THE RADICAL CRITIQUE OF "OLD CORRUPTION" AND THE BEGINNINGS OF PUBLIC SERVICE REFORM IN LATE EIGHTEENTH-CENTURY SCOTLAND: THE EDINBURGH SASINE OFFICE AS A CASE STUDY

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Although in recent years historians have redirected attention to the questions of patronage and influence in eighteenth-century Britain — some examining patronage as "corruption", others viewing it in terms of parliamentary government and political parties, and yet others beginning to study its sociological ramifications — some problems still remain relatively unexplored.¹ For example, why did so many radicals persist in focussing their critiques on "Old Corruption", even as late as the 1830s, when, according to some Marxist historians, "objectively" they ought to have been generating class-conscious critical theory? Obviously the sheer longevity of patronage society, which extended far into the nineteenth century, must be part of the answer. Nevertheless, very little is known of how and in what ways people outside the charmed circle of patronage responded to its presence and influence.

This raises the question of how patronage society worked in practice, not so much in the country houses where the niceties of clientage were determined, but in the public departments which, lorded over by absentee managers, still had to function within the public domain. After all, by no means all public positions open to patronage were defunct relics or purely imaginary, as the patronage-as-corruption argument might suggest. Many were available in what today we call the civil service. Thousands of posts were

available in the departments of customs, excise and post, where employees chosen by patronage interacted with the public. Moreover, in Scotland there were a number of legal and administrative departments, such as those of Sasines, Entails, and the Court of Lord Lyon, where particular aspects of public business were transacted. Together, these departments were a source of substantial patronage in the eighteenth century, at a time when the landed interest still dominated a legal profession possessing an elevated social status. The higher departmental positions — Keepers, deputys and substitutes — were the preserve either of the members of the Society of Advocates, or, more usually, of the Society of Writers of the Signet. The rewards of office were considerable and, with an oversupply of the legally trained, there was a very keen demand for all suitable government posts in Scotland. Only those with the best social contacts, therefore, could hope to obtain positions in these legal departments. There, by coming into contact with the public or their agents, these "civil servants" proffered the public face of patronage society. It would be useful to know what sort of image these departments projected and what parameters the public set when defining efficient and effective public service.

With this in mind, this article will examine the day to day workings of the Edinburgh Sasine Office and demonstrate how the fruits of patronage trickled down the departmental hierarchy to embrace everyone in the common interest of buttressing the ancien regime. In addition, consideration will be given to what happened when the system became temporarily dysfunctional, exploring attitudes to the Sasine Office from the perspective of the writing clerks. The availability of letters from one of the clerks in the 1780s offers a welcome opportunity to view the workings of one part of "Old Corruption" from "the bottom up". The tenacity of patronage society, which continued long into the nineteenth century, will also be highlighted, in particular to show the radicals' astuteness in persistently and stubbornly emphasizing the evils of "Old Corruption". They appreciated that patronage not merely channelled rewards into the bottomless pockets of the privileged, but also sucked everyone else even marginally associated with it into its

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3 Sunter, Patronage and Politics, 61.
nexus, creating a massive spoils system in which placemen represented only the apex. The radicals were aware that there existed a hierarchy of patronage which, dribbling down from above, created a massive inertia favouring the status quo. They understood that to create any possibility of a popular reform movement in Britain, the spoils system first had to be undermined and discredited. But "Old Corruption" was incredibly robust, as the history of the Edinburgh Sasine Office demonstrates.

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The Edinburgh Sasine Office in the 1780s was just one of a number of departments which were concerned with the creation and keeping of official records in Scotland. Its province was the registration of sasines, conveyancing writs recording all transactions regarding proprietorial rights in land. An Act of 1617 had established both a central office and seventeen local district offices; new owners of land had the option of recording their sasine either in a local register or in the General Register in Edinburgh. With minor amendments, this Act remained in force until 1868. In those 251 years clerks in the Edinburgh office filled 3779 volumes of what is now known as the Old General Register of Sasines.4

In a society which laid great stress on property ownership, the Sasine Office performed an extremely important task, for proof of ownership in Scotland depended on the completely accurate recording, in a specified time and in a specified manner, of the sasine in either the General or one of the Particular Registers and, in addition, after an Act of 1693, in minute books in the possession of each Keeper. With some minor exceptions, therefore, most property-owning Scots relied for their security of tenure on the efficiency either of the Sasine Office staff in Edinburgh, or of the local Keepers of the sasine registers and their deputies in the localities. As the Substitute Keeper of the Sasines wrote in 1821, the role of the Office "is one of the greatest responsibility, and of the utmost importance to the security of proprietors, as well as

mortgagees.\textsuperscript{5}

The person ultimately responsible for the efficiency of the Sasine Office in Edinburgh was the Keeper of the General Register of Sasines. Although the 1617 Sasine Act had originally given the Lord Clerk Register authority to choose the sasine keepers, both in Edinburgh and in the districts, by the 1780s the keepership of the Edinburgh Office was in the Crown's gift, i.e., it was a ministerial appointment. The position was a lifetime sinecure. The duties were not onerous, requiring the taking of responsibility for, and the signing of, the registers, duties which, apparently, could be undertaken while residing in London. On the other hand the Keeper, "although not in the use of performing any duty himself, [was] legally responsible in damages, to the utmost extent of his private fortune, for whatever injury may arise to any individual, from the most trifling error or inaccuracy appearing in the record."\textsuperscript{6}

Two other positions in the Sasine Office were in the gift of the Keeper: his deputy, who also was inactive, although unlike his superior he lived in Edinburgh; and a substitute who, while no stranger to the Sasine Office, still delegated most of his duties to a sub-substitute (in effect a Chief Clerk). These duties included overseeing the day to day workings of the Office, signing each page in the registers, and keeping the financial accounts.

At the bottom of the Sasine Office hierarchy were the engrossing clerks, who actually transcribed the sasines into the General Register. They were "kept in daily and laborious employment during the whole year". How large the clerical establishment was in the 1780s is not known, but in 1821 there were seven or eight and by 1837 eleven. Their numbers increased roughly in proportion to the volume of work. Using as a guide the Keeper's emoluments — which were determined by the number of pages filled in the registers — it would appear that between the 1780s and 1837

\textsuperscript{5} Lewis Ockrent, Land Rights: An Enquiry into the History of Registration for Publication in Scotland ((London, 1942), 101-08; [Alexander Robertson], Memorial Relative to an Improvement in the System of the Records of Scotland, 16 October 1788, Scottish Record Office (hereafter SRO), 1/109, 7-9; Return of the Salary and Emoluments of the Register of the Sasines in Scotland, Parliamentary Papers (hereafter PP), XIV (1821), 472.

\textsuperscript{6} Return of the Salary and Emoluments, 472.
the volume of work increased more than threefold. In the earlier period, therefore, probably four clerks worked in the Sasine Office.  

The Keeper of the Sasines from August 1781 was the lawyer Andrew Stuart, M.P. for Lanarkshire, 1777-1784, and for Weymouth, 1790-1801. His influence initially stemmed from his distinguished but unsuccessful defence of the Duke of Hamilton in the famous Douglas lawsuit in the late 1760s, on account of which he fought a duel with Edward Thurlow, the opposing counsel. Through Hamilton's influence Stuart was appointer Keeper of the Signet in 1770. This sinecure he jointly held between 1777 and 1779 until, at the request of Prime Minister Lord North, who promised him the next vacant position under his patronage, he relinquished his share in favour of the Lord Advocate. In that same year he was appointed a Commissioner for Trade and Plantations, a position he held until the Board was temporarily abolished in 1782.  

The reversion promised to Stuart happened to be the Keepership of Sasines, but it was obtained only with difficulty. Lord Stormont, Secretary of State for the Northern Department, regarded this sinecure to be within his gift and wished to appoint his kinsman, Alexander Murray, M.P. for Peebles and Solicitor General for Scotland. Stuart noted at the time: "It has been a most ferocious contest indeed, Lord North on the one hand and Lord Stormont on the other, each of them much in earnest to carry their point". The struggle became a test of North’s capacity and influence at a time (1781) when his authority as Prime Minister was threatened. If Murray had been appointed, wrote Stuart, "the consequence would be that the First Minister could not carry on his Majesty's business for the confidence in his engagements would be destroyed". It was felt that North "could not be Minister unless he carried his point, and was enabled to fulfil his treaty entered into at the time of my quitting the Signet Office". Fortunately for Stuart, North's views  

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7 Return of the Salary and Emoluments, 472; Return of the Total Number and the Names of all and each of the Officers, Clerks and Other Persons... in Scotland, PP, XXXIX (1837), 7. For the Keeper's fees in the 1780s, see Account Books of Andrew Stuart, National Library of Scotland (hereafter NLS) MS 5398; Cash Books of Andrew Stuart, NLS MS 5394-95.  

8 History of the Society of Writers to His Majesty's Signet (Edinburgh, 1936), 336; Dictionary of National Biography, XIX, 71-72.
ultimately prevailed, although he then became involved in a surprisingly restrained dispute with Lord Clerk Register Frederick Campbell, who claimed that under his commission of 1777 he had a prior right to the sasine fees.9

Although the sinecures of Deputy Keeper and Substitute were in Stuart's gift, he did not replace the incumbents when he took up office in August 1781. His deputy remained the lawyer Alexander Robertson, who had also been Principal Clerk of Session since June 1776. On his death in 1788 he was replaced by John Davidson, W.S. (died 1797). Davidson was for many years Crown Agent in Scotland and agent for many leading Scottish landowners, including Andrew Stuart. Receiving the deputyship of the Sasine Office was undoubtedly a reward for Davidson's past services, and possibly also an encouragement to continue his distinguished researches into Scottish history and antiquities. In accordance with tradition, he played little role in the running of the Sasine Office.10

Neither did Stuart in 1781 replace the incumbent Substitute, William Leslie, "an honest, intelligent, and accurate a man as ever filled a public office", who had, however, by the early 1780s "given up everything but a nominal connection with the Sasine Office", although he still collected his fees.11

In the 1780s the sub-substitute's or Chief Clerk's position was held successively by David McPherson and Andrew Steele (1759-1832). The latter career exemplifies the ways, both legally and illegitimately, in which ambitious men sometimes were able to achieve financial security and upward social mobility through their connections with "Old Corruption". The son of an Edinburgh merchant, Steele possibly studied chemistry under William Cullen and law at Edinburgh University. In 1786, like many other socially

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9 Correspondence of Andrew Stuart, NLS MS 8261, fol.28; "Case and Queries in behalf of the Lord Register and his Deputies", August 1781, SRO 6/1/2, 19-39; "Legal Opinion of Ilay Campbell", 28 August 1781, ibid; "Case in behalf of the Lord Register of Scotland", November 1781, ibid., 66-68; Alexander Robertson to Andrew Stuart, 15 August 1782, ibid., 80-81; Stuart to Lord Campbell, 11 January 1783, ibid., 79-80.

10 History of Writers to the Signet, 267; DNB, V, 577.

11 James Thomson Callender to Andrew Stuart, 5 December 1789, NLS MS8261, fol.60.
aspiring students and lawyers, he joined the Speculative Society. At about the same time Steele entered the Sasine Office and began to advertise as a writer (solicitor) in the Edinburgh trade directories. In 1708 he became a Writer to the Signet. After many years of assiduous service to Stuart, he eventually was to be appointed Deputy Keeper of the Sasines.\footnote{Edinburgh and Leith Trade Directories, 1786-88, 1790-92; History of Writers to the Signet, 328.}

The Chief Clerk was overseer of the engrossing clerks who did most of the work in the Sasine Office. The Deputy Keeper's right to appoint the clerks was obviously a source of patronage, but except in one case almost no information is available on the clerks' background or on what leverage was required to gain employment. Little is known, for example, of William Gillan, except that he was for a time a member of the literary circle which surrounded the eccentric judge, Lord Gardenstone. He is last heard of in London in May 1792, hoping to obtain a position with the East India Company.\footnote{William Gillan to James Thomson Callender, May 1792, PRO HO1/107.}

More is known of James Thomson Callender (1758-1803), who was later to gain notoriety as a Jeffersonian pamphleteer in the United States following his outlawry for sedition in Scotland in 1793. The son of a tobacconist and "bred up" as a Presbyterian of the Calvinist persuasion, Callender was an impressive Latin scholar and a competent, if virulently misanthropic, poet in the satirical Augustan tradition of his hero, Jonathan Swift. In 1782 and 1783, at the time he joined the Sasine Office, he published anonymously two pamphlets critical of Dr. Samuel Johnson, the first of which was well received in Scotland. In these writings he first hinted at his progressive political opinions, which by 1792 had developed into a revolutionary Scottish nationalism. In 1788 he combined his clerkship with a position as messenger-at-arms. From the same sort of background as Steele, and as equally determined to rise in society, Callender was much less successful in his attempts to obtain patronage. This was not to prevent him from becoming a major irritant to the Sasine officers.\footnote{Michael Durey, "With the Hammer of Truth": James Thomson Callender and America's Early National Heroes (Charlottesville, 1990).}
Although envy cannot be discounted as one source of the animosity between Steele and Callender in the 1780s, there were other reasons, of a public nature, which also stimulated the engrossing clerk's wrath, as an examination of the financial structure of the Sasine Office makes clear. The system of distributing emoluments primarily determined the administrative methods used in the Sasine Office and the ways in which the management and the office clerks interacted. First pig at the trough was Andrew Stuart, who received from the Scottish Civil List an annual salary of 200 pounds sterling, the only source of funds not generated by the Office's own services to the public. In addition, Stuart also received the largest proportion of the fees paid by the public, obtaining £1-13s-4d Scots for every leaf filled in the General Register and 2 pounds Scots for every leaf filled in the Edinburgh district Particular Register. In the 1780s these combined sources of revenue brought him, on average annually, the considerable sum of nearly 800 pounds sterling, which he received in Edinburgh and spent in London and various spa towns.15

The deputy had three sources of revenue: a fee proportional to the length of each sasine; the fees from "broken" or unfinished pages; and search fees. A proportion of these fees would then have been transferred to the substitute as his slice of the cake. The Chief Clerk's salary came largely from the Keeper's emoluments, with some "topping up" from the deputy. While these fees were being accumulated and distributed amongst the officers, the clerks were being paid at piece-rates, fourpence for each page they transcribed. Callender estimated that between 1782 and 1789 he filled 40,000 pages of the Register in his best copperplate script, earning about 80 pounds sterling per annum. Few clerks in Edinburgh at that time would have been so poorly paid: "no Agent's Clerk would leave his master's desk to write it at less than sixpence". At one point Gillan was being paid an additional six shillings a week to substitute for the Chief Clerk, i.e., to be re-

15 Calculated from Account Books of Andrew Stuart, NLS MS5398; Cash Books of Andrew Stuart, NLS MSS 6394-95; Bank Book of Andrew Stuart, NLS MS 8282.
sponsible for the whole office.\textsuperscript{16}

The self-financing aspect of the Sasine Office — it never contributed a penny to government revenue — ensured that "lurks and perks" abounded, with the whole office hierarchy involved. The important point to grasp is that it was not only the officers who stood to profit from manipulating the system; piece-work, and the low rate of pay, ensured that the clerks too had a stake in defrauding or overcharging the public. Thus the Sasine Office was a classic example of how "Old Corruption" both oiled the wheels of state — Lord North's patronage guaranteed Stuart's vote in the House of Commons — and, a point usually missed, also drew people inexorably into the spoils system.

This was done in a number of ways. To favour the deputy's interests, for instance, the clerks were encouraged deliberately to end on a new page. According to Callender, the first lesson he had learned on being employed in the Office was, "never end at the bottom of the page — bring it over — or stop two lines above it, that the Deputy may have a broken page". Extending the document was obviously the best tactic, for it gave the Keeper a full page, the deputy a broken page, and the clerk an extra fourpence. The customer was swindled, but everyone in the Office gained.\textsuperscript{17}

Another way of augmenting fees was to reduce the number of lines on the Register's pages and increase the size of the clerks' writing, thus making the customer pay for more completed pages. Although the number of words and lines on a page were determined by law, by the 1780s the average number of words on a page had been reduced to one-third of the legal minimum. Again, everyone in the Office profited from this practice.\textsuperscript{18}

Such stratagems to increase the size of fees were not, within government administration, regarded as reprehensible in the eighteenth century, for they were the norms on which the system of

\textsuperscript{16} First Annual Report of the Deputy Clerk Register of Scotland, 1807, 11-12; Second Annual Report of the Deputy Clerk Register of Scotland, 1808, 33-34; Callender to Stuart, 5 December 1789, NLS MS 8261, fol. 65.

\textsuperscript{17} Callender to Stuart, 19 December 1789, NLS MS 8261, fol.73.

\textsuperscript{18} Second Annual Report of the Deputy Clerk Register, 1808, 10.
patronage was sustained, creating the connections which bonded sections of society together. Admittedly, there was never enough patronage to satisfy demand in Scotland, but manipulating that which was available enabled it to trickle down the social scale. From an economic standpoint patronage society perhaps was inefficient, but it had other, more important, functions: through the mechanism of "friendship" it reinforced social ties, strengthened the spirit of hierarchy and deference, and, of course, it was a welcome source of financial resources. Custom, which defined acceptable practices and licit perquisites, legitimated patronage and stopped it from degenerating into anarchy. There were groundrules to which those who played the game adhered, and while they did so the system worked smoothly (and silently).

In the 1780s, however, actions of staff prepared to breach convention and over-manipulate the system disturbed the security and stability of the Sasine Office. The innovations which created unrest went beyond the usual sharp practices to outright fraud by successive sub-substitutes. David McPherson had for five or six years charged the public for fictitious pages, using a double book-keeping system and pocketing the extra fees. An affable man, McPherson charmed visiting legal agents into acquiescence. His successor, Steele, continued the practice, but his abrasive character soon caused disquiet. He responded to charges concerning the high cost of sasines by publicly blaming the clerks, whom he accused of writing in too large a hand. Steele thus broke convention in two ways: his manipulations were to his advantage alone; and he caused dissension within the Office itself.

At some point in 1785 Callender, representing all the clerks, in very oblique terms complained to Stuart about Steele's behaviour. An investigation by Robertson and Leslie, because they had no knowledge of the double book-keeping, failed to uncover any malpractice. Steele thereupon punished the clerks by surveying their writing habits and persuading Robertson to raise the number of words per page by 20%. Effectively this was a wage cut of the same percentage for the clerks and it left Steele free to create

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20 Callender to Stuart, 5 December 1789, NLS MS 8261, fols.59,61.
fictitious pages at will. In July 1786 Callender alerted Leslie to Steele's highhanded manner with the customers and was rewarded with the possibility of Steele's dismissal if his conduct failed to improve.21

Steele nevertheless continued to charge for fictitious pages and also discovered other ways of maximising his profits. The Sasine Act of 1617 insisted that a writ be registered within forty-eight hours of presentment, but as the volume of work increased it became impossible to fulfil this clause. By the late eighteenth century lawyers tried to minimise the inevitable delays by paying the fees in advance. Steele took advantage of this practice by creating a new "office rule", by which change from advanced fees would no longer be returned. Furthermore, on his own initiative, Steele in 1788 again raised the number of words on a page and abandoned the distinction between English and Latin words (the latter, being generally longer, were expected to take up more space.). A letter of complaint from a clerk called Hewat was returned unopened by the new deputy, John Davidson. At the same time Steele was charging clients from his own law practice less than the rest of the public.22

Thus by 1789 harmony within the Sasine Office had broken down, with Steele — for personal profit — farming the system as effectively as he could. He was bilking Stuart and the clerks by crowding the legitimate pages, and fining the latter too when they transgressed. He was also defrauding the public by charging for fictitious pages. Much of the blame for this must rest with the officers, who failed to control their overseer. "Confidence abused, has been for ten years past, the bane of the Sasine Office. Mr. Robertson when Deputy trusted everything to Mr. Leslie, and, he, again, trusted everything ... to Mr. Steele. The result was such as might have been expected ... Mr. Steele's plain design is, by contracting the number of real pages, to prevent the public from grudging at the charge of fictitious ones."23

21 Ibid, fols.59-61.

22 Encyclopaedia of the Laws of Scotland, ed. John L. Wark, XII (Edinburgh, 1931), 380; Callender to Stuart, 5 December 1789, Fols.61-62.

23 Ibid., fol.65.
Eventually, as "Much noise has been made about the extravagance of the fees in the Sasine Office, and this has been uniformly attributed to the selfishness of the Sub Clerks", Callender took advantage of one of Stuart's very rare visits to Scotland to lay charges against Steele, in which he claimed, in addition to "enormous" peculation — "he politely pilfers 50 pounds a year" — that "There is no species of misconduct, no imaginable method of blundering in private or of giving offence in public of which your present substitute has not been guilty". In collusion with his embittered colleagues, Callender sought a rise in salary for the clerks (to sixpence a page) and threatened to expose Steele's activities in a pamphlet which would guarantee "the annihilation of the General Register".24

Hearing of Callender's complaints, Steele "instantly came over with pistols and a bludgeon in order to murder" him, greatly alarming his family. For several days thereafter Steele conspicuously flaunted his pistols in the Sasine Office. There was not, claimed Callender, "an assistant clerk about the Sasine Office who has not heard him solemnly vow my destruction". Such a display of naked hostility was unnecessary, for Stuart ignored Callender's charges. Increasingly frustrated, he addressed the Keeper twice more, in one letter seeking "very moderate" personal compensation for the insults he had received. Rather naively, he had assumed that Stuart, whom Steele was cheating as well as the clerks, would intervene. "Truth", he told Stuart, "requires no tenderness of investigation and disdains all subterfuges". Perhaps so, but in the world of patronage, when consensus over the distribution of the spoils system broke down and those at the bottom of the hierarchy began to protest, the truth was better ignored. Too much might be revealed if an official investigation were permitted. The officers closed ranks against the new threat of the clerks acting in unison. Within a matter of months Callender was dismissed from the Sasine Office.25

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24 Ibid., fol.59; Callender to Stuart, 12 December 1789, fols.63,64,70; Callender to Stuart, 19 December 1789, fols.72-73.

25 Callender to Stuart, 12 December 1789, fol.71; Callender to Stuart, 19 December 1789, fols.72-73.
The near-rebellion of the Sasine Office clerks in the late 1780s highlights some of the strengths and weaknesses of a system premised on the virtues of patronage. The strengths were understandably numerous. First, four management positions were effectively created from one "place" and funded almost entirely by the public. Similar arrangements existed in other Scottish public offices. In the Sasine Office only one of the managers actually supervised in practice, but social necessities — the fulfilling of obligations to one's "friends" and the maintenance of hierarchy — were promoted. Through custom and lax supervision even the writing clerks were drawn into the spoils system, creating a community of interest within the Office. This is not to deny the exploitative nature of departmental practices, but it was the public rather than the writing clerks who most suffered. *Everyone* in the Sasine Office gained from the "traditional practices" which augmented the legal fees.

Second, in normal circumstances Sasine Office procedure was free from public scrutiny, as conveyancing agents usually presented the sasines for registration on behalf of their clients. The agents, of course, were themselves lawyers; a legal phalanx thus surrounded the activities of the department, effectively masking traditional knavery. The agents did not lose by turning a blind eye, for they merely passed on the costs to their clients. Any queries raised by clients were easily deflected by resorting to the excuse of "customary practices".

There were, of course, outside influences in theory capable of encouraging efficiency and honesty in the Sasine Office. The 1617 Sasine Act laid down very strict procedures which were supervised by the law lords of the Court of Session, who could proclaim Acts of Sederunt to remove disputes and clarify procedures. Moreover, the Society of Writers to the Signet gave itself a general supervising role, as when a society committee visited the Sasine Office

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26 First Report of the Select Committee Appointed to inquire into the State of the Public Records, 1800, 448-50.

27 John Davidson to Andrew Stuart, February 1783, NLS MS 8621, fol.55; Alexander Robertson to John Davidson, 4 February 1783, ibid., fol.57.
to examine the registers. Finally, the zeal with which voting registrations were examined, and the fear of the potential consequences if the ambitions of a powerful politician were thwarted by an irregular registration, also tended towards promoting efficiency in the Office.

In practice, however, these outside influences had neither the will nor the desire to curb errant activities in the Sasine Office, primarily because the legal elites dominated the Court of Session, the Society of Writers to the Signet and the agencies of the political groupings. Caste solidarity was more powerful than any fondness for administrative efficiency. Self-regulation alone could determine whether the department sought the public good, and as has been shown, in the 1780s this was lacking. The sort of strict internal control which, for instance, the Court of Lord Lyon had on messenger-at-arms at this time, and which often led to their dismissal after coming before the Court of Session for malversation or incompetence, was never duplicated in the Sasine Office.

Consequently, the Sasine Office's reputation for ineptitude steadily grew, with Callender in 1789 listing a vast number of errors in the registers and claiming that Steele, who was meant to "mark" each page of the registers before use, was still marking volume 317 when volume 341 was being filled up. By the early nineteenth century the General Sasine Office was renowned for the worst-kept records in Scotland.

Nevertheless, the "thousand murmers" against the Sasine Office from a public who "are already prejudiced and even exasperated", which Callender pointed to in 1789, were the consequence not of traditional peculations, but of Steele's new "customary practices". Public discontent became possible only because members of the legal fraternity openly objected to Steele's impositions and high-handed

28 Callender to Stuart, 19 December 1789, fol.73.

29 Alexander Fraser, A Treatise on the Office of a Messenger As Now Practised in Scotland (Edinburgh, 1816), 233-39.

30 Callender to Stuart, 5 December 1789, fol.65; [Alexander Robertson], Memorial Relative to an Improvement in the System of Records of Scotland, 16 October 1788, SRO 1/109; Second Annual Report of the Deputy Clerk Register of Scotland, 1808, 10.
manner. His obstructionism caused offence: "It was usual for the Agents to say that they did not value the extravagance of fees, but [did object to] the dancing attendance often daily for a week together after their Sasines were recorded, compared and docquited and signed before they could get them on any terms whatever".\(^3\)

Steele's determination to be *primus inter predatores* (E.P. Thompson's pungent but perhaps slightly exaggerated phrase) destroyed the community of the Office and damaged the protective shield established by the legal fraternity. His actions reflect a major weakness of patronage society, the ease with which the unscrupulous could manipulate it for their own advantage. The root cause of this was the slack supervision of the premier officers, who refused to intervene effectively when the system was threatened from within. The absence of formal controls was not a problem whilst the unwritten code of behaviour remained in force; once it was ignored by even one individual with some authority, the system destabilized and became dysfunctional.

This analysis suggests that it was the abuse of the patronage system rather than the system itself which caused public disquiet. Supporting evidence for this comes from the Excise Office in Edinburgh, where patronage was also being misused. Again it was Callender, sponsored by some Edinburgh brewers, who publicised the abuses which threatened to make Scottish beers uncompetitive with English imports. As with the Sasine Office — and, indeed, as with a racket over which an unscrupulous overseer presided in Manchester in the 1790s\(^4\) — it was not the patronage ethic, but its manipulation by the greedy in uncustomary ways, which caused friction. Both the Solicitor of Excise, a Mr. Bonnar, and the excise officers legally augmented their basic salaries by receiving proportions of the fines exacted from brewers found guilty of smuggling. It was thus in their interest to maximise the number of fines: "The end proposed by government in the laying on of duties, is to produce a revenue for its own purposes; that of the excise-men may

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31 Callender to Stuart, 5 December 1789, fol.60.

reasonably be thought to make money to themselves".\textsuperscript{33}

Various stratagems were used to increase fines. At one stage the excisemen were deliberately lax in overseeing the breweries, thus encouraging the production of illicit brews. Then a sudden crackdown brought in a host of fines. Even the most law-abiding brewers were forced into illegal practices to prevent their products being undercut. On other occasions partiality in the amount of fines, with some paying 2.5\% and others 80\% of the legal penalty, produced the same effect. All brewers were forced to produce illegal supplies in order to remain competitive. When the major brewers tried to stabilise the system by refusing to smuggle and by conscientiously paying the duties, Bonnar broke the cartel by levying only one-third of the duties on selected brewers.\textsuperscript{34}

Thus again customary practices within the public service were undermined and discredited by a rapacious few. That the Solicitor of Excise rather than the local gaugers promoted this manipulation of the system can be seen by the fact that an honest exciseman in Aberdeen, who refused to use underhand methods to increase fines, was bullied and finally transferred to a position in Kilmarnock, where the salary was much lower. It is not surprising, therefore, to find many of the big brewers in the forefront of Scottish political reform campaigns in 1792, as they sought to prevent abuses in a system with which otherwise they were contented.\textsuperscript{35}

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E. P. Thompson is only partly correct when he claims that "The profound resentments generated by this client status [under "Old Corruption"], with its attendant humiliations and its impediments to

\textsuperscript{33} [James Thomson Callender], An Impartial Account of the Conduct of the Excise Towards the Breweries in Scotland (Edinburgh, 1791), x-xi, 20-21,37. For Bonnar, see [William Creech], Edinburgh Fugitive Pieces: With Letters (Edinburgh, 1815, New York, 1974), xix-xx. "In as far as his private opinion went, [Bonnar] was a warm friend to the system and measures of Mr. Pitt and Lord Melville. Perhaps coincidentally, he was a founder member of the Speculative Society, to which Steele belonged.

\textsuperscript{34} Callender, Impartial Account, 30-3,343.

\textsuperscript{35} Ibid., 38; Richard G. Gallin, "Scottish Radicalism, 1792-1794", PhD diss., Columbia University, 1979.
the careers open to talents, fuelled much of the intellectual radicalism of the early 1790s ...". In contrast, the evidence offered here suggests that among the vast majority of the population, who were not politically radical and who did not seek fundamental reforms even at the height of enthusiasm for the French Revolution, it was less the client status as such than the unjustifiable, self-serving abuses permitted under the patronage system which caused resentment. Neither the brewers nor the land agents suffering from petty corruptions sought to replace the system; at most they wished to ensure that it functioned justly. Undoubtedly, Andrew Steele's freelancing activities can be viewed as part of a wider galaxy of fraudulent practices which together in part justify the radicals' portrayal of patronage as "Old Corruption". But such abuses were not the norm, nor were they regarded as such by most people who personally came into contact with the machinery of patronage society. Patronage itself was not a major issue; it was the normal and accepted way in which government rewarded the faithful, the system which was "the middle term between feudal homage and the capitalist cash nexus". What could cause general disquiet was the abuse of patronage, as happened when, for example, William Pitt tried to bribe the Duke of Portland with the Chancellorship of Oxford University, or when he milked the Wardenship of the Cinque Ports to augment his current income, rather than using it in the traditional manner as a superannuation fund for his retirement. 

The radicals' perception of "Old Corruption" was very different, for they completely conflated patronage and corruption and used their critique to demand fundamental political changes, as the career of James Thomson Callender demonstrates. By 1792 he was firmly ensconced within the extreme radical wing of the Scottish Friends of the People. His outlawry in January 1793 was proclaimed for fleeing from prosecution as the author of a seditious pamphlet, The Political Progress of Britain, in which he had roundly condemned the British government for its bribery, its corruption and its trade and foreign policies favourable to the great financial interests. Having come into contact with some of the political aspects of the


patronage system while in the Sasine Office, Callender was suitably placed to condemn the "parchment barons". Developing a strong sense of Scottish nationalism, he excoriated the Scottish M.P.s who were totally dependent on the English ministers. "They feel the total insignificance of their situation, and behave accordingly. An equal number of elbow chairs, placed once for all on the ministerial benches, would be less expensive to government, and just about as manageable." Regeneration was possible, however, only if M.P.s were honest and moral, an unlikely prospect on the basis of eighteenth-century history. "It most certainly cannot be the smallest concern to this country, who are our electors, and representatives; or indeed, whether they are represented at all. Our members are, most of them, the mere satellites of the minister of the day; and are too often as forward as others, to serve his most oppressive and despotic purposes." Millions of pounds "expended in jobs, and bubbles of all kinds, and in bribes to the peers, the house of commons, and their constituents", would ensure that even universal suffrage failed to bring about significant change. "Old Corruption" was all-pervasive, the root of all evils. 38

Callender was by no means the only person radicalised by his experiences of "Old Corruption". It is perhaps not sufficiently recognised that many future radicals, usually early in their adult lives when their political ideas were still maturing, became embroiled in the realities of the patronage system. Thomas Paine was an exciseman who lost his job, temporarily for "stamping his whole ride" (a customary practice acceptable to merchants and producers if not to the Excise Board), and permanently for seeking salary increases for his fellow excise officers (most uncustomary and therefore totally unacceptable). William Cobbett was forced to flee to the United States in 1792 following his vain attempt to bring what he thought were his corrupt army officers to justice. The practices he condemned were seen as licit and traditional perquisites; his officers were genuinely perplexed that such charges should be brought. Another radical brought into conflict with the patronage system was Colonel Edward Despard, who, following his acquittal in 1792 on charges of misdemeanours committed while he was Superintendent of Honduras, waited in vain for the fulfilment of a promise that he "should not be forgotten". Disappointed, he joined

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the London Corresponding Society, his first step on the road to treason.  

Paine, Cobbett and Despard were to be amongst the most intransigent opponents of nepotism, graft and corruption, but other, less well-known radicals, such as the unitarian Ralph Eddowes, the London attorney John Frost, Daniel Adams of the Society for Constitutional Information, and the radical newspaperman William Sherwin, also had confrontations with "Old Corruption". No doubt further study of the early lives of radicals would unearth more examples of how personal collisions with various aspects of "Old Corruption" helped to mould political opinions.

The major objective of radicals from at least the mid-eighteenth century to the Chartist years and beyond was to convince a nascent public opinion, which tended to accept the reasonableness of patronage, that gross examples of racketeering and corruption, which did cause public dissatisfaction, were integral, not incidental, to the workings of patronage society. In this way they hoped to turn transient public antagonism towards specific abuses into permanent political opposition to "Old Corruption" in all its manifestations. The all-pervasive nature of the system, however, the webs of connections and "friendship" which it created and sustained, militated against radical success. Hence the barrage of Black Books, Red Books and newspaper articles attacking szeichures and profiteering in this period. By attacking "Old Corruption" the radicals knew they were aiming at the very foundations of the ancien regime.

Whatever rationalisations could be put forward to justify patronage society at the top, they foundered on the reality that


greed and rapaciousness at the bottom were implicitly sanctioned by official inactivity. Stuart, who tottered between watering places in England and his London residence, wanted a quiet life and was happy to permit the toadyng Steele to make himself indispensable in Scotland. Fatiguing issues such as the legitimacy of Stuart's original commission, which led in 1795 to an amicable test case in the Court of Sessions, were left in the capable hands of Steele. Still thinking of ways to maximise his gains, in 1796 Steele informed Stuart that, "Much was argued about getting the Clerks in the Sasine Office to write quicker, or to attend from six in the morning till ten at night". That same year, in recognition of his "exertions and attention in the course of the business of the Office" and his "great propriety and utility" during the court case with the Lord Clerk Register, Stuart and his deputy rewarded Steele with twenty guineas.\(^{41}\)

On Davidson's death in 1797 Steele became Deputy Keeper of the Sasines, a fitting reward for his loyalty and diligence. He built up a substantial law practice in Edinburgh in the early nineteenth century and became an agriculturalist and improver, even publishing a 400-page book entitled *The Natural and Agricultural History of Peat-Moss or Turf-Bog*. At his death in 1835 he possessed the improved estate of Crosswoodhill, several tenements in Edinburgh and a fortune of more than 5000 pounds sterling. Through the Sasine Office, which brought him useful contacts and opportunities for peculation, this Scottish Uriah Heep found the key to social mobility and advancement.\(^{42}\)

Unbeknown to Callender and his fellow clerks, but probably appreciated by Stuart and Steele, the first stirrings of an ultimately successful demand for reform of all the Scottish records offices were felt in the late 1780s. The push for reform began in the department of the Lord Clerk Register, where Frederick Campbell's deputies, the brothers William and Alexander Robertson, were busily storing in the new Register House many of the Scottish records, "the

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\(^{41}\) William M. Morison, *The Decisions of the Court of Sessions*, XVI (Edinburgh, 1811), 13140–13499; Athol L. Murray, "The Lord Clerk Register", *Scottish Historical Review*, 53 (1974): 152–53; Steele to Stuart, 16 July 1796, NLS MS 8261, fol.72; Stuart to Davidson, 10 November, 31 December 1796, Edinburgh University Special Collections, La II 496.

\(^{42}\) Inventory of Andrew Steele, 25 March 1835, SRO SC70/1/52, 171–86.
battered veteran relics of the old regime". Working on the principle "That whatever deserves to be recorded, deserves likewise to be preserved", in 1788 Alexander Robertson suggested that all Scottish records — from unofficial parish registers to Court of Session decreets — be held under one roof. The mere fact of central collection, he hoped, would vastly improve the quality of records.\(^{43}\)

The Robertsons' plans involved the use of the Lord Clerk Register's official powers, and this probably explains the resurrection in 1790 of the dispute between Campbell and Stuart over their respective commissions. Although Campbell won a victory of sorts in 1795 — his right to "mark" the General Register was upheld but his power to nominate the Keeper of the General Register was not — under a previous gentleman's agreement he enforced no changes until Stuart's death. The Robertsons' reform plans thus petered out.\(^{44}\)

But following Stuart's death the Sasine Office fell more closely into the orbit of Campbell and his new deputy, Thomas Thomson, who was also an enthusiast for record reform. When William Dundas was appointed Keeper of the Sasines in January 1806, Campbell took the opportunity to introduce specially-lined books, pre-marked at the Register House. It was not until 1811, however, that an Act of Sederunt upheld this innovation. At the same time, the Lords of Session determined a new standard of words per page and a new fee structure, which finally gave the clerks Callender's desired rate of sixpence a page. Some of Steele's more reprehensible practices were thus no longer possible, although from his position as Deputy Keeper, with its legal perquisites, he no doubt viewed these changes with equanimity.\(^{45}\)

It would be wrong, however, to infer from these early successes that all aspects of patronage in the Sasine Office disappeared as

\(^{43}\) J. Maitland Thomson, Public Records of Scotland, 18-19; Robertson, Memorial Relative to an Improvement in the System of the Records of Scotland, 16 October 1788, SRO 1/109.

\(^{44}\) William Robertson to Lord Campbell [?], 28 July 1790, SRO 6/1/1; Campbell and Stuart to [?], 28 July 1790, SRO 6/1/2; Morison, Decisions of the Court of Session, XVI, 13140-49.

\(^{45}\) Thomson, Public Records of Scotland, 19; Second Annual Report of the Deputy Clerk Register, 9; Fourth Annual Report of the Deputy Clerk Register, 11.
government abolished sinecures and moved towards a civil service based on the principles of meritocracy and efficiency. The Keepership, for example, remained a sinecure until 1845. By an Act of 1817 (57 Geo II c. 64) the Keeper's fees were abolished and a fixed salary, determined by the Treasury, substituted. But the Act was to come into force only on William Dundas' death, which did not occur until 1845. In the meantime he pocketed more than 3000 pounds sterling a year from the Sasine Office, as well as nearly 2000 pounds sterling a year as Principal Keeper of the Signet. His successor, Alexander Pringle, was thus the first professional Keeper of the Registers; not only was he salaried, but he had to spend each working day in the Office.  

Even then however, the Sasine Office did not fully conform to civil service regulations as they slowly emerged. Although Thomas Thomson had first suggested in 1806 that the Sasine Keeper should lose his power of appointing staff — with the selection procedures to be taken over by the Clerk Register, who would ensure "a certain discipline and probation" for clerks — as late as 1877 the Keeper retained the power of personal nomination. The Keepers clung to this element of patronage for so long primarily because their commissions continued to include a statement of their personal liability for mistakes in the registers. The Treasury was unwilling to foist on the Keepers clerks — even those with Civil Service Commission certification — whose errors might involve the Keepers in litigation.  

One consequence of the failure to bring the Sasine Office under civil service regulations was that nearly a century after Callender had first become embroiled with Steele, his successor clerks were complaining to the Treasury about their conditions of work. Following two memorials to Keeper John Brodie, which went unanswered, the clerks sent another to the Treasury in March 1877. Most of their complaints related to the last vestiges of patronage society in the Sasine Office. They wished to come under civil service rules, in order to claim superannuation; they wanted

46 Returns Relating to Establishments (Scotland), PP, XXXIX (1837), 5; Papers Relating to the Register of Sasines (Scotland), PP, XLVII (1857-58), 318.

47 First Annual Report of the Deputy Clerk Register, 13; Copies of Memorials from the Members of the Commissioned Staff of the Sasine Office ... March 1877, PP, XLIX (1877), 389.
comparable rates of pay with the civil service, instead of piece-rate payments; and they wanted the abolition of the Keeper's right to ignore office seniority and appoint people from outside to positions of responsibility. As before, the Treasury refused to intervene during the tenure of the incumbent Keeper.

Reform of government departments went through three stages in the nineteenth century. First came the drive to bring order and efficiency to administrative procedures; then followed the abolition of the last sinecures, with the centralisation of patronage at the Treasury and with the surplus fees going to general revenue; and finally came the absorption of all departments into one civil service. As far as the Sasine Office is concerned, however, the last features of patronage management took an inordinately long time to disappear. Reform ultimately had to come piecemeal from above, because the patronage system, when working within traditional parameters, offered both the prospect of social harmony and the possibility of individual benefits to the many.

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