

Workshop six

Leisure and Games

Governments and parliaments are also concerned with the control of leisure time from statutory limitations on working hours to the setting up of agencies to classify films according to their suitability for audiences of particular ages. In workshops three we have seen how censorship was carried out in medieval and early modern Scotland but generally a range of economic, social and moral motives justified legalisation that moderated conduct, and this is the case with games, sports and leisure time as can be seen for the examples that follow.

[Football was not popular with medieval governments and parliamentarians. The first act prohibiting playing football (see below) appeared in 1424 in the reign of King James I, but the context of this and other later measures is rarely appreciated. The act immediately following of 1491 relates the need to practice archery on holy days in order to improve proficiency for the benefit of all. Similar acts were passed in 1457 and 1471 and these specifically mention archery practise on Sundays, but also golf, Scotland's other national game, as well as football as being banned. This clause from the 1491 act for holding wappenschaws, or periodic musters of fighting men with their weapons, confirms the link between defence and martial training in the mindset of the crown and legislature. The move from bows to gunpowder rather than the popularity of football accounts for 1491 being the last instance of parliament attempting to control the disruptive impact of the game. The acts appeared in April or May confirming that it was a summer not a winter pastime!]

{‘Act to ban football’, 1424}

It is decreed and the king forbids that any man play football under the pain of 4 *d.* to the lord of the land as often as he is convicted by the sheriff of the land or his ministers, if the lords will not punish such trespassers

[RPS, 1424/19]

{‘Act for holding wappenschaws’, 1491}

It is decreed and ordained that each sheriff, steward or bailie of the realm cause wappenschaws to be held four times a year in all convenient places within his bailiary in this way: that each gentleman who has £10 worth of land or more is adequately furnished and armed with a basinet [*steel head-piece, a helmet*], sallet [*light globular headpiece, either with or without a vizor, and without a crest, the lower part curving outwards behind*], metal hat, gorget [*piece of armour for the throat*], or pisane [*mail collar forming part of a cape extending over the shoulders and upper part of the breast*], whole leg harness, sword, spear and dagger; and gentlemen who have a small amount of land or [are] unlanded shall be armed as far as possible according to the view and discretion of the sheriffs, bailies and such persons as our sovereign lord will depute and commission for this; and honest yeomen with sufficient power who choose to be men of arms shall be sufficiently furnished according to the discretion of the said sheriffs or commissioners; and all other yeomen of the realm between sixteen and sixty [years of age] shall have sufficient bows and sheaves, sword, buckler, knife, spear or good axe instead of the bow; and that all burgesses and inhabitants of burghs of the realm in similar manner be armed and furnished and hold wappenschaws four times a year as is said, and that the aldermen and bailies, of which the chamberlain or his deputies shall know

and execute the said things. And that all men of the realm of burgh and country, spiritual men's servants and temporal be well purveyed with the said harness and weapons by the next feast of Midsummer [21 June], which will be the day of their wappenschaw, under the following pains: that is to say, 40s from each gentleman who fails at the first wappenschaw, and another 40s for the second failure, and £10 for the third failure, and £10 as many times and as often as he fails after that; and 10s from each bowman at the first failure, 10s at the second [failure], and 40s at the third [failure], and 40s so on as often as he is found at fault after that, and thereafter [according to] the value of their lands and goods. That every man be furnished and equipped in his body with white harness, [i.e., plate armour as opposed to mail] brigandine, ['Body armour composed of iron rings or small thin iron plates, sewed upon canvas, linen, or leather, and covered over with similar materials'] tin or good jakkis ['A jerkin or doublet of defence, with or without sleeves, usually of leather lined or padded'] with plate armour and gauntlets and complete harness, well mounted, corresponding to their lands and goods by the discretion of the aforesaid sheriff, commissioner or officer. And further, that football, golf or other similar unprofitable sports are not to be played anywhere in the realm, but for the common good and defence of the realm the practice of shooting bows and archery butts are therefore ordained in each parish, under the pain of 40s to be raised by the aforesaid sheriff and bailies from each parish each year where it is found that archery butts or shooting practice is not done as is said.

[RPS, 1491/4/17]

[We are accustomed to the weekend being for leisure and sport with the Christian tradition of Sunday as the Sabbath and day of rest. However, the following act of 1598, from the reign of James VI, shows that the parliament was so concerned about the population working on Sundays that Monday was established as a non-working day. Official business, such as civil and criminal courts would not operate. In effect the weekend would be Sunday and Monday. Students were also expected to be given Monday afternoon off for activities and games and servants would be allowed to leave their service with master and, when required, help to bring in their own harvest. Universally, social and economic realities made this act rather wishful thinking, however.]

{Regarding a pastime day weekly: act that no judicatory sit on Monday, 1598}

Our sovereign lord and estates presently convened, considering one of the greatest causes which has procured God's judgment from time to time to fall upon this realm in any time bygone has been the profanation of the Sabbath day, which should be only bestowed and employed in God's service and no other way, where, by the contrary, the same has been abused by the whole lieges of this realm by practice and using of games and pastimes upon the said day, pretending a lawful excuse for them in the said matter that no day in the week was granted to them for their relief from their labour except the said Sabbath, which upon necessity they were forced to break and abuse. For remedy whereof, and that the whole lieges within this realm may the better observe and keep the said Sabbath and bestow the same whole day, as well as before noon as after noon, to God's service, our sovereign lord and estates foresaid have found it fit and expedient that in all time hereafter there be one day of every week upon which day no judgment seat within this realm shall sit, neither civil nor criminal, neither shall there be any court held nor fenced, neither any subjects within this realm shall be forced to compear and answer before the said judges but they to be freed that day from any proceeding against them likewise and in the same manner as if the same was the Sabbath day indeed, discharging all officers of arms or sheriffs in that part of all using of

any denunciation upon the same day; which day by our said sovereign lord and estates is appointed to be Monday every week. Likewise the same day the whole servants within this country shall be freed from all service or labour to their masters, and the same day shall be only bestowed and employed by them in using and handling of their armour and in other lawful games and pastimes procuring ability of body, whereby all persons' minds and bodies may be refreshed and they may the more willingly bestow the whole Sabbath day in God's service, having that day for relaxation from their labours, and the whole rest of the week await upon their own vocation. Discharging always the whole lieges from unlawful and unnecessary games, certifying those that be found to contravene the same that they shall be punished with all rigour. And likewise ordains the masters of all colleges and schools within this realm to permit and give liberty to their students and scholars to exercise them in the lawful games and pastimes above-written every Monday after 12 o'clock, and that they in no way be compelled or forced to return the said day to the school again. And this present act to begin and have effect the [...] day of August next to come, being the first Monday of the said month. And our said sovereign lord and estates declare that in time of harvest yearly upon the said Monday every week all cottars, tenants and farmers who are astricted and bound to harvest their master's corns shall be freed from their said master's service that day, to the effect they may employ the same in harvesting and gathering their own corns, which of before, by reason of the hard dealing of their masters, they were forced to do upon the Sabbath and break the said day which should have been consecrated to God's service; and that letters of publication be directed hereupon. It is thus subscribed, James *Rex*.
[RPS, 1598/6/3]

[Gambling was attacked at the 1621 parliament. In what proved a somewhat authoritarian session, and in an act passed just after the ratification of the Five Articles of Perth introducing more Anglican ritual into Scottish religion, gambling in the form of dice, cards and betting on horse racing was banned from inns and made legal only in private houses where the master of the house played himself. If winnings were over 100 merks* in 24 hours then the surplus was to go to the poor. The enthusiasm for horse racing exhibited by Charles II and his brother James VII and II, who as duke of Albany and York watched horseracing at Leith then on the outskirts of Edinburgh in 1680, no doubt ended any chance of these measures being repeated in the Restoration period.]

{Regarding playing at cards and dice and horse races, 1621}

Our sovereign lord and estates of parliament, considering the manifold evils and inconveniences which ensue upon carding and dicing and horse races which are now overmuch frequented in this country, to the great prejudice of the lieges, and because honest men ought not expect that any winning had at any of the games above-written can do them good or prosper, have therefore statute and ordained that no man shall play at cards nor dice in any common house, town hostelry or cooks' houses under the pain of £40 money of this realm, to be exacted of the keeper of the said inns and common houses for the first fault, and loss of their liberties for the next. Moreover, that it shall not be lawful to play in any other private man's house but where the master of the family plays himself. And if it shall happen any man to win any sums of money at carding or dicing over the sum of 100 merks within the space of 24 hours, or to gain at wagers upon horse races any sum over the said sum of 100 merks, the surplus shall be consigned within 24 hours thereafter in the hands of the treasurer for the kirk (if it be in Edinburgh), or in the hands of such of the kirk session in the country

parishes as collects and distributes money for the poor of the same, to be employed always upon the poor of the parish where such winning shall happen to fall out. And to the effect that either excess in play may be thus restrained, or at the least that excessive winning may be employed as said is, our sovereign lord, by acts of his supreme court of parliament, gives full power and commission to the bailies and magistrates of burghs, the sheriffs and justices of peace in the country to pursue and convene all such persons for all winning at cards or dice and horse races which shall happen to be made by any person in addition to the said sum of 100 merks money aforesaid. And in case the magistrate informed thereof refuse to pursue for the same, the party informer shall have action against the said magistrate for double of the like sum, the one half whereof to be given to the poor and the other half to the party informer. [RPS, 1621/6/26]

[Although public festivals had long been controlled by local and church authorities, statutory regulation of festivals and holidays only emerged in 1555 under the regency of Mary of Guise as her daughter Mary, Queen of Scots was brought up at the French court. Then it was enacted that none was to be chosen or take on the roles of Robin Hood, Little John, the abbot of unreason or Queen of the May subject to punishment for the choosers and takers including, for the latter, banishment from the realm. These activities generally involved playful mockery of those in authority which the Francophile administration of the time wished to avoid. Also, in a regulation with sexual connotations, in the same act no women were to sing, and presumably dance, around summer trees. Catholic pageants were implicitly rather than explicitly banned at the 1560 Reformation Parliament but it was only in 1581, under the pious regent the earl of Morton (regent for the child James VI), that the celebration of religious patrons and saints days were completely forbidden.]

{Concerning Robin Hood and the Abbot of Unreason, 1555}

Item, it is statute and ordained that in all time coming no manner of person be chosen Robin Hood or Little John, Abbot of Unreason, [*Or Abbot of Misrule, the title given to the leader of Christmas revels in Scotland before the Reformation*] May Queen [*Also known as Maid Marion in the Robin Hood plays, the May Queen was usually a young girl who was chosen to open and lead the May Day celebrations. She usually wore a white gown and was crowned with a garland of blossom*] or otherwise, neither in burgh nor to land, in any time to come, and if any provost, bailie, council and community choses such a personage as Robert Hood, Little John, Abbot of Unreason or May Queen within the burgh, the choosers of such shall forfeit their freedom for the space of five years and otherwise shall be punished at the will of *Mary of Guise*, the queen's grace, and the person who accepts such an office shall be banished out of the realm; and if such persons as Robin Hood, Little John, Abbot of Unreason or May Queen be chosen outwith the burgh and other landward towns, the choosers shall pay to our sovereign lady £10 and their persons put in ward, there to remain during the pleasure of the queen's grace; and if any women or others in summer tries singing, makes perturbation to the queen's lieges in the passage through burghs and other landward towns, the women perturbers, for the extortion of money or otherwise, shall be taken, handled and put upon the cookstool [*An elevated stool or chair on which persons (especially women) guilty of minor offences were placed and exposed to public derision*] of every burgh or town. [RPS, A1555/6/41]

{Against passing in pilgrimage to chapels, wells and crosses, and the superstitious observing of diverse other popish rights, 1581}

Forasmuch as part for want of doctrine and rarity of ministers, and partly through the perverse inclination of man's engine to superstition, the dregs of idolatry yet remain in diverse parts of the realm by using of pilgrimage to some chapels, wells, crosses and such other monuments of idolatry, as also by observing of the festival days of the saints, sometimes named their patrons, in setting of bonfires, singing of carols within and about kirks at certain seasons of the year, and observing of such other superstitious and popish rights to the dishonour of God, contempt of the true religion and fostering of great error amongst the people; for remedy whereof, it is statute and ordained by our sovereign lord, with advice of his three estates in this present parliament, that none of his highness's lieges presume or take upon hand in time coming to resort to, frequent or use the said pilgrimages or other forenamed superstitious and popish rights under the pains following, namely, each gentleman or woman landed, or wife of the gentleman landed, £100 pounds, the unlanded 100 merks and the yeoman £40, for the first fault; and for the second fault, the offenders to suffer the pain of death as idolaters. And for the better execution hereof, commands, ordains and gives power to all sheriffs, stewarts, bailies, provosts, aldermen and bailies of burghs, lords of regalities, their stewarts and bailies and others whom it shall please our sovereign lord to grant special commission to search and seek the persons passing in pilgrimage to any kirks, chapels, wells, crosses or such other monuments of idolatry, as also the superstitious observers of the festival days of the saints, sometimes named their patrons, where there are no public fairs and markets, setters out of bonfires, singers of carols within and about kirks, and of such other superstitious and popish rights, and apprehending them in the actual deed of the transgression of this present act, after speedy judgement of their transgression, to put and hold them in prison and firmness until they redeem their liberty by payment of the pains above-written and find caution to abstain in time coming, under the pain of doubling of the same pain; and if the persons apprehended be not able to redeem their liberty by payment of the said pecuniary pains, that then they keep the persons, transgressors, in prison, irons or stocks, upon bread and water, for the space of one month after their apprehension, causing them when they are set at liberty to either find caution or make faith to abstain thereafter; and in case they happen to pass out of the shire where they offend without apprehension, that the sheriffs and other ordinary judges of the next shire, burgh or jurisdictions apprehend them and proceed in like manner against them, declaring the one half of the pecuniary pains to pertain to the said ordinary judges for their pains and for sustaining of the persons to be kept in ward, irons or stocks, and the other half to be brought in to the use of the poor of the parish.

[RPS, 1581/10/25]

[After the Reformation attitudes to public holidays were more implicitly dictated by religious and political considerations as the national church swung between Presbyterianism, a church governed by the entire clergy through a General Assembly, and Episcopalianism, a church controlled by the crown and it appointed bishops. As seen below, the Christmas holiday was to be observed in 1532 by the college of justice along with other holiday periods. Subsequently, like a litmus test for the ascendant church party, in 1639 the Court of Session was instructed by the Covenanter Presbyterians to meet on Christmas Day, in 1661 under Episcopalianism not to meet but in 1690 under Presbyterianism again to meet as per 1639. Up to the 1950s it was the tradition in rural areas of Presbyterianism in Scotland for farm workers to work on Christmas Day. The other side of holiday regulation was seen in 1661 when the estates,

declaring that Easter, Christmas and Whit were used by colliers for debauchery, decided that they should work six days a week and only have a Christmas holiday.]

{‘Concerning the observation of Christmas’, 1532}

Regarding the second article concerning the order of justice, because our sovereign is most desirous to have a permanent order of justice for the universal well-being of all his lieges and, therefore, intends to institute a college of cunning and wise men, both of the spiritual and temporal estate, for the doing and administration of justice in all civil actions and, therefore, thinks to choose certain persons most suitable and qualified thereof, to the number of 14 persons, half spiritual, half temporal, with a president, which persons shall be authorised in this present parliament to sit and decide upon all civil actions and none others to have vote with them until the time that the said college may be instituted at more leisure; and these persons to begin and sit in Edinburgh on the morning after Trinity Sunday [26 May 1532] until Lammas [1 August 1532], and thereafter to have vacation until 19 October next thereafter, and then to begin and sit until St Thomas's evening [21 December 1532] before Yule [25 December 1532], and thereafter to begin upon the morning after the Epiphany Day [6 January 1533] and sit until Palm Sunday evening [6 April 1533], and thereafter to begin on the morning after Whitsun [1 June 1533] and sit until Lammas [1 August 1533]; and these persons to be sworn to administer justice equally to all persons in such causes as shall happen to come before them, with such other rules and statutes as shall please the king's grace to make and give to them for ordering of the same. The three estates of this present parliament think this article well conceived and, therefore, the king's grace, with the advice and consent of the said three estates, ordains the same to have effect in all points and now ratifies and confirms the same and has chosen these persons underwritten to the effect foresaid, whose processes, sentences and decreets shall have the same strength, force and effect as the decreets of the lords of session had in all times bygone, providing always that my lord chancellor, being present in this town or other place, he shall have a vote and be principal of the said council, and such other lords as shall please the king's grace to enjoin to them of his great council to also have vote, to the number of three or four. That is to say, [*Alexander Milne*], abbot of Cambuskenneth, president, Master Robert Bothwell, Sir John Dingwall, Master Henry White, Master Robert Shanwell, vicar of Kirkcaldy, Master William Gibson, Master Thomas Hay, Master Arthur Boyce, [*Sir William Scott*], laird of Balwearie, Sir John Campbell [*of Lundie*], Master Adam Otterburn [*of Auldham and Reidhall*], James Colville of Easter Wemyss, [*Nicholas Crawford of Oxcgangs*], justice clerk, Master Francis Bothwell and Master James Lawson, and these lords to subscribe all deliverance and no others after they begin to sit to administer justice.

[RPS, 1532/6]

{Act discharging the Yule [or Christmas] vacation, 1690}

The king and queen's majesties, considering that the keeping of the Yule vacation has been a great interruption to the course of justice in this kingdom, to the hindrance and heavy prejudice of the lieges thereof, therefore they, with and by the advice of the estates of parliament, have discharged and simply prohibit the foresaid Yule vacation and all observation thereof in time coming, and rescind and annul all acts, statutes, warrants and ordinances whatsoever granted any time heretofore for keeping of the said Yule vacation, with all custom of observation thereof, and find and declare the same to be void and extinct and of no force nor effect in time coming. And ordain the court and session of the college of justice and senators and members thereof to convene and sit for the administration of justice,

without any interruption by the foresaid Yule vacation, from the first day of November to the last of February inclusive, yearly, and ordain the said senators and remaining members of the college of justice to rise the said last day of February and to convene and sit down again for administration of justice to the lieges the first day of June, yearly, and to rise the last day of July next thereafter inclusive. And also ordain the whole remaining judges of inferior courts within the kingdom to proceed in the administration of justice within their several jurisdictions without any respect to the said Yule vacation and without any interruption or vacation by the same Yule holiday, notwithstanding of any bygone custom of observance of the said Yule vacation seeing the same is now discharged in manner foresaid.

[RPS, 1690/4/113]

[The cult of the king's birthday appeared after the Restoration when interest in loyalism and royalism saw parliament and privy council impose the king's birthday as a public holiday on the English model. 29 May was declared a holiday, as it marked both Charles II's birthday and the Restoration, with act of parliament in 1661. The Revolution parliament of 1690 repealed the legislation not wishing to invite conflicting celebrations with King William, and instead a privy council proclaimed the celebration of King William's birthday on 4 November. Legislative enforcement of royal birthdays had lost its lustre. In 1693 parliament moved the celebration of Queen's Mary's birthday to a Monday when the anniversary fell on Sunday. The Privy Council then thought to prescribe public celebration but abandoned doing so as if it realised such authoritarianism was unnecessary over a very popular Queen.]

{Act for a solemn anniversary thanksgiving for his majesty's restitution to his royal government etc., 1661}

The estates of parliament of the kingdom of Scotland, taking to their consideration the sad condition, slavery and bondage this ancient kingdom has groaned under during these twenty† years' troubles in which, under the specious pretences of reformation, a public rebellion has been, by the treachery of some and mis-persuasion of others, violently carried on against sacred authority, to the ruin and destruction, so far as was possible, of religion, the king's majesty and his royal government, the laws, liberties and property of the people, and all the public and private interests of the kingdom, so that religion itself, which holds the right of kings to be sacred, has been prostituted for the warrant of these treasonable invasions made upon the royal authority, and disloyal limitations put upon the allegiance of the subjects. And has it not also been pretended to for the warrant of all those vile and bloody murders, which in high contempt of Almighty God and of his majesty's authority and laws, were under colour of justice committed upon his majesty's good subjects, merely for the discharge of their duty to God and loyalty to the king? Has not the royal government, under whose protection this nation has to the envy of the world been so famous for many ages, been of late trodden under foot, and new governors and governments established and kept up without his majesty's authority and against his express commands? Has not law, which is the birthright and inheritance of the subject, and the security of their lives and fortunes, been laid in the dust, and new and unjust edicts and orders passed and published for subjecting both life and fortune, and what else was dear to any of his majesty's good subjects to the cruel and ambitious lusts of some usurping rulers? Has not religion and loyalty been the only objects of their rapine and cruelty? And has not their new and arbitrary exactions and burdens upon the people exceeded in one month whatever had been formerly in many years paid to any of the kings of this kingdom? And when the best of men and the most excellent of the kings of the earth had in a usual way of confidence rendered his person to the trust and loyalty of his

native subjects, was not the security of religion pretended to by some who then governed in church and state for the ground of that base (and never enough to be abhorred) transaction in leaving such a prince, their native and dread sovereign, to the will of those who were in open rebellion, and for the time had their swords in their hands against him? And that when, by these and many such like undutiful carriages, the king's majesty was removed from his kingdoms, the foundations of this ancient and well-constituted government were overturned, the liberties and property of the people inverted and this kingdom exposed to be captives and slaves to strangers, and nothing left to them but the sad meditation of their increasing miseries and the bitter remembrance of their past disloyalties. Yet, even then it pleased Almighty God to be compassionate over their low condition, and by the power of his own right hand, most miraculously to restore the king's most sacred majesty to the royal government of his kingdoms, and thereby to redeem this kingdom from its former slavery and bondage, and to restore it to its ancient and just privileges and freedom. And the king's majesty acknowledging with all humility and thankfulness the goodness, wisdom and power of God in this signal act of his mercy to him and his people, and does, with advice and consent of his estates of parliament, statute and ordain that in all time coming there be a solemn yearly commemoration of the same, and for that end 29 May (which day God Almighty has specially honoured and rendered auspicious to this kingdom both by his majesty's royal birth and by his blessed restitution to his government) be forever set apart as a holy day to the Lord, and that in all the churches of the kingdom it be employed in public prayers, preaching, thanksgiving and praises to God for so transcendent mercies; and that all trade, merchandise, work, handy labour, and other ordinary employments be forborne, and the remaining part of the day spent in such lawful divertissements as are suitable to so solemn an occasion. And it is hereby recommended to all ministers of the Gospel, and to all sheriffs, justices of peace and other public ministers in the several counties and to all magistrates within burghs to be careful that for this present year and in all time coming 29 May be accordingly kept and observed within their several jurisdictions. And for the speedier and more full intimation hereof to all his majesty's subjects, it is appointed that this act be printed and published at all market crosses of the royal burghs.

[RPS, 1661/1/255]

{Agreement on queen's birthday celebrations, 1693}

The celebration of the queen's birthday, falling on a Sunday, it was appointed to be kept the Monday following.

[RPS, 1693/4/27]
