

# Sports in Scottish Burgh and Notarial Records, 1500–1700, Part 2

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Most of the modern Scottish sports scholarship has relied heavily on published sources. The present article aims to redress that imbalance and fully engage with the manuscript sources for both the burgh and notarial records of the period from 1500 to 1700, covering the following sports: football, golf, *cachepell*, tennis, bowling, horse racing, archery, and fencing. This study highlights sporting activities in the Scottish burghs and their many features (players, conditions, locations, legislation ...), clarifying established themes and exploring new ones within sports in early modern Scotland. A key underlying theme is the growing institutionalisation and professionalisation of early modern sport. At the same time, the social interaction of participants is clearly visible, as is a greater social mixture between the sporting and working/residential environments for a number of sports. The burghs were keen to capitalise on these transferable skills of a geographically mobile and multi-activity sports workforce but also to attract audiences to town. Part 1 of the paper covering horse racing, archery and fencing appeared in Volume 27 of *Scottish Archives*. Part 2 covers the sports of golf, *cachepell*/tennis, football and bowling.

This article addresses the issue of sports in the early modern period through the lens of the Scottish burgh and notarial records. Most studies tackling this theme have relied on printed abstracts out of these sets of records. Instead, the present work delves into this rich and vast manuscript collection. In Part 1, the analysis centred on sports that developed from that medieval milieu of battles and tournaments, and evolved with the broader military context and martial art of the Renaissance (horse racing, archery, and fencing). It showed how much the urban authorities were involved in annual organised events (horse racing) and touched upon the important topics of financing and trade (archery). In addition, a survey of fencing illustrated the instructors' high mobility and the burghs' reliance on their transferable skills and multiple occupations. Part 2 will discuss ball games (golf, *cachepell*/tennis, football, and bowling). It explores matters already considered in Part 1, such as commercial activities, sports professionals, rules and sites of sport, but also new ones, such as gambling and the renting out of facilities. Additionally, it sets these sports within their wider sociopolitical context, notably the Church's attitude vis-à-vis them.

## **Golf**

Golf appears to have been a popular sport as can be induced by its condemnation and ban, alongside that of football, by the Scottish authorities from 1458 and

additional legislation later that century (1471, 1491).<sup>1</sup> The Crown denounced it as a reprehensible diversion – one of ‘unprofitable sports’ in the words of the legislators – to an activity like archery which was militarily transferable. This followed from comparable decrees issued by the English Parliament from the late fourteenth and early fifteenth centuries in its efforts to promote archery practice and ban distracting sports, essentially football in the English case. In Scotland time and again, the Church, town councils and guilds assisted the Scottish Parliament in a combined effort in the sixteenth and seventeenth centuries, but to no avail. Indeed, this pastime attracted players across social categories from royals to commoners.<sup>2</sup>

At times, the burgh records only mentioned the more mundane or casual aspects of the sport such as when around 1618 Perth burgess Robert Burrel decided to purchase ‘certane golff ballis’. For these, he turned to Janet Pullar, the wife of local tailor Duncan Kay. Unable to pay at the time, Burrel pawned a gold ring set with a diamond worth £40. Eight years later, in October 1626, Burrel sued Janet for that ring. The court ordered its restoration to Burrel or a 50s. payment.<sup>3</sup> It is interesting to note that Janet handled that sale, either as her regular activity or through her husband’s absence.

<sup>1</sup> (ed.) K. M. Brown *et al.*, ‘The Records of the Parliaments of Scotland to 1707’ (St Andrews, 2007–23), <https://www.rps.ac.uk>, 1458/3/7, 1471/5/6, 1491/4/17. The 1457 date usually quoted for the first Act of Parliament is inaccurate as the legislation was passed on 6 March 1457/8. For the European origins of the sport, consult H. Gillmeister, ‘Golf on the Rhine: On the Origins of Golf, with Sidelights on Polo’, *The International Journal of the History of Sport*, 19 (2002), 2–30; D. Hamilton, *Golf: Scotland’s Game* (Kilmalcolm, 1998), chap. 2.

<sup>2</sup> Hamilton, *Golf: Scotland’s Game*, 26–7; O. Geddes, ‘Golf’, in (ed.) G. Jarvie and J. Burnett, *Sport, Scotland and the Scots* (East Linton, 2000), 110–11; O. Geddes, *A Swing Through Time: Golf in Scotland, 1457–1744*, rev. ed. (Edinburgh, 2007), 1–22, and 13–45 for the contemporary practice of golf across Scotland and across the social orders; P. Baxter, *Golf in Perth and Perthshire* (Perth, 1899), 21–2; M. F. Graham, *The Uses of Reform: ‘Godly Discipline’ and Popular Behaviour in Scotland and Beyond, 1560–1610* (Leiden, 1996), 124, for elders delegated by Aberdeen St Nicholas kirk session in 1576 to stroll on the links to list the names of those playing golf during Sunday service.

<sup>3</sup> Perth and Kinross Archive (hereafter PKA), B59/13/5, Perth Burgh Records, Register of Acts and Decrees, f. 71v, the court acquitted Janet of the remaining £37 10s. on her oath; Aberdeen City Archives (hereafter ACA), CA1/1/22, Aberdeen Council, Baillie, and Guild Court Registers, p. 238 (debt of two dozen ‘goif ballis’ in January 1555/6). There are references that at the time at least some of these golf balls were made of wood and not very strong, tending to break into two. These broken golf balls became a literary trope used by George, 5th Earl of Caithness, when describing useless cannonballs ‘brokkin Lyk goulfe bales vpoune the castellet [...] and clovin in twa halfies’ against the strong walls of Birsay in his efforts to quash the rebellion in Orkney in 1614–15: National Library of Scotland (hereafter NLS), Adv. MS 33.1.1, Denmilne MSS, vol. 5, no. 74; W. P. L. Thomson, *The New History of Orkney* (Edinburgh, 2008), 297.

For golf enthusiasts, they could turn to bowyers to satisfy their passions as these professionals made the clubs.<sup>4</sup> Hazel wood was the timber of choice when it came to their material. Around late 1603, Robert Brown, bowyer in Edinburgh, illegally meddled with 250 ‘club schafis of haissell’ which belonged to the aptly named James Bowmaker and were then lying on the shore in ‘ye Iland(s)’ in Norway ready for their shipment to Scotland. Two years later in December 1605, Bowmaker sued Brown before the Edinburgh burgh court. The justice ordered their restitution to Bowmaker but also pressed the plaintiff to pay 5 marks to Brown for the freight as well as for other charges.<sup>5</sup> By mid-March 1606, Brown had still not complied with the judicial decision. In fact, he had sold the goods for his own profit. The court instead sentenced him to pay their prices, that is £6 per hundred or £15 in total.<sup>6</sup> In what appears to be an unrelated incidence, Bowmaker was forced to pay Brown 26s. still unpaid out of a debt of £3 11s. for payments to a servant, his drink and loading in Leith. Part of that money was also to pay Brown who carried ‘his [Bowmaker’s] club schaftes’ from Leith to Edinburgh, presumably to storage or to Bowmaker’s merchant booth.<sup>7</sup> Golfing equipment was part of the occasional, if not regular, stock on sale available to Bowmaker’s customers, and some of it he had imported from abroad.

The international character of the Scottish golf trade was thus already present at the start of the early modern period in terms of imports but also with its exports as adduced by the following. In September 1657, the Aberdeen burgh court sentenced James Anderson younger, a local skipper, to pay William Mayne, a bow-maker, 8s. for each ‘club’ of two dozen clubs (that is £9 12s. in total) and 3s. 4d. for each ball of this matching set of two dozen ‘goaf balls’ (£4). These Mayne had sent with Anderson to Gdańsk ‘to be sold ther at the best avall’.<sup>8</sup> By the mid-seventeenth century at the latest, Scotland was exporting

<sup>4</sup> Bowyers as the early makers of golf clubs are treated in C. E. Whitelaw and S. Barter, *Scottish Arms Makers* (London, 1977), 298.

<sup>5</sup> Edinburgh City Archives (hereafter ECA), SL234/1/6, Edinburgh Burgh Court, Register of Decrees, 1603–1606, 5 December 1605. Early golfing equipment is briefly discussed in Geddes, ‘Golf’, 108–9, 114.

<sup>6</sup> ECA, SL234/1/6, 13 March 1606.

<sup>7</sup> ECA, SL234/1/6, 26 December 1605. It seems unlikely that these were the same 250 club shafts as Brown’s intromission clearly took place in Norway not in Leith. Regardless of this, it is interesting to note that as a trader in golf clubs, Bowmaker imported his material from abroad, and also perhaps from elsewhere in Scotland, and collected these at Leith. On the import of golfing equipment (balls) from the Netherlands, see J. Burnett, *Riot, Revelry and Rout: Sport in Lowland Scotland before 1860* (East Linton, 2000), 16–17.

<sup>8</sup> ACA, CA5/1/7, Aberdeen City, Baillie Court Books, 1st ser., 5 September 1657. For the exchange in golfing equipment between Scotland and the Low Countries, consult S. J. H. van Hengel, *Early Golf* (Vaduz, 1985), 12. Anderson was also intimated to pay an additional 12s. for legal expenses and to deliver to Mayne any extra monies received from the sale or sales of these golf clubs and balls. For more on Aberdeen golf and beyond in other north-eastern towns, read C. Smith, *The Aberdeen Golfers: Records & Reminiscences* (London, 1909), 8–10; D. Hamilton, *Early Aberdeen Golf: Golfing Small-Talk in 1636* (Glasgow, 1985),

golf equipment to Poland, presumably to the large Scots community there.<sup>9</sup> The manufacturers were busy making the equipment necessary to play the game and that in very large quantities. Being indebted to a number of creditors, John Macduff, merchant burghess of Perth, saw a number of his goods being poinded (distrained) in February 1613, including 120 ‘golff ballis’ which were valued at 5 marks per set of twenty, or £20 in all.<sup>10</sup> Alternatively, customers could make their purchase from general stockists or individual craftsmen. The inventory produced after the death of Perth cooper John Monypenny in February 1608 revealed a good stock of arms and armours. Beside all his work-looms which he kept ‘in ye buith [booth]’, Monypenny also had ‘ane golff club with golf ballis’ worth 16s. there in that workshop.<sup>11</sup>

The records add to this picture of large-scale production of golf equipment. By the late 1630s, stocks in excess of a thousand clubs were not unknown.<sup>12</sup> For instance and despite its very limited time coverage, the accounts of the shore dues of Leith from Martinmas 1638 to Martinmas 1639 allow a detailed examination of the traffic passing through the Forth port. In August 1639, when Andrew Webster landed the *Swan* of Leith from Inverness, its cargo contained three thousand ‘Clube heads’.<sup>13</sup> The timber used in this case would have come from the great forestry resources of the Inverness immediate hinterland and beyond.<sup>14</sup>

showing its evolution from a simple churchyard game to a more complex one played nearer the beach over the course of the seventeenth century.

<sup>9</sup> See more specifically M. Bogucka, ‘Scots in Gdańsk (Danzig) in the Seventeenth Century’, in (ed.) A. I. Macinnes, T. Riis and F. G. Pedersen, *Ships, Guns and Bibles in the North Sea and Baltic States, c.1350–c.1700* (East Linton, 2000), 39–46.

<sup>10</sup> PKA, B59/15/1, Perth Burgh Records, Registers of Arrestments and Lawburrows, ff. 106v–7r.

<sup>11</sup> PKA, B59/13/5, ff. 123v–5r. Testaments for Edinburgh merchants present a parallel depiction with golf balls among their personal possessions in the late sixteenth century: M. H. B. Sanderson, ‘The Edinburgh Merchants in Society 1570–1603: The Evidence of Their Testaments’, in (ed.) I. B. Cowan and D. Shaw, *The Renaissance and Reformation in Scotland* (Edinburgh, 1983), 197; and also National Records of Scotland (hereafter NRS), CC8/8/7, Commissariat of Edinburgh, Register of Testaments, p. 520, for Edinburgh merchant James Aikman (died October 1579) who had eight dozen golf balls worth £4 (10s./dozen).

<sup>12</sup> In his merchant booth in Edinburgh, Donald Bayne, a cadet son of Ronald Bayne Duncanson, burghess of Dingwall (Ross-shire), and bow-maker in the city, had a large stock of manufactured items in November 1635: three hundred bows, finished and unfinished (£400); one thousand club heads and shafts, finished and unfinished (£40); finished and unfinished arrows (£20); ‘bandit’ staff heads and shafts (£30); sixty spears, finished and unfinished (£20) (NRS, CC8/8/58, p. 115).

<sup>13</sup> ECA, Miscellaneous Records, Impost on Wines, 1, 1612–42, Accounts of Edward Little, Martinmas 1638–Martinmas 1639.

<sup>14</sup> T. C. Smout *et al.*, *A History of the Native Woodlands of Scotland, 1500–1920* (Edinburgh, 2007), chap. 12. This could simply have been a re-export, but the fact that the cargo also

But as the practice of these sports developed in the country, there emerged new specific professions dedicated to cater for these physical pursuits.<sup>15</sup> In November 1647, Elgin admitted in its burghal rank a George Watson whose profession is given as ‘balmaker’ there. Unfortunately, there was no further elements to determine whether this was golf balls or footballs or some other game balls.<sup>16</sup> However, Watson had already been carrying out his trade in town for a while. Earlier that year, in June 1647, there was palpable tension between Watson and some Elgin burgesses. The town council forced two merchants, Robert Malice and James Malice, and weaver John Purse to keep the peace and not molest the local ‘balmaker’.<sup>17</sup> At least in Watson’s case, however, the historian is fortunate enough to have extra information. Our man was a ‘Gouffer’ burghess of Elgin and, as part of his business, did not make all the golfing equipment which he sold to his customers. He contracted a local skinner, Alexander Geddes, to make ‘c[er]tane golf clubes’ which cost Watson £4 4s.<sup>18</sup> Soon, serial tension seeker Watson, labelled ‘Golfbalmaker’, was at it again, this time against the local wright John Duncan. This drew the burgh court into imposing a mutual protection for the two parties and their families, known as letters of law-borrows, which carried a hefty £500 fine each as a penalty.<sup>19</sup> Such description, however, should not be read too restrictively. With the fluctuation of business, these craftsmen would have adapted and performed another activity or other correlated types of work for which they were skilful enough to make a living. In Watson’s case, although noted as a ‘Golfbalmaker’ he also produced ‘picks’ and, prior to May 1651, crafted five of these for Captain George Smith in Elgin for 4 marks. These were most likely military pikes.<sup>20</sup> ‘[G]olffer’ Watson appeared in court at around the same time in early March 1651 to become a surety for the presentation of a Robert Watson before the Elgin magistrates on demand. On that day, Watson left his signature within the register, showing him to have received some form of education.<sup>21</sup>

contained salmon, skins, ‘plaiding’ and hides, that is, local (Highland) produce, seems to preclude such a conclusion.

<sup>15</sup> Geddes, *Swing*, 18–20, briefly mentions these new professions and their patents.

<sup>16</sup> Moray Archives (hereafter MA), ZBEL, B2/14, Elgin Town Council Court Book, p. 107.

<sup>17</sup> MA, ZBEL, B2/14, p. 93.

<sup>18</sup> MA, ZBEL, B2/14, p. 150. Geddes took Watson to court for the money in February or, more likely, April 1649 but was eventually paid, as noted in the margin facing his entry in the register. Instructively, the skinner would have applied leather to parts of these clubs.

<sup>19</sup> MA, ZBEL, B2/14, p. 153. It is to be borne in mind that a twenty-one-year monopoly for the making and selling of golf balls, including foreign ones, had been granted by King James VI in 1618 to James Melville: Smith, *Aberdeen Golfers*, 10–11.

<sup>20</sup> MA, ZBEL, B2/14, p. 213.

<sup>21</sup> MA, ZBEL, A2/7, Elgin Town Council Minutes, 3 March 1651. Aberdeen and Banff, like Elgin, had professional golf-ball makers and golf-club makers in the seventeenth century: W. Cormack, ‘Playing by the Rules?: Early Modern Sport and Control in the Northern Mainland Royal Burghs of Scotland’, *Sport in History*, 36 (2016), 309.

At another level, the game marked an occasion that sometimes went beyond a mere sporting event for recreation. It gave participants the opportunity to make bets. In June 1552, John Malison, an Aberdeen burghess, became indebted to another local burghess, Thomas Branch, for various goods, including pepper, saffron and a share in a boat. Branch made a further claim against Malison for a puncheon of wine, valued at £4, 'qlk I wane fra him at ye goif'.<sup>22</sup> Around mid-January 1602, a group of players took part in 'ane bonspell [match] at ye golff vpon ye lynkis of leith'. Robert Monteath and James Hoppringle consigned two six-pound pieces of gold in the hands of John Dempster. Three weeks later the pair had the local Edinburgh court enforce a redelivery of their money.<sup>23</sup> The case is instructive in showing that the game was played in the midst of winter by the sea, as links all along the Scottish coasts were popular destinations for various games and sports among other activities.<sup>24</sup>

The presence of the Church was never far off in people's daily lives. Across Europe, churchmen castigated and reproved of courtly games. There was an increasing intolerance of the misuse of time in the eyes of the Christian moralists. Yet, this clerical stance carried scant influence given the humanist enthusiasm and esteem for sport, and people's inbred necessity for amusement.<sup>25</sup> In Scotland, time and again, the religious leaders in towns endeavoured to inculcate proper behaviour. In these efforts, they were supported by the local civic authorities. One of the areas subjugated to this social discipline of sort was the promulgation of the sanctity of the Sabbath and the curtailment of any frivolous activities.<sup>26</sup> Sports came under the radar of the town magistrates as one of such merriments to be suppressed. In October 1583, Ayr burgh council passed a general legislation banning the holding of markets on Sundays but also decreed that 'na ma[n] sall play' on that day 'in tyme of preching' both in the morning and afternoon under the penalties consigned in the Acts 'maid

<sup>22</sup> ACA, CA1/1/22, pp. 12–14. Malison challenged Branch and produced a counterclaim against him: ACA, CA1/1/22, pp. 16–17.

<sup>23</sup> ECA, Edinburgh Burgh Court, Diet Book, December 1601–October 1603, 4 February 1602. It is difficult to explain whether the money exchange was part of a sporting wager or a more businesslike transaction. The links at Leith had been a favourite destination for the game since at least the 1570s: D. Hamilton, *Early Golf at Edinburgh* (Glasgow, 1988), pp. 1–2, and pp. 4–12 for their subsequent popularity.

<sup>24</sup> Hamilton, *Golf: Scotland's Game*, chap. 1 and p. 31.

<sup>25</sup> A. Arcangeli, *Recreation in the Renaissance: Attitudes Towards Leisure and Pastimes in European Culture, c.1425–1675* (Basingstoke, 2003), chap. 4; W. Behringer, 'Arena and Pall Mall: Sport in the Early Modern Period', *German History*, 27 (2009), 336–7.

<sup>26</sup> M. Todd, 'Profane Pastimes and the Reformed Community: The Persistence of Popular Festivities in Early Modern Scotland', *Journal of British Studies*, 39 (2000), 123–56, which deals primarily with festivities and revelry, and hardly with sports. Todd noted (p. 154) that sporting events not held on the Sabbath or during proclaimed fasts were upheld and drew the participation of church elders, such as in 1624 when the kirk session meeting in Perth was cancelled because the majority of elders attended a horse race.

abefoir', underscoring the resilience of the population in making merry or being light-hearted that day.<sup>27</sup>

As with other ball games noted in the present article, golfing attracted the wrath of the Church, given the appropriate circumstances. Playing on Sundays was proscribed. Moreover, the religious authorities were protective of the church as a sacred space and games when played on church grounds violated these sanctified bounds. This befell two otherwise respectable members of the Aberdeen burgh community. In April 1613, cutler John Allan and bookbinder John Allan were convicted for 'setting ane goiffball in ye kirkzeard and striking ye same against ye kirk'. The pair were fined for the misdemeanour.<sup>28</sup> At times, the offence turned for the worst, physical violence erupted, and golfing equipment became criminal weapons. In what is the earliest recorded instance of golf in Stirling, the local baillie court heard in March 1560/1 the comico-tragic case of Thomas Ednam who 'trublitt' Thomas Kirkwood and 'straik at hym wt ane goiff club and hurt' John Allan's wife, an innocent bystander. This did by no means placate Ednam's anger as he thereafter 'draw ane kniff to hym [Kirkwood] & hurt his awin wiff yrvitht to ye effusioun of hir bluid'. The court sentenced Ednam and his wife to ask Kirkwood 'forgifness' and for Ednam to remain in ward until he found surety for his fine and 'bluidvite'.<sup>29</sup> The presence of the ladies is instructive in terms of the audience.

### ***Cachepell/Tennis***

The game of *cache* or hand tennis/squash probably came from the Netherlands, rather than through England, at the end of the fifteenth century. In its simplest form, it involved striking a ball against a wall. This Scottish version of the hand-ball game has affinities with the continental *jeu de paume*, real tennis, and similar games played in Belgium, the Netherlands, France, and Italy.<sup>30</sup> In its etymology, the origins of *cachepell/kachepele* in Scotland are still debated, with a Picard or possibly Flemish source.<sup>31</sup> The scholarly interest in the hand version of the sport

<sup>27</sup> Ayrshire Archives (hereafter Ayrshire Archives), B6/11/1/1, Ayr Burgh Court and Council Records, f. 168v.

<sup>28</sup> ACA, CA6/1/1/1, Aberdeen Burgh Treasury Accounts, guildry accounts, 1612–13, 13 April 1613. Cutler Allan was fined 40s. and bookbinder Allan £3.

<sup>29</sup> Stirling Archives, B66/15/4, Stirling Court and Town Council Records, 7 March 1560/1. Mrs Ednam actually joined in the verbal fray, calling Kirkwood 'theiff [and] yat scho suld se his bluid cald on ye calsay'. Other golfing incidents can be found in Geddes, *Swing*, 26–7; Hamilton, *Golf: Scotland's Game*, 13, 25. Beyond the use of golfing equipment as weapons, the inherent danger of playing golf in the streets and churchyards with flailing sticks and flying balls was fully understood and curtailed by the town authorities, as in late 1580s Glasgow: D. Hamilton, *Early Golf in Glasgow, 1589–1787* (Oxford, 1985), 2.

<sup>30</sup> Burnett, *Riot*, 13–14, 20, 45–8.

<sup>31</sup> R. Morgan, 'The Silver Ball of Rattray: A Note on an Early Form of Tennis', *The International Journal of the History of Sport*, 8 (1991), 420–5; J. Burnett, 'A Note on the Silver Ball of Rattray', *Proceedings of the Society of Antiquaries of Scotland*, 128 (1998), 1101–4.



in Scotland has been heavily driven by its trophies, the silver balls and uniquely that of Rattray in Perthshire.<sup>32</sup> That said, the distinction between the variants of *cachepell* has been recognised as not being that clear-cut, hence the inclusion of these various forms of the game in this section.<sup>33</sup>

The burgh and notarial records greatly expand our knowledge of the private courts for the game beyond the royal arenas seen mainly at Falkland (built 1539–41) and Holyrood, and their courtly players.<sup>34</sup> In Aberdeen, the burgh boasted several tennis courts, one of them located on the south side of the Castlegate. In April 1562, Patrick Gray petitioned the council in Aberdeen to borrow ‘certane payment [paving] stanis’ which were lying ‘lowss and owt wark’ within the Kirk of St Nicholas and its vault. These were to be used for ‘ye p[er]forming and ending of ye fluir of his cachepill laitlie bigit’. The absence of these paving stones and ‘on c[om]pletit’ court floor was prejudicial ‘and henderand of his proffit’. Gray had tried to buy some but was unsuccessful. The *cachepell* was thus relatively new at the time and the reference to the loss of his revenues is significant. The court was meant either to be leased or at the minimum Gray would charge for the benefit of its use. Also, the essential requirement of stone flags for an urban court is noticeable.<sup>35</sup> This playground remained within the family as prior to November 1595, Andrew Tilliedaff, a dyer, ran into a property issue with Robert Gray, a local burgess, who was acting for himself and in the name of the heiresses specified. Andrew made his claim based on his being served heir to the late ‘pupill’ John Tilliedaff, son of the late Andrew Tilliedaff, burgess of Gdańsk. Unable to resolve this conflict over a tenement of land, ‘Caitchpule’, and yard, the matter was put to an arbitration panel. The arbiters intimated to Gray to pay Tilliedaff 1,000 marks, after which Tilliedaff would renounce his rights to the said property to Gray and the heiresses. Alternatively, Tilliedaff could pay Gray 2,000 marks for the latter to relinquish his rights to Tilliedaff.<sup>36</sup> Gray seemingly opted for the money, thereby relinquishing his and the heiresses’ right to the property. This we learn because a few years later, in

<sup>32</sup> Morgan, ‘Silver Ball’, 420–5; R. H. Rodger, ‘The Silver Ball of Rattray: A Unique Scottish Sporting Trophy’, *Proceedings of the Society of Antiquaries of Scotland*, 122 (1992), 403–11; Burnett, ‘Silver Ball’, 1101–4.

<sup>33</sup> Burnett, *Riot*, 50.

<sup>34</sup> P. Wordie and L. St. J. Butler, ‘Tennis in Scotland’, in (ed.) L. St. J. Butler and P. J. Wordie, *The Royal Game* (Stirling, 1989), 18–23; T. Puttfarcken and M. Crichton Stuart, ‘The Royal Tennis Court at Falkland’, in *ibid.*, 26–35, with a fleeting observation on these private courts, 21, 27.

<sup>35</sup> ACA, CA1/1/24, p. 411. The council acceded to the request on condition that these stones would be examined and counted (‘viseit and numerit’) by two worthy men so that Gray would restore ‘als mony and als guid’ to the kirk prior to 31 July 1562, thus giving him three months to source his own stones. It can be inferred that the demand to play (or to lease the court) would have been high enough to pressure Gray to borrow these stones as he did instead of waiting to buy his own.

<sup>36</sup> ACA, CA1/1/36, pp. 368–73.



June 1598, Tilliedaff briefly mortgaged a tenement and ‘Catcheball zaird’ to Alexander Tilliedaff, a local burghess and likely a kinsman, for 1,200 marks. This same Andrew Tilliedaff duly redeemed the following January 1599.<sup>37</sup> Yet, on the same day (10 January), Andrew mortgaged again this ‘Inland Caichball zard’ to Alexander for another 420 marks, showing that he used this sporting facility and property as a line of quick credit. This new mortgage lasted for over a year and in late May 1600 Andrew paid it off, retrieving possession. Interestingly, the contract showed that the property came with its own rights of free access and egress at its three gates (‘forzett midzett and bakzett’). It was bounded by the property of the local magnate Gilbert Menzies of Pitfoddels.<sup>38</sup> The ball court then rapidly changed hands and by late August 1600 the new owner James Jameson, burghess of Aberdeen, was making the final payment of his 950 marks purchase from Tilliedaff.<sup>39</sup> In March 1624, the tennis court was acquired by William Menzies, son of the late Mr Thomas Menzies of Balgonie, burghess of Aberdeen, and his spouse Isabel Jameson, daughter of the above James Jameson, from both Isabel’s half and her sister Bessie’s other half share.<sup>40</sup>

Another court was located on the east side of the Gallowgate. An indication of its structure is given in a contract dated March 1561/2 between Patrick Menzies of Ferryhill and Robert Lumsden of Clova. With the consent of Lumsden, Menzies was to build ‘ane gryt part of his syd wall of his kechpeill’ on Lumsden’s own ground and adjoining that side wall ‘to ye cunze [corner]’ of Lumsden’s house. Furthermore, Menzies was ‘to Input ye garrownis [short wooden beams] of his kechpeill’ in the back wall of Lumsden’s house. In return, during ‘ye tyme yat ye kechpeill lestis [lasts]’, Menzies became bound to uphold the ‘bak wyndokis’ [window case] of Lumsden’s adjacent lodging with ‘weir’ [wire] for the conservation of his ‘glassin wyndokis’. Menzies was thus required to put in a metal mesh or grille to avoid the balls damaging Lumsden’s glass windows.<sup>41</sup> Shortly afterwards in February 1563, Menzies, as a local burghess, was about to sail off to distant regions beyond the sea. He granted a sasine in liferent to his wife Bessie Lawson of some back lands and three merchant booths on the east side of the Gallowgate which included the inlands (or inner portions of a

<sup>37</sup> ACA, CA1/1/38, p. 224.

<sup>38</sup> ACA, CA1/1/39, pp. 375–6.

<sup>39</sup> ACA, CA1/1/39, p. 578.

<sup>40</sup> ACA, CA2/1/36, Aberdeen Registers of Sasines, ff. 6v–8r, therein described as ‘terra Interiore Sphaeristerio claustro et horto Inferius’. For the Latin term *sphaeristerium*, refer to D. Wedderburn, *Vocabula, cum aliis nonnullis Latinae linguae subsidiis. In eorum gratiam, qui prima Latini sermonis tyrocinia faciunt* (Edinburgh, 1695), 11. The *sphaeristerium* of Roman villas as mentioned by Galen and Pliny served as model for the Renaissance sports halls: Behringer, ‘Arena’, 339–40.

<sup>41</sup> ACA, CA1/1/24, pp. 161–3 and CA1/1/40, pp. 656–7, for the structure as a boundary marker in 1602. There were additional clauses in that contract, such as Lumsden’s free passage through Menzies’ back gate. Thanks to architectural historian William Kay for his insightful comments concerning this structure.

tenement) comprising ‘cachepell et galreis’ with a garden.<sup>42</sup> In 1602, the *cachepell* was granted to Alexander Gordon in his service of heir to his late father, local burgess George Gordon, but still reserving its liferent to Janet Gordon, the widow of William Menzies of Ferryhill.<sup>43</sup> More precise detail is available about this tennis court in the early seventeenth century when its position is given as being on the east side in the Broadgate of the Gallowgate (*‘in via Lata vici furcarum’*), thus placing it in a very central location. William White, a local burgess, and his wife Elizabeth Leslie, daughter of burgess Gilbert Leslie, took possession of that court in April 1624 as part of their matrimonial contract from William’s parents, Gilbert White and Christine Burnet.<sup>44</sup>

In Glasgow, one of the town’s tennis courts was situated in the Drygate Head, just to the south of the bishop’s castle and the cathedral, roughly at the south-west corner of present-day Cathedral Square; that is, in a relatively central position.<sup>45</sup> One of its earlier references dates to September 1554 when the *‘lusoriu[m]’* appeared as a boundary marker and was the property of a Thomas Forret, citizen of Glasgow.<sup>46</sup> More came to be known within the next few years. In April 1557, the *‘cachepule’* held by Forret was wadset (mortgaged) to Thomas Thomson, tailor, for £40. At the time, the playground was bounded by the lands of St Nicholas Hospital, Erskine manse and the property of St Thomas’ chaplainry.<sup>47</sup> It can safely be assumed that Forret redeemed the *cachepell* as the playground is described in November 1581 as belonging to the deceased Forret. A few years later, in May 1585, the tennis court was held by the heirs of Forret and Jean Cunningham, his widow.<sup>48</sup> In November 1613, the preceptor of St Nicholas Hospital, John Hutton, was the superior of the lands on which the tennis court lay. Hutton gave sasine to James Forret of Barrowfield (*‘burrowfeild’*, the area west of present-day Celtic Park) as heir to his grandfather, the above Thomas Forret, of a back tenement and *‘vno spheristero’* in the *‘drygait heid’*.<sup>49</sup>

<sup>42</sup> ACA, CA2/1/11, pp. 653–6.

<sup>43</sup> ACA, CA1/1/40, pp. 737–8.

<sup>44</sup> ACA, CA2/1/36, f. 10r. Neither court is featured on James Gordon’s 1661 map of Aberdeen, the earliest on record: NLS, EMS.s.249, James Gordon, *‘Abredoniae novae et veteris descriptio’*, <https://maps.nls.uk/towns/rec/209>.

<sup>45</sup> Researchers of Glasgow’s history in the second half of the sixteenth century have been well served by the two town plans that have been drawn using the data culled from the city’s protocol books prior to 1600. These plans feature in (ed.) R. Renwick, *Abstracts of Protocols of the Town Clerks of Glasgow*, I (Glasgow, 1894), facing p. 108; XI (Glasgow, 1900), facing p. 224.

<sup>46</sup> Glasgow City Archives (hereafter GCA), B10/1/1, Glasgow Town Clerk’s Protocol Books, ff. 129r–30r; (ed.) J. M. Thomson *et al.*, *Registrum Magni Sigilli Regum Scotorum: The Register of the Great Seal of Scotland [RMS]*, V (Edinburgh, 1888), no. 1833.

<sup>47</sup> GCA, B10/1/2, f. 46v, also ff. 94v–5r (as a boundary marker); B10/1/3, f. 43r–v (as a boundary marker).

<sup>48</sup> GCA, B10/1/7, ff. 24r–v, 52r–v, 171v–2r (all as a boundary marker).

<sup>49</sup> GCA, B10/1/14, f. 49r–v; D. Murray, ‘The Rottenrow of Glasgow’, *Regality Club*, 3 (1899), 77–8.

So, this Glasgow tennis court was actually part of the lands of St Nicholas Hospital. The site should not be confused with the Glasgow playground, also called ‘*lusoria*[*m*]’, more properly ‘*palestra*[*m*] *glasgw lusoria*[*m*]’ in the records, as mentioned in a sasine of January 1560/1.<sup>50</sup> This was the old Glasgow Green by the Clyde (the area of modern Clyde Street and St Enoch Centre, west of Stockwell Street). These sasines do not reveal the features or the types of game played on that playground.

The *cachepell* became such a landmark that it entered the conscience of local residents as an eponym, a name that defines a place to be enshrined in a street name, as happened in Dundee. Before the burgh court in January 1597/8, David Yeoman elder made a statement concerning a liberty he was given to make an opening of a side wall in a tenement in St Matthews’ Close on the north side of Argyll’s Gate. This was for a window looking towards ‘ye clois of ye said mr Johnis [Mr John Lovell’s] teneme[n]t callit ye kaitchepell clois’.<sup>51</sup> The name remained a common land feature and descriptive term until at least the 1720s when a land sale of 1723 placed it east of a piece of waste ground, south-east of the old burying-ground and north-east of the Overgate. As a result this close, ‘commonly called catch-pool Closs’, was very much in a central location at the heart of Dundee.<sup>52</sup>

The Scottish capital boasted many facilities for people to enjoy a game of *cache* and a study of these courts has underlined a few important aspects. Edinburgh enjoyed at least sixteen courts in total (fourteen private, a university court and the royal court) over the period 1550–1650. First and foremost, this sheer number of courts then present in the capital is indicative of the game’s popularity as confirmed by the specific mention of that sport in the statutes of the university. The location of the *cachepells* reveals that these were not confined to remote places at the outer edges of the burgh but were actually evenly spread from the periphery (adjacent to the then North Loch) to very much a central position. This meant a greater social mixture (between the sporting and working environments). In terms of ownership, the Edinburgh social élite (landlords, civic magistrates and the higher echelons of both the legal profession and the trades) possessed a number of these courts and others were held by burgesses, merchants, and tradesmen. The control of these courts hence lay not with royalty and the nobility but lower down the social scale through a broad range of professions. A number of these *cachepells* were rented out to tenants from whom players could purchase balls on a pay-per-game basis.<sup>53</sup>

<sup>50</sup> GCA, B10/1/4, ff. 55r–6r.

<sup>51</sup> DCA, Dundee Burgh and Head Court Book, 1597–99, 6 January 1597/8.

<sup>52</sup> DCA, Dundee Register of Deeds, vol. 464, ff. 790r–2v. Thanks to Gillian Molloy for this reference. This was not an isolated phenomenon as Edinburgh had three of its closes named (Little) Caichepoole Close: C. B. Boog Watson, ‘List of Owners of Property in Edinburgh, 1635’, *Book of the Old Edinburgh Club*, 13 (1924), 112, 127.

<sup>53</sup> T. Brochard, ‘*Cachepell* and Tennis in Edinburgh in the Sixteenth and Seventeenth Centuries’, *Book of the Old Edinburgh Club*, new ser. 15 (2019), 109–18, with this correction

In April 1602, the Perth burgh court ordered Mr George Boswell, a local burghess, to pay carpenter James Mar 14 marks 2s. 'for reparing of his kaitschpaill' and for timber, nails, and 'materiallis' furnished by Mar for that purpose at Boswell's desire. Boswell had to pay or face the penalty of the seizure of his goods or warding of his person, and he also had to pay an additional 6s. 8d. to cover the legal costs of Mar's case.<sup>54</sup> Boswell was actually none other than a royal surgeon in King James' service over the period 1583 to 1602.<sup>55</sup> Perhaps Boswell at times invited his neighbour, Mr Patrick Johnston, master of the grammar school, for a game. In March 1611, one of Johnston's properties, presently acquired from the Boswells, was bounded, among others, by '[t]he catchpuill' of Boswell and his son, Mr George Boswell, west of the Spey Gate.<sup>56</sup> Tennis was thus a distraction for some of Perth's professional élite. It is very wise to bear in mind that some of these players might have been introduced to the game, or indeed wanted to keep practising their Scottish distraction, during their stay on the continent.<sup>57</sup> Later, in January 1627, its location is given as being on the south side of the South Gate, bounded by the Spey Gate at the east and that South Gate at the north (at the intersection of modern South Street and Speygate). The property was then held by Mr George's son, John Boswell, who with the consent of his sister, Margaret Boswell, sold it to local burghess John Fleming. However, Fleming secured from the local bailies an inquest to assess his new purchase consisting of tenements and 'ye Keitchpuill zeard yrof' as

that there were only sixteen courts in total; there is a possibility that the Stewarts actually possessed the Fleming tennis court (p. 113), which would explain the presence of these binding tools on site. More tellingly, the couple was actually the parents of Robert Stewart who let his *cachepell* for rent in 1601, showing this to be one and the same court: J. M. Sanderson, 'Two Stewarts of the Sixteenth Century: Mr William Stewart, Poet and William Stewart, Elder, Depute Clerk of Edinburgh', *The Stewarts*, 17 (1984), 25–46, 31, 36.

<sup>54</sup> PKA, B59/13/3, ff. 95v–6r, 6 April 1602. The court additionally acquitted Boswell from another debt claimed by Mar.

<sup>55</sup> A. L. Juhala, 'The Household and Court of King James VI of Scotland, 1567–1603' (PhD thesis, Edinburgh University, 2000), 313. Bothwell was dead before January 1617 at the latest: PKA, B59/13/4, f. 50r.

<sup>56</sup> PKA, B59/13/36, Perth Burgh Records, Register of Judicial Ratifications, f. 4r.

<sup>57</sup> Certainly, one such man was Sir David Graham of Fintry who kept his accounts during his trip to France in 1571. On 6 April 1571 while in Paris, he recorded spending 4 French sous 'In the catchpuill for ballis'. Two months later, in early June, Fintry was back on the court where he spent another 6 sous for balls. Accordingly, in Paris it was common practice to pay for the balls every time a player went to the ground to play: NRS, GD151/13/13, Graham of Fintry Muniments, pp. 10, 20. These ball charges were likewise found at Leith: R. S. Fittis, *Sports and Pastimes of Scotland* (Paisley, 1891), 151. On that theme of accidental sports tourism as an activity during a gentleman's European Grand Tour, consult J. McClelland, 'The Accidental Sports Tourist: Travelling and Spectating in Medieval and Renaissance Europe', *Journal of Tourism History*, 5 (2013), 161–71, who only considers the activity from a spectator's perspective not from that of an ad hoc player.

these were ‘altogiddir ruinous decayit and in perrill of tynsell [ruination]’. The inquest put the necessary repairs at a cost of 2,000 marks. Fleming intended to improve them ‘for policie and decora[ti]oun of ye said burt [Perth]’ but required a guarantee from the inquest to avoid being evicted once the repairs were completed.<sup>58</sup> The work done by carpenter Mar earlier that century or at the end of the previous one had proved insufficient and more structural repairs on a grander scale were necessary for the tennis court.

The burgh records of Perth mentioned a second tennis court, as in Aberdeen. By a rather strange coincidence, at about the same time as the other court was noted as ruinous, so too was that second one. In early October 1628, tailor Duncan Macqueen and his wife Janet Blackwood presented a supplication to the council. They were the legal holders of a property formerly belonging to tailor Thomas Dalgleish, who himself held it from his father, Thomas Dalgleish, a local saddler. That property contained a ‘keitchpuill’ and its own ‘bakland’, or back portion, and was bounded by the North Gate (High Street) at the north. But the property had seen better days: it had been ‘thir diuers zeiris bygane’ for the most part completely ‘Rwinous waist decayit’ and likely ‘to fall doun to the grund’, and the walls not able to be built upon. The Macqueens intended to repair it but wanted an initial survey to be done. They additionally wanted a comparable guarantee that if they were evicted or these lands be redeemed that they would then be reimbursed of the reparation costs. The surveyors concurred with the Macqueens’ view of the dilapidation of the property and that as such it could draw no rent or duties. They estimated the repairs to cost 1,000 marks and the court confirmed the future refund in case of eviction.<sup>59</sup>

The game was not absent from lesser-populated burghs such as Ayr. In late March 1598/9, Alexander Kennedy, burghess, ratified a sale he had made earlier that month to fellow burghess William Rodger of six small houses in the Trinity or Kirk Vennel leading to the church on the north side of the said vennel (in the vicinity of modern St John Street). These were bounded to the west by the land of Robert Jameson called ‘the kaitchpill’. Burgess Jameson was a prominent member of the local community serving as one of the bailies.<sup>60</sup> The tennis court featured as a boundary marker in other Ayr sasines at the time.<sup>61</sup> It had actually been in the Jameson family for some years. In November 1586, a burgh court heard the confession of Effie Cunningham who had received stolen property. Being also accused of theft, she admitted that she and Janet Thomson on two separate occasions ‘oppi[n]nit ye kaitchpill’ of John Jameson with ‘ane falss key’ and at night ‘tuk owt certane colis [coal] furt of ye

<sup>58</sup> PKA, B59/13/5, ff. 87r–8r.

<sup>59</sup> PKA, B59/13/5, ff. 226r–7r.

<sup>60</sup> NRS, B6/1/2/2, Ayr Burgh Protocol Books, ff. 315v, 444r–v, and on Jameson see ff. 316v, 328v; J. D. Shearer, *Ayr and its People: From 1428 to the Time of Burns* (Ayr, 2004), [http://www.jdshearer.com/ayr\\_online.html](http://www.jdshearer.com/ayr_online.html), section ‘The Buildings’, no. 25 (no. 26 for Kennedy’s six houses).

<sup>61</sup> NRS, B6/1/4/1, ff. 7r–8r.

same'.<sup>62</sup> The playground remained in the Jameson family until 1619 when it was sold to Adam Richie.<sup>63</sup> On a reconstructed map of contemporary Ayr using a large range of burgh records, the tennis court appears yet again in a central location, very near the tolbooth. As in Aberdeen and Perth, Ayr possessed a second court which was a tenement with a *cachepell* belonging in the 1580s to bailie Charles Campbell and his son, Robert. Just as with Jameson's facility, that of the Campbells' was near the market cross and tolbooth on the south side of the modern High Street.<sup>64</sup> One of these ball courts was the location of the 1519 incident narrated below.

The popularity of the game in the sixteenth and seventeenth centuries is apparent through its presence in relatively smaller burghs, as seen with Ayr above. Nearby Maybole even boasted a *cachepell* in 1613.<sup>65</sup> Another court was found in Cupar in Fife. At a head court in the burgh in October 1630, various individuals were charged to make payment to the assignees for debts owed to the deceased chaplain Thomas Spens (died 1627). One of the debtors was John Paterson younger for arrears dating back to 1602 standing at 2s. annually 'furth of his tene[m]ent Caitchspell [sic]'.<sup>66</sup> This shows that Paterson rented the *cachepell* from chaplain Spens. A clergyman was the owner of a sports court at this time.

Once the court was up and running, all that was needed was the equipment for the game. This was not overly difficult. In May 1599, William Bannerman in Edinburgh bought 'c[er]tane Catchepule balls' from a John Rodger. Not being forward with the money, Rodger judicially pressed Bannerman for payment in February 1600. In fact, this John Rodger can be identified as the town's contemporary fencing-master already discussed in this article's Part One, as inferred from his stock of 'cachpeill ballis' and 'new raketis' listed in his deathbed inventory.<sup>67</sup> Earlier on, in March 1548/9 in Perth, Alexander Nicholson had a

<sup>62</sup> AA, B6/11/1/3, ff. 396r–v, 398r–v; Shearer, *Ayr*, section 'The Buildings', no. 25. The author, after rightly describing the term 'kaitchpill' as a tennis court, refers to no. 25 as a warehouse (a meaning not recognised by the *Dictionary of the Older Scottish Tongue*), trying to reconcile that theft of coal from the *cachepell* when the coal could simply have been stored in a corner or used to heat the building. Shearer is erroneous in having Marion Stobo as the coal thief; she was the thief whose other stolen goods Effie received.

<sup>63</sup> NRS, B6/1/4/1, ff. 149v–53v (Barbara Jameson); Shearer, *Ayr*, section 'The Buildings', no. 29.

<sup>64</sup> Shearer, *Ayr*, section 'The Buildings', no. 53.

<sup>65</sup> J. Brown, 'When Carrick Was Like the Wild West', *Ayrshire Notes* (2019), 54. James Brown is duly thanked for this reference.

<sup>66</sup> University of St Andrews, Special Collections (hereafter SAUL), B13/10/2, Cupar Court and Council Books, 12 October 1630.

<sup>67</sup> ECA, Edinburgh Burgh Court, Diet Book, 1599–1601, 7 February 1600. There were a few active John Rodgers in Edinburgh at the time, including a merchant and a tailor, but also a fencing-master: (ed.) C. B. Boog Watson, *Roll of Edinburgh Burgesses and Guild-Brethren, 1406–1700* (Edinburgh, 1929), 429; T. Brochard, 'Sports in Scottish Burgh and Notarial Records, 1500–1700, Part 1', *Scottish Archives*, 27 (2021), 95. At his death, fencing-master

dispute with Andrew Dalgleish over some mutual debts. Dalgleish admitted his debt to Nicholson of eight 'plakks [small billon coins] for ballis' but, under oath, testified that he had already paid Nicholson 'for ye me[n]ding of his rakkats'. The court cleared Dalgleish of this additional 6s. claimed by Nicholson for the repair to these rackets. This would suggest that a variety of modern tennis or *cache* with rackets was already being played in Perth by the mid-sixteenth century.<sup>68</sup> The present writer is inclined to believe that this Andrew Dalgleish was none other than the father of saddler Thomas Dalgleish who, as seen above, held one of the *cachepells* in Perth. Saddler Thomas' father is known to have been an Andrew Dalgleish, another Perth saddler.<sup>69</sup> This would hence explain Andrew's need to mend his rackets to play on his own court and would also establish that the Dalgleish court was built prior to 1549.

As with golf or archery, accidents happened at times. In June 1519, local notary Gavin Ross was at the church of St John the Baptist in Ayr. His presence was required to record an agreement to settle disputes between chaplain Sir John Fair and layman Duncan Lathis through arbitration. Lathis had suffered some injury and loss of an eye caused by a tennis ball ('*pile stophalis*') thrown and struck from Sir John's hand. The arbiters agreed to give their decision two months later.<sup>70</sup> Early in the sixteenth century, some clergymen clearly enjoyed entertainment and recreation in Scottish regional towns.

Time and again, the local authorities were forced to ban sporting practices as these infringed upon the sacred. The town magistrates acted in co-operation or in unison with the Kirk in the matter as has been well demonstrated across the country.<sup>71</sup> Generic legislation passed by burgh councils show the concern of the local authorities to protect the sanctity of Sundays, regardless of the types of non-religious activity. In early February 1581/2, Elgin magistrates issued an ordinance for all inhabitants to attend church on Sundays before the ringing of the third or last bell and to remain until prayer or preaching be done, and not wandering about town or be 'occupeit in ony kynd of pastyme' during divine service under a 2s. fine.<sup>72</sup> These urban proscriptions albeit terse at times can be very informative. In January 1585/6, Forres prohibited its residents to 'tak vpon hand to play In ye kirk zarde athir at futt baw or caiche vpon the

Rodger had three 'gross of cachpeill ballis' (24s. per gross or £3 12s. in total) and three 'new rakettis' (13s. 4d. each or 40s. in total): NRS, CC8/8/42, p. 477.

<sup>68</sup> PKA, B59/12/3, Perth Court Books and Court Minute Books, f. 92v. A group of cache balls dating from the eighteenth or early nineteenth century was rediscovered in 1999 at the University of St Andrews: I. Carradice and P. W. Rogers, 'A Group of Cache Balls from St Andrews', *Proceedings of the Society of Antiquaries of Scotland*, 132 (2002), 521–8.

<sup>69</sup> PKA, B59/13/5, ff. 162r–4v; (ed.) M. L. Stavert, *The Perth Guildry Book, 1452–1601* (Edinburgh, 1993), no. 635.

<sup>70</sup> NRS, NP1/1, Protocol Book of Gavin Ross, f. 80r–v.

<sup>71</sup> M. Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven, 2002), chap. 1, 186, 217–19, 341–3.

<sup>72</sup> MA, ZBEL, B2/3, p. 782.



kirk' under a 10s. fine.<sup>73</sup> But to no avail. Pastimes and distractions held a far greater attraction to a number of people than religious sermons. The authorities were left powerless and re-enacted the very same legislation about three years later, underlining the fact that these games were there to stay and be played. In November 1588, the council impelled all the inhabitants both free and unfree to keep the church on the Sabbath, under a 5s. fine for those recalcitrant to the by-law. The magistrates banned any 'play [that be] visit In ye kirkzarde specialie ye cache fitt baw' under the penalty contained 'i[n] ye auld acts'.<sup>74</sup> Profane pastimes on Sundays were heavily condemned and curtailed.<sup>75</sup> These two sports, football and *cache*, must have been relatively popular in the Moray town for the town to decide to outlaw not their practice per se but rather the location of such entertainment. Also, beyond the availability of tennis courts in town as seen above, it is interesting to note that the game of *cache* could be played without such a purpose-built facility.

### Football

Like golf, football remained a popular sport despite its condemnation and ban by the Scottish government from 1424 onwards into the mid-seventeenth century, following on from similar statutes in England from the late fourteenth century, as a reprehensible distraction from archery or as a source of disorder. This prohibition was echoed by complaints and bans in the Scottish localities but the legislative opposition did little to dent the overall long-term popularity of the sport.<sup>76</sup> Its popular appeal was undeniable right across the country. For instance, it was being played at a bridal feast in Caithness in 1583.<sup>77</sup> Lairds certainly

<sup>73</sup> MA, ZBFo, B2/1, Forres Burgh Court Books, p. 14. There was a comparable prohibition of the game being played in churchyards in other Scottish towns, such as at Banff in 1549 or Kirkcudbright in October 1580: W. Cormack, 'Sport and Physical Education in the Northern Mainland Burghs of Scotland, c.1600–1800' (PhD thesis, University of the Highlands and Islands, 2016), 194; (ed.) M. B. Johnston and C. M. Armet, *Kirkcudbright Town Council Records, 1576–1604* (Edinburgh, 1939), 125.

<sup>74</sup> MA, ZBFo, B2/1, p. 199; R. Douglas, *Annals of the Royal Burgh of Forres* (Elgin, 1934), 36, noted the January 1586 legislation but not the one of November 1588.

<sup>75</sup> This went hand in hand with the ban on any breach of Sunday observance including any other social games, and games of chance in particular, such as 'kairting [playing at cards] & dysing': Dumbarton Heritage Centre, DB1/1/1, Dumbarton Town Council Minutes, 1627–41, 12 March 1639.

<sup>76</sup> N. Tranter, 'Early Football at Callander', *Forth Naturalist and Historian*, 23 (2000), 143–8, 143–4, which despite the limited purview of its title is very informative for Scotland as a whole; F. P. Magoun Jr, 'Scottish Popular Football, 1424–1815', *American Historical Review*, 37 (1931), 1–13, 1–3; Todd, 'Profane Pastimes', 150, for Elgin kirk session legislating in 1599 against playing football through the town at Yuletide.

<sup>77</sup> R. Gordon, *A Genealogical History of the Earldom of Sutherland* (Edinburgh, 1813), 180. The death of George Gordon, 5th Earl of Huntly, in October 1576 at his own residence of Strathbogie, 'cumyn fra ye fuitbau', shows that football was also played in rural parts and by the Scottish social élite: (ed.) R. J. Adam, *The Calendar of Fearn: Text and Additions*,

wanted to dissociate football as a permissible activity in the vicinity of their castle, though this view was not universally shared.<sup>78</sup> By around 1620, Sir Robert Gordon, tutor to John, fourteenth Earl of Sutherland, execrated football as ‘a dangerous and vnprofitable exercise’, which rejoined its denunciation in both medieval and Elizabethan England along a rationale of violence.<sup>79</sup> At the time, the sport’s popularity passed into metonymic figures of speech with far geographical reach, such as in Easter Ross. One Sunday in July 1621, Thomas Ross of Logie verbally abused Angus Macdonald (‘McRonald’) of Ulladale while attending a meeting of the kirk session at Logie Easter. Ross threatened Macdonald with making a ‘footeball of his head’.<sup>80</sup>

The Church worked in conjunction with the civil authorities to curb dominical profane activities, including sports. In Cupar, in August 1628, four residents serving as sureties presented Thomas White, Nicol Alison, James Ford, David Page, David Smith, John Brown, Robert ‘alraige’ and John Newlands to the town magistrates ‘ffor thair convectione for playing at ye foot ball wpone the sabbothe day’ and also for escaping from the local tolbooth, so as to be censured. Yet the council postponed their sentence until they ‘be censurit first be ye kirk sessione’. These sureties bound themselves to produce the delinquents to the kirk session on the following Sunday and to the town magistrates on the Tuesday next thereafter.<sup>81</sup>

Despite the burghs’ fulminations against and proscription of football being played on a Sunday, urban officials did not object against the game per se. In fact, at times, these public bodies spent revenues on the sport. In the Glasgow treasurer account, there is a record in March 1581/2 of 12s. allocated from the

1471–1667 (Edinburgh, 1991), 152. A more insightful analysis of sport with its health, social, cultural and political value to the élite is made in J. Williams, ‘Sport and the Elite in Early Modern England’, *Sport in History*, 28 (2008), 389–413.

<sup>78</sup> M. Glendinning *et al.*, *A History of Scottish Architecture* (Edinburgh, 1996), 41; K. M. Brown, *Noble Society in Scotland: Wealth, Family and Culture, from Reformation to Revolution* (Edinburgh, 2004), 209, 216.

<sup>79</sup> (ed.) W. Fraser, *The Sutherland Book*, II (Edinburgh, 1892), 359; P. Burke, *Popular Culture in Early Modern Europe* (Farnham, 2009), 295; N. Elias and E. Dunning, ‘Folk Football in Medieval and Early Modern Britain’, in (ed.) N. Elias and E. Dunning, *Quest for Excitement: Sport and Leisure in the Civilising Process* (Dublin, 2008), 175–90, setting football as an occasion, sometimes ritualised, for the commoners’ greater solidarity but also conflict against the efforts by the authorities to suppress the game as riotous. This violence was not without foundation as is narrated in Magoun, ‘Scottish Popular Football’, 4–6.

<sup>80</sup> (ed.) J. H. Burton *et al.*, *The Register of the Privy Council of Scotland*, 1st ser., XIII (Edinburgh, 1896), 456. Other football allegories can be found in Burnett, *Riot*, 88–9.

<sup>81</sup> SAUL, B13/10/2, 21 August 1628. A surety was found for David White younger to appear also at that next kirk session and before the town magistrates so he might also have played football on Sunday alongside the other outlaws. For a comparable violation of the Sabbath as censured by the kirk sessions, c.f. P. Baxter, *Football in Perthshire: Past and Present* (Perth, 1898), 17–18.

public purse to John Andrew to purchase ‘foote balls’.<sup>82</sup> What is interesting in this case is that Andrew was actually a court officer (dempster). However, it is safe to speculate that these footballs would have been used in a wider social or cultural context associated with Andrew’s profession rather than in his civic capacity or for his own private use as an individual. Indeed, the same register noted these one-off payments to Andrew each year yet again in February 1582/3 and for the fiscal year 1583/4.<sup>83</sup> Both times Andrew was listed as a shoemaker. So, the payments were made to him in his professional capacity as the craftsman who manufactured these footballs. Both payments were again for 12s. and the last one, in 1583/4, actually specified that this was for six footballs. Whether these were for the boys at the local schools or recreational activities (associated with, say, markets and fairs or otherwise) is not apparent. After Andrew’s resignation or death, the council continued the practice with the appointment of his successor. In January 1589/90, shoemaker John Neil was made a burghess. The council waived his enrolment fee in exchange for the ‘furneissing zeirle duri[n]g his lyfytyme vpoun fastreinsewin [Shrove Tuesday] of sex guid & sufficie[n]t futt ballis’ or 20s. instead. This was done at Neil’s solicitation after approaching the council.<sup>84</sup> Actual payments to Neil over the years occasionally appear in the records spanning three decades.<sup>85</sup> Consequently, shoemakers were the craftsmen who manufactured footballs in that period and were commissioned by the local government through the regular purchase of footballs using public monies. The dating for the delivery of these balls might not be insignificant and, if the following entry from nearby Rutherglen is anything to go by, then in all likelihood Glasgow held a similar football game on an annual basis on Shrove Tuesday. The sheer number of balls (six) commissioned by the council attested to a single ball not lasting through the game (through poor quality and/or rough handling). An alternative is that a ball was removed from play once a goal had been scored, becoming the property of the scorer or his team.<sup>86</sup>

In Rutherglen in January 1626, a local maltman, Robert Dykes, appeared in front of the burgh court and was fined for various offences. At the command of the provost and bailies, law officer John Fairie accompanied by other officers went to distraint upon Dykes for the small fine of 16s. But Dykes, assisted by his wife, prevented Fairie from discharging his legal duties. The said fine had been issued upon Dykes ‘for not going to the grein wt the remanent burghess[e]s of the

<sup>82</sup> GCA, C1/1/2, Glasgow Town Council Minutes, f. 147r.

<sup>83</sup> GCA, C1/1/2, ff. 149r, 150v.

<sup>84</sup> GCA, C1/1/3, f. 137v.

<sup>85</sup> GCA, C1/1/6, f. 103r. In March 1606, 26s. 8d. was allocated to Neil for ‘futbalis’. He received that exact sum yet again in early 1611 for an undisclosed number of ‘futeballis’: GCA, C1/1/7, f. 95r. Both Andrew and Neil are briefly discussed in Magoun, ‘Scottish Popular Football’, 3.

<sup>86</sup> This is the practice, for example, in Border ba’ games at the present day. After a goal, play is restarted with a new ball. This comment owes to the kind generosity of one of the reviewers.

said brut to the fit ball at fastereins evin last'. It reveals that Rutherglen organised an annual football game on its green on Shrove Tuesday in which all its burgesses were duty-bound to participate. This was not something new by any means. In fact, this had been 'ane auld custome wtin this brut past memorie of man'.<sup>87</sup>

### **Bowling/Skittles/Ninepins**

Various forms of bowling games were practised across Europe, each having multitudes of variants across the continent. In Scotland, as with other games, their traditions and emergence in the written records came with the royals, when King James IV played 'lang bowlis' and 'kilis' [skittles] in the closing years of the fifteenth century.<sup>88</sup>

The game mostly makes an appearance in the burgh records through legislation and local by-laws. In May 1585, Elgin town council forbade anyone 'zoung nor auld' '[t]o entir wtin ye kirkzaird of ye p[a]roche kirk of ye said burgh To play at kylis portbowlis or ony vy[er] pasteme' under the penalty of 40s. Parents became liable for 'the Bairnis' caught doing so as did 'ye guidman of the hous' for the countryside 'gentillmen & bairnis' boarded in their houses.<sup>89</sup> As one would expect, this showed that the game was popular among the town's youth. This Act reveals the contemporary social conditions and especially the boarding of rural pupils attending the local school and of landward apprentices staying in town who could thus play these games.

In October 1597, Aberdeen town council ratified one of their former statutes which banned 'the playeris in the linkis And at the kyillis [skittles or ninepins] During the tyme of the sermons'.<sup>90</sup> This intimation fell on deaf ears considering the amusement-minded Aberdonians. The breach of the statute was such that the council felt duty-bound to have it ratified on an annual basis in both October 1598 and October 1599.<sup>91</sup> This attitude was characteristic of urban magistrates across the country who legislated to protect the Sabbath. In late March 1647, it was the turn of the Chanonry of Ross to make a stand against those going 'to

<sup>87</sup> GCA, RU 2/1/1, Rutherglen Court and Council Book, 1619–35, f. 84r–v. Compare with the football game in Duns (Berwickshire) where a similar public proclamation for attendance at the game took place and for other annual football matches at Shrove-tide across Scotland and England: G. Watson, 'Annual Border Ball-Games', *Transactions of the Hawick Archaeological Society* (1922), 5. The village green was a central feature for sports in rural England: E. Griffin, *England's Revelry: A History of Popular Sports and Pastimes, 1660–1830* (Oxford, 2005), chap. 8.

<sup>88</sup> J. Burnett, 'Bowling', in (ed.) Jarvie and Burnett, *Sport*, 39–53, 39; Burnett, *Riot*, 36–45.

<sup>89</sup> MA, ZBEL, B2/3, p. 1042.

<sup>90</sup> ACA, CA1/1/37, p. 39. The links were a popular destination for recreation across the country, as at Dornoch. There in the first half of the seventeenth century, the coastal links were commendably depicted as 'fit for Archery, goffing, riding and all other exercise': (ed.) W. Macfarlane, *Geographical Collections Relating to Scotland*, (ed.) A. Mitchell, III (Edinburgh, 1908), 103; also Geddes, *Swing*, 9.

<sup>91</sup> ACA, CA1/1/38, pp. 16, 869. Dundee had likewise issued a decree in 1558 against Sunday bowling and other recreations: Burnett, *Riot*, 20.

kylling bowling pennistoun and other Idle and prophane exercise' on Sundays, and the council imposed fines on a sliding scale from the councillors down to the commoners.<sup>92</sup>

Matters took a turn for the worse in Dundee. In August 1598, Andrew Duke consented to be banished from the town next time he was found 'playand at ye kyllis' within the bounds of the burgh. The reasons that motivated such an extreme sentence are not hard to find. In the immediately preceding entry, Duke was convicted for breaking the head of John Leach ('leitchie/Lithie') and ordered by the local court to make amends to him. Linking these two entries together, it follows that the game could turn violent and did so with serious injuries in Leach's case.<sup>93</sup>

In Glasgow, the town council targeted pupils and apprentices for the damage they not only caused to themselves ('deboscherie') but also in degrading the residents' orchards and kitchen gardens, breaking their trees, destroying their herbs and seedbeds. In April 1610, it was noted that these youths resorted to 'the zardis qr the aliebowlis frenche kylis, and glaikis ar vsit' and caused such destruction. Strangely enough, the town judiciary did not prohibit such youngsters from playing these games during the week, but instead banned the owners of these alleys and gardens from allowing any schoolchildren and apprentices in these places to play these games under a £10 fine. However, there was a strict restriction on anyone playing there on the Sabbath. The town officials furthermore tried to channel such avid recreational proclivities of the youths towards more meaningful purposes and exercises. It intimated to the master of the grammar school to order his pupils to prepare 'thair bowis for the Archeris to yair pastyme'.<sup>94</sup>

Bowling does not appear that frequently in the burgh and notarial records compared to horse racing, golf, or tennis. In Elgin, a group of burgesses met, presumably in early 1585, to play 'at ye allay bowlis'. They played in teams: on one side were the premier magistrate of the town, provost James Douglas, along with burgesses Mr James Gardyne and Thomas Hay, and on the other the family pairing of burgesses Alexander Guthrie and his son James. Unfortunately for the Guthries, they lost the game that day. Much more importantly, they also lost the 26s. 8d. wager which they then asked William Gibson, a local burgher, to pay to the winners. In late April 1585, the burgh court sentenced the Guthries to deliver the sum to Gibson.<sup>95</sup> Later on during the civil wars, the local council in Elgin passed an Act in April 1654 banning 'the playing with boulls or bullets',

<sup>92</sup> NRS, B28/7/1, Fortrose Court and Council Records, 27 March 1647.

<sup>93</sup> DCA, Dundee Burgh and Head Court Book, 1597–99, 28 August 1598.

<sup>94</sup> GCA, C1/1/7, f. 34r. For more on that theme, consult P. Durand, 'The Game of Bowls, and Some Glasgow Bowling Clubs and Trophies', *Old Glasgow Club Transactions* (1936–37), 41–52. This was also the essence of the June 1598 Scottish legislation regarding the establishment of a day in the week for 'pastime', which instructed schoolmasters to dismiss pupils on Monday afternoons for their exercise: Cormack, 'Playing by the Rules', 310.

<sup>95</sup> MA, ZBE1, B2/3, p. 1038.

and forbidding anyone to ‘cast ey[the]r of them’ at both the east port to the west of the sub-chanter’s wynd and at the west port to the east of Thomas Anderson’s house.<sup>96</sup>

The issue in Elgin might have been the lack of a licensed bowling alley in town. Having these venues in the larger burghs meant that people could play the game without infringing the law or invading public space. By the Restoration, there was at least two such bowling alleys available in Edinburgh. As it turned out, one was actually converted from one of the town’s *cachepells* situated on the north side of the High Street in Brown’s Close, bounded by the wall of the college kirk cemetery and the burgh wall to the north.<sup>97</sup> In June 1664, the facility was granted to merchant Thomas Downie and his wife Margaret Dobbie.<sup>98</sup> The other bowling ground was located in an area known as the wester croft of Bristo (roughly the area between present-day West College Street, Crichton Street, and Bristo Place). Towards the south of that area in 1655 could be found ‘the bouling grein’. The whole structure – ‘the bouling yaird’ – was then enclosed, at least on its northern side, by a ‘dyck’.<sup>99</sup>

### Conclusion

The burgh and notarial records have proved a rich resource in furthering our understanding of sports in early modern Scotland. They have pushed back in time the dates when these (annual) events were held and thrown light unto their specifics (location, players, organisation, uses ...) and the social interaction of participants. The geolocation of sports has redefined the centrality of the location of urban tennis courts, as opposed to their relegation or confinement to the periphery, and shown a greater social mixture between the sporting and working/residential environments. *Cachepell* was played in smaller towns and was also a much more prevalent urban game, given the sheer number of courts, than previously known.

Within these registers’ pages are contained elements that underscored the institutionalisation and professionalisation of early modern sport, such as the large-scale production of sports equipment, the emergence of a professional sector with its producers of sporting implements and workers,

<sup>96</sup> MA, ZBEI, A2/7, 10 April 1654.

<sup>97</sup> The transition from *cachepell* to bowling alley is not that clear-cut: Brochard, ‘*Cachepell* and Tennis’, 110.

<sup>98</sup> NRS, B22/1/87, Protocol Book of Sir William Thomson, 1662–64, ff. 305v–6r. See the initial efforts by Haddington to establish a short-lived bowling green at the time: Burnett, ‘Bowling’, 40. Burnett also comments on bowling greens beside private houses: Burnett, *Riot*, 43. These constituted an important aesthetic element in the rural landscape, such as the special guest apartments overlooking the bowling green at Dunnottar Castle: Brown, *Noble Society*, 209.

<sup>99</sup> ECA, Moses bundle 39, no. 1616. The context is provided by J. Smith, ‘Easter and Wester Crofts of Bristo’, *Book of the Old Edinburgh Club*, 22 (1938), 56–90, 78, 81, pointing out that the bowling green was still extant in 1713 and 1754.

and an international trade in sporting goods. That phenomenon is also seen through the presence of sports teachers, grounds and halls, as well as through the emergence of regulations.<sup>100</sup> Aside from that professionalisation, betting was at times integral to the gaming experience. Furthermore, violence cannot be considered as separate from games, either through accidents or the use of sporting gear as weapons. Both the civil and ecclesiastical authorities legislated to protect the sanctity of the Sabbath and the use of public and sacred space as opposed to condemning or eradicating sporting activities. These institutional actors guiding and setting the agenda nonetheless had to accommodate with an inherent element of life: the need for amusement. This study has underlined the geographical mobility of a number of these professionals and the combination of their work in sports with other paid activities. The burghs were keen to capitalise on these transferable skills but also (in a quite eye-catching way for the historian) to attract audiences to town. The sources consulted offer but a limited insight into this subject of spectators which would require further investigation, for instance concerning measures taken to encourage spectators or the study of the spectators themselves, including female audiences.

<sup>100</sup> Behringer, 'Arena', 355.