s work to a different context, the small group of seven men considered here “although probably willing to accept the contemporary description ‘men of law’, would not necessarily have allowed it to define them”. As Finlay notes, “[s]ome of them spent considerable time pursuing other avenues of employment while some held administrative positions”.¹⁴⁷ These descriptions might perhaps have been applied to those who frequently acted for others in the administration of legal affairs in Aberdeen during the mid-fifteenth century. The five men who, according to the surviving evidence, acted as procurators and forespeakers more frequently than their contemporaries in the burgh courts were all successful merchants who participated actively in the governance and judicial administration of the burgh. If they would have accepted the elastic term “men of law” as being applicable to themselves, they would not have allowed it to define them. Furthermore, even if it were possible to prove that all these men would have considered themselves “men of law”, this would not tell modern readers very much about them, given the great diversity amongst such individuals in the fifteenth century.

It is therefore better to turn one’s attention away from the question of who was, and who was not, prepared to accept the label “man of law”. If one focuses instead on those procurators, forespeakers and notaries public trusted to administer the legal affairs of others in

¹⁴⁵ See ARO-5-0057-02, 2nd August 1449.

¹⁴⁶ See Durkan, ‘Early Scottish Notary’, 30-32. See also now W. W. Scott, ‘William Cranston, Notary Public c.1395-1425, and Some Contemporaries’, in Hector L. MacQueen (ed.), *Stair Society Miscellany VII* (Edinburgh: Stair Society, 2015), 125-132.

¹⁴⁷ Finlay, *Men of Law*, 7.

fifteenth-century Aberdeen, the extensive surviving evidence makes it possible to reconstruct a remarkably detailed picture of what one might term late-medieval Aberdonian legal culture. If the tentative conclusions drawn here are correct – and it must be emphasised that the present article offers only a sketch of what could be produced in a longer study – the legal culture of Aberdeen was fundamentally shaped by a small community of reasonably wealthy burgh magistrates. They were steeped in the experience of the Aberdonian administration of the laws of the burghs and the common law of the Scottish realm. How distinctive that “Aberdonian” administration actually was must remain something of an open question.¹⁴⁸ Importantly these administrators are not known to have possessed expertise or learning in legal literature, or any formal training whatsoever, unlike the procurators and advocates who shaped the mid-sixteenth century session in Edinburgh.¹⁴⁹ In all likelihood, they learnt their law by observing others and imitating the practices of their predecessors. This is probably how each bailie learnt the procedures required to give sasine. In discharging their administrative duties, they had always evidently been aided by a group of virtually anonymous burgh clerks.¹⁵⁰ Yet from the 1440s and the 1450s, the clerks began to identify themselves more frequently, and Aberdonians began to seek their assistance more frequently in securing and authenticating their legal affairs. This resulted from one critical development; the clerks in question were also notaries public. By virtue of this qualification, they could produce documents that would enjoy the trust of the authorities within the burgh and the realm more widely. The extent to which the developing roles of the notaries shaped Aberdonian legal culture, and helped to effect legal change, is beyond the scope of the present article; but the surviving evidence on the point is abundant, and merits detailed attention in the future. Did their work result in the development of legal styles, and in creative developments in practice, as might be very tentatively suggested based on the evidence cited above concerning the use of the *dator sasinae* clause? If so, it may turn out that the emergence of the clerks from relatively obscure anonymity in the 1440s and the 1450s was, in fact, a turning point in the legal history of medieval Aberdeen.

¹⁴⁸ I am grateful to John Ford for discussing this point with me.

¹⁴⁹ Graeme Small first helped me to draw the distinction in this way as a result of a comment he made in response to an earlier version of this paper. I am also grateful to John Ford for discussing this point with me.

¹⁵⁰ The first named clerk who has been traced was William Cadiou; he was clerk in 1438. For this reference, see Booton, *Burgesses and Landed Men*, 204, citing James Cooper and James Logan (eds), *Cartularium Ecclesiae Sancti Nicholai Aberdonensis* (Aberdeen: New Spalding Club, 2 vols, 1888-1892), ii, 45.