PRE-REFORMATION SCOTTISH MARRIAGE CASES IN THE ARCHIVES OF THE PAPAL PENITENTIARY

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For a marriage to be deemed canonically legal, couples had to marry outside the prohibited degrees of consanguinity and affinity which, until 1215, had stood at seven. Pope Innocent III, concerned about illegal marriages, relaxed these degrees from seventh to fourth at Lateran IV in 1215, but this remedy still placed prohibitive restrictions on the choice of partners, especially amongst the nobility in a small country such as Scotland. The Penitentiary registers are a rich source for discovering how these prohibitions affected the attitudes of the Scottish people.[1] Cosmo Innes quoted the comment of the Archbishop of St. Andrews, John Hamilton who, writing in 1554, stated that "such was the connection between families in Scotland, that it was scarce possible to match two persons of good birth who should not come within the forbidden degrees; and on that account (*ut sunt hominum ingenia semper in vitium proclivia*) many married without dispensation."[2]

The marriage cases from Scotland are mostly concerned with the degrees of relationships in which the couple found themselves. It was discovered during the research that an inordinately high volume of supplications reached the Penitentiary during the years 1500–1508. From 1438 until 1500, the average number of cases going to Rome every year was 10. From 1500 to 1508, this figure suddenly increased to an average of 41 cases each year before decreasing again from 1509 to 1533 with an average of 5 cases. In considering these figures we

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[1] I would like to take this opportunity to thank James J. Robertson from the Faculty of Law at the University of Dundee for allowing me easy access to the archive which was acquired under the auspices of the Ross Fund; also for his patience in assisting me with my research and for all the scholarly advice he has so willingly imparted. His article on Scottish legal research done in the Vatican Archives gives a good overview of the material kept there. James Robertson, "Scottish Legal Research in the Vatican Archives: A Preliminary Report", *Renaissance Studies* 2 (1988), 339-347. Leslie J. MacFarlane has also touched on the subject. Leslie MacFarlane, "The Vatican Archives: With Special Reference to Sources for Medieval British History", *Archives* 4 (1959), 29-44, 84-101.

[2] Cosmo Innes, *Liber Officialis Sancti Andree* (Edinburgh: The Abbotsford Club, 1845), xxv. See also on this topic John Barry, *William Hay's Lectures on Marriage* (Edinburgh: The Stair Society, 1967); James Brundage, *Law, Sex and Christian Marriage in Medieval Europe* (Chicago: University of Chicago Press, 1987).

must ask ourselves why there should have been such a surge of supplications from 1500 to 1508.

In 1503, King James IV of Scotland married Margaret Tudor, daughter of Henry VII of England, thus affording him "a unique opportunity to expand the scope of the cult of the Stewart monarchy",[3] a course which he quickly pursued. In the Sixth Parliament of James IV, held at Edinburgh in 1504, an Act was passed stating *That it be liefful to our Soveraine Lord to set all his landes in few*, and the Act directly following was worded *That it sall be liefful to everie man baith Spiritual and Temporal, to set their landes in few.*[4] With these acts came, as Jenny Wormald notes, "one of the most dramatic changes in Scottish society with a sudden infusion into the local level of a new group of landed proprietors, many of whom succeeded in greatly increasing their wealth'.[5] James J. Robertson suggests that in fifteenth century Scotland, there was a deliberate evolution of the law of leases and three acts changed a personal right into a real right. Firstly on April 16, 1429, an act passed which gave tenants security for a year unless the landowners wanted the land for their own use. Next an act giving the tenant real right to possession was passed on January 19, 1450, whereby tenants were permitted to stay on their lands until the end of their leases irrespective of changes in ownership of the lands and then finally, an act passed on November 20, 1469, gave the tenant protection against distraint by a landlord's creditor, thus ensuring that the tenancy and possessions were secure. He further suggests that with the introduction of the instrument of sasine, which records a conveyance in writing instead of by a charter, which relies on its authenticity with witnesses and seals, reflected an increasing commercialism in society and long with this commercialism came the encouragement of feu farming by an act of March 6, 1458, making land the subject of commerce[6] However it was not until the Act of 1504 that feu farming began in earnest and that as Leslie Macfarlaine states: "Its popularity had much to do with rising land values, but more with the fact that the feuars at last had security of tenure, which would now be heritable, and that they also were possessed of the rights which went with the fey."[7] Thus, people who could afford it bought land, secure in the knowledge that their land was now heritable and they had security of tenure. These were the people most

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[3] Michael Lynch, *Scotland a New History* (London: Pimlico, 1998), 160.

[4] Thomas Murray of Glendook, *The Laws and Acts of Parliament made by James the First and his Royal Successors Kings and Queen of Scotland* (Edinburgh, 1682), vol. 1, 187-188 (hereafter: Murray of Glendook, *The Laws and Acts*).

[5] Jenny Wormald, *Court, Kirk, and Community. Scotland 1470–1625.* (London: Arnold, 1981; reprint Edinburgh: Edinburgh University Press, 1992), 80 (hereafter Wormald, *Court Kirk and Community*).

[6] James J. Robertson, "The Development of the Law". in: Jennifer M. Brown, ed., *Scottish Society in the Fifteenth Century* (London: Arnold, 1977), 144-149.

[7] Leslie J. Macfarlane, *William Elphinstone and the Kingdom of Scotland 1431–1514 the Struggle for Order.* (Aberdeen: Aberdeen University Press, 1995), 415-416 (hereafter Macfarlane, *William Elphinstone*).

likely to be responsible for the large increase seen in the number of marriage supplications to the papal Penitentiary in the years 1500 to 1508.

The Jubilee Year of 1500 would possibly have prompted the increase of supplications seen in 1499–1500[8] and in 1500–1501,[9] when there were 29 and 60 cases respectively (conversely, in the Jubilee year of 1475, there had been only twenty-eight cases). Much of this activity around 1500 is perhaps due to the piety of the faithful, but unfortunately one cannot know if there was a fall in numbers afterwards, because for 1502–1503[10] only a fragment of the records survived in the register.[11] Among the fragments of this volume are four Scottish supplications and all four are dated November 10, 1503, during the *Sede Vacante*, two weeks before Julius della Rovere was crowned Julius II.

In 1503–1504 however, Scottish activity began to build up, with 33 cases recorded in vol. 52,[12] but again one cannot say for certain if this build-up progressed because the volumes for the first and second pontifical years of Julius II, namely 1504–1505 and 1505–1506, are also missing. It is a great pity that the two volumes crucial to the study of marriage in Scotland are missing but it is to be assumed that in all probability the number of cases did increase, because in 1506–1507[13] one finds an astonishing 102 marriage supplications followed by 39 in 1507–1508[14] and 21 in 1509–1510[15]. Piety can be dismissed as the reason for this sudden increase in the Scottish supplications; indeed the records suggest another reason as will be seen from this breakdown of a ten-year period from 1498/1499 to 1510/1511 of the various categories within the register.

As can be seen, in the year 1506–1507, there was a slight increase in *de diversis formis*, *de promotis et promovendis* and *de defectu natalium* categories. By far the largest category is *de matrimonialibus* which peaked, the same year as the king gave his commissioners authority to feu ferme Ettrick forest, profitability of this can be seen from the rent received. In 1501, before the act of Parliament, the forest had brought in 525£ 13s 4d which by 1510 had risen to £7,269.[16]

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[8] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 49.
[9] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 50.
[10] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 51.
[11] See also Kirsi Salonen, *The Penitentiary as a Well of Grace in the Late Middle Ages. The Example of the Province of Uppsala 1448–1527*. Suomalaisen Tiedeakatemian Toimituksia – Annales Academiae Scientiarum Fennicae 313 (Saarijärvi: Academia Scientiarum Fennica, 2001), 425 (hereafter Salonen, *The Penitentiary*).
[12] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 52.
[13] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol 53
[14] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 54
[15] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 55.
[16] Macfarlane, *William Elphinstone*, 415.

Table 1. Scottish cases in the Penitentiary records.

Vol.	Marriage	*Diversis*	*Declar*	*Promot*	*Def nat*	*Confess*	*Uberiori*
47	41	0	2	0	14	1	0
48	29	3	0	0	15	2	0
49	60	4	0	1	10	5	0
50	52	4	0	0	3	0	0
51	4	0	0	0	3	0	0
52	33	0	3	3	8	2	0
53	102	6	0	4	25	0	0
54	39	3	0	0	14	0	0
55	21	5	0	2	5	0	0
56	18	6	0	1	2	0	0
Sub total	489	31	5	11	99	10	0
Faculties:							
53	36						
55	35						
56	60						
Totals	620	31	5	11	99	10	0

Source: ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 47-56.

The Statute of 1504 gave men permission to set their lands in *feu*. This new faculty sparked a frenzy of activity from the newly landed classes to ensure the legitimization of their marriages and their offspring. As their land was heritable, it became essential to ensure clarity in the line of succession; thus one sees multiple entries from the same kin groups. The regularization of their marriages would have consolidated their holdings.

Many of the important families of Scotland, and especially those from the borders, were well represented in the surge to legitimize their marriages and offspring to ensure succession. There was much inter-marrying between families, making a canonically legal marriage almost impossible. Most of the cases in the register concern either single or double relations of consanguinity, but there are variations occurring throughout the material.

Gilbert Hay and Agnes Gordon[17] were cousins and stood in second degree of consanguinity but received dispensation nonetheless, as did Alexander Kildayre and Elizabeth Murray[18] who were second cousins. Multiple entries include William Gordon and Joneta Ogilvy[19] who made supplications three times within four years, first they declared the fourth degree of affinity, then the third and third degrees of consanguinity, and finally third and third and fourth degrees of consanguinity. This possibly arose from squabbling within the family regarding the lawful ownership of land, in which case William and Joneta may have pre-

[17] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 53, fol. 110v.
[18] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 52, fol. 166r-v.
[19] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 49, fol. 170v-171r; vol. 52, fol. 121r-v.

sumed it prudent to ensure that the wording of the supplication made their marriage as watertight as possible to ensure their children's inheritance. The same may possibly be true for Jacob Maitland and Margareta Douglas[20] with first the fourth degree of consanguinity and the fourth degree of affinity and then with fourth degree of consanguinity and fourth and fourth degrees of affinity. George Chesum and Helena Scot are slightly different, in that their second supplication concerned Helena's relationship not only to George's first wife but also to his mistress, whom he had known carnally many times. Helena must have balked at this, but may have felt it necessary for her children's future.[21] It must also be kept in mind that at the time many nobles in Scotland, in line with the rest of Europe, kept a mistress, sometimes more than one.[22] With regard to the spiritual relationship (*cognatio spiritualis*), Margaretta Newton's father was godfather to Jacob Scot and had "held him at the baptismal font", and thus was affine to Margaret.[23]

Interestingly, two of these supplications come from paupers. These persons may have been without cash at the time of their petition, but they or their offspring must have stood to inherit in the future; although the Penitentiary described them as paupers, it made them pay the fees, possibly forcing them to scrape together the money to have their marriages and offspring legitimized. Michael Banatan and Catherina Cairncross[24] may have been disappointed at the outcome of their supplication, as not only did they have to pay, but also the case was committed to the Abbot of the Cistercian Monastery of Melrose, where they had to do their penance. These two cases consequently were not classed as *gratis pro pauperi presenti* [free for paupers present in Rome], which is in contrast to another supplication by a couple claiming to be of poor status.[25] These few cases illustrate that in a small, closely knit, endogamous society based on kinship, there was a remarkable knowledge of who was related to whom, which today would seem irrelevant to all but a few.

After 1508, there was again a decrease in the use of the Penitentiary by the Scots for marriage supplications. One possible reason for this was the increasing use of Faculties to dispense couples within the prohibited degrees; 19 of them were requested by Church officials between 1506 and 1535, where my research to date ends. I have chosen a few of these entries to illustrate the types of faculty for which these ecclesiastics supplicated. These samples also show the change in the register that first appears in the Scottish material in January 1510

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[20] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 53, fol. 93v; vol. 53, fol. 128r.

[21] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 49, fol. 146r-v; vol. 53, fol. 133v.

[22] George Duby, *Medieval Marriage. Two Models from Twelfth-Century France* (Baltimore: John Hopkins University Press, 1991), 93-94; Duby mentions Count Baldwin II whose funeral was attended by 33 of his sons and daughters, ten from his wife and 23 illegitimate offspring.

[23] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 53, fol. 133v.

[24] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 55, fol. 561v.

[25] See below.

where the inclusion of the cost of the petition along with the name of the proctor appeared at the beginning of the entry. The regular appearance of only a few names would suggest that proctors were allocated to cases from certain countries, hence the appearance of Galteri in the Scottish material in 1517 and he is still handling Scottish cases 18 years later in 1535.

On February 16, 1507, the vicar[26] acting on behalf of Alexander Stewart, the fifteen-year-old illegitimate son of James IV, who had been trained and educated from birth for a high position in the church and who was now Archbishop of Saint Andrews,[27] made a supplication for a license to dispense 24 couples with no stipulated time limit. At this stage, the cost is not recorded in the register. In the same year, on June 16,[28] Patrick Murray, treasurer of Dunblane, made a petition for a license to dispense twelve couples, with neither time limit nor cost. Entered on July 30, 1510,[29] Gavin Douglas, provost of the Church of the Blessed Giles in Edinburgh, made a supplication for a license to dispense ten couples to run for four years with still no cost as yet. On July 15, 1510,[30] Gilbert Strathachin, Canon of Brechin, made a petition for a license to dispense 25 couples over four years at a cost of 201 papal ducats, and then on November 24, 1524,[31] Gavin Dunbar, Archbishop of Glasgow, made a supplication for a license to dispense ten couples over four years at a cost of 121 ducats.

On April 13, 1527,[32] John Dingwall, Provost of the Holy Trinity Church near Edinburgh and Chancellor of Aberdeen, in tandem with Gilbert Strathachin, who was then Master Canon of the Church in Aberdeen and Moray, made a supplication for a license for John to dispense 23 couples at a cost of 259 ducats, and for Gilbert to dispense 21 couples at a cost of 211 ducats, respectively, over five years. It would seem that they had decided to enter supplications together and dispense each other's Faculties, as John Dingwall's contains the words "supplicate that the Pope would license him who is an Apostolic Notary or Gilbert Strathachin [a clerk canon of Aberdeen and Moray also an Apostolic Notary]," and Gilbert Strathachin's[33] supplication has the same wording vice versa. Gilbert Strachachin is regularly mentioned in the letters of James IV as being in Rome, so the possible reason for sharing the Faculty arises, as John Dingwall would also have gone to Rome at some point. Within the text of John Dingwall's supplication we discover the reason for these Faculties:

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[26] Presumably a Dominican named John Adamson.

[27] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 53, fol. 41v-42r. On the tender age of the Archbishop: Norman Macdougall, *James IV* (East Linton: Tuckwell, 1997), 156; Wormald, *Court, Kirk, and Community*, 80; Robert Hannay, *The Letters of James the Fourth. 1505–1513* (Edinburgh: Scottish History Society, 1953), xxix; John Dowden, *The Bishops of Scotland* (Glasgow: James Maclehose, 1912), 37.

[28] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 53, fol. 133r.

[29] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 55, fols. 433r-v.

[30] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 55, fols. 316v-317r.

[31] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 73, fols. 1795r-1796v.

[32] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 75, fols. 305r-306v.

[33] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 75, fols. 306v-307r.

Many of the faithful in Scotland, to make peace and friendship among relatives and avert enmity and dissention and for other reasons arrange marriages within the forbidden degrees but because of the great distance from the Apostolic See cannot obtain dispensation.

The final Faculty supplication found until now is dated March 6, 1533,[34] again from John Dingwall of the Holy Trinity in Edinburgh, in which he made a supplication for a license to dispense 25 couples at a cost of 301 ducats. John names one John Thornton, presumably to share the dispensing but, alas, the subsequent folio is missing, so we cannot know for sure. Also, the time scale and cost of the dispensation would have been on this folio. In all, these Faculties cover 30 years and number in total 195, which gives an average of thirteen dispensations per year.

From the prices found, one can average out that a dispensation cost 12.5 ducats to the holder of a Faculty, which was the same price as at the Penitentiary. However, in making a supplication to Rome costs would have been added for the procurators along with their travel expenses, bed and board and, certainly, many incidentals along the way. So, a dispensation granted in Scotland was cheaper. This remains unknown but it would be an interesting topic for investigation. The traffic in expensive appeals, which employed a large contingent of Scottish lawmen who traveled regularly to and resided in Rome, and which was "lavishing money to Rome", was a constant worry to the king. As early as 1493 he exhorted his subjects to "refrain from the practice", with little effect; and again in 1560 an Act was passed requiring supplications to be given to the Lords of the Session, which met with the same result. It is not until after the Reformation, in 1581, that an Act was passed describing the evils of appeals in declamatory language.[35]

In accounting for the drop in supplications to the Penitentiary while the Scottish faculties remained relatively stable in numbers, several possible reasons can be suggested. First, it is highly likely that couples, still making supplications to Rome, belonged to the upper classes of Scottish society, the great landowners and those newly enriched by the recent changes enabling them to *feu* their lands. They would have been the only ones able to afford this avenue and, in fact, the only Scottish supplication *componat cum camera* and *componit J pontificus* that I found was on March 5, 1513,[36] when a couple from Candidacasa Diocese paid an enormous 48 ducats for their dispensation from *cognatio spiritualis* and the third degree of both consanguinity and affinity. It is interesting to note that this entry in the register was written during *sede vacante*, twelve days after Julius II died and six days before Leo X had been elected. In sharp contrast to this, in

[34] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 80, fol. 229-231 (old foliation).

[35] Lord Patrick Fraser, *Treatise on Husband and Wife according to the Law of Scotland* (Edinburgh: T. and T. Clark, 1876), vol. 1, 10.

[36] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 58, fol. 209v.

1523[37] I found a couple from Glasgow Diocese, the only paupers to receive a free dispensation with declaratory letters *fiat de speciali* and *gratis pro pauperi presenti*.[38] The ecclesiastical Faculties would have been within easy financial reach of the newly emerging merchant classes, but when we consider that the forbidden degrees of consanguinity and affinity were so prohibitive to canonically legal wedlock within such small a country, a total average of thirteen dispensations a year from each source does not seem to be a great number.

A second reason could be that the people were heeding the king's exhortations on the evils of appeals to Rome and beginning to use the Courts of the Officials; but the Scots, in sharp contrast to the English, seemed reluctant to use these courts and preferred dealing directly with Rome.[39] This could be accounted for by the fact that Scotland, with the exception of Galloway and Orkney, had been part of the Roman See from 1192, when with the bull *cum universis*, Celestine III granted Scotland the position of *filia specialis*, answerable only to Rome, and this distinction was confirmed by Innocent III and again by Honorious III. The status of *filia specialis* was granted by Urban III (1185–1187) only referring to the diocese of Glasgow, but with *cum universis* it became the constitutional basis of the *ecclesia Scoticana* until 1472, when St. Andrews became a bishopric.[40] It would have been interesting to access the records of these Courts but, due to many fires and some overzealous reformers, most church records were destroyed and only fragments of these Court records remain.[41] We must also remember that Scottish couples were still, at least until 1510, occasionally using the Dataria Apostolica which was, of course, more expensive than the Penitentiary. This register will provide another insight into marriage in Scotland once it has been fully researched.

When observing the profusion of records that survive in England, such as those in to be found in York which have provided great insight into medieval marriage,[42] it is a vexing source of frustration to the Scottish historian to find so few records from which to chart the history of the interchange between the peo-

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[37] ASV, *Penitenzieria Ap., Reg. Matrim. et Div.*, vol. 69, fol. 146v.

[38] It has been noted that these supplicants were not necessarily poor, but sometimes a dispensation was granted for free when the officials of the Penitentiary wanted to grant a favour to someone who was close to the office or to the Pope. The real *pauperes* had to make an oath of povery in order to get their graces for free. Salonen, *The Penitentiary*, 85.

[39] David Ditchburn, *Scotland and Europe. The Medieval Kingdom and Its Contacts with Christendom, 1214–1560* (East Linton: Tuckwell, 2000), 88; Wormald, *Court, Kirk, and Community*, 79.

[40] Leslie Macfarlane and. J. McIntyre, ed., *Scotland and the Holy See* (Edinburgh: The Heritage Commission of the Scottish Catholic Hierarchy, 1982), 5.

[41] Simon Ollivant, *The Court of the Official in Pre-Reformation Scotland* (Edinburgh: The Stair Society, 1982). In this volume, Ollivant lists all the surviving records of the courts in St. Andrews and Edinburgh.

[42] Frederik Pedersen, *Marriage Disputes in Medieval England* (London: Hambledon Press, 2000). This fascinating and comprehensive study of the York material illustrates the abundance of records that survive in England.

ple, the church, and the courts. Occasionally however, a civil action appearing in the Acts of the Lords of Council records people seeking redress for broken contracts of marriage. On December 2, 1500, an action was raised against John Menteith of Caverca by David Bruse of Clackmannan for £500 for the *wrangus postpoyng and differing til raise and bring hame ane dispensacione fra the Court of Rome for the compleating and solempnyng of lauchfull matrimonie and marriage betuex the said John and Marione Bruse* ... John eventually produced the dispensation and promptly raised his own action against David for restitution of £401.[43] On January 27, 1503, Henry Lovale of Ballummy raised an action against Thomas Maxvale of Teiling for

> *the wrangus withalding fra him of fifteen ducatis of gold of the chawmer* (curial ducats) ... *fifteen pundis usuale money of the realme, deliverit be him and his factouris in his name to the toune of Bruges for the raising and hamebringin furth of the court of Rome of ane dispensacione for matrimonie completit betuex Andro Lovale, son and aire apperand to the sade Henry, and Ysabell Ogilby, dochtir till umquhile David Ogilby of that ilk* ...

The Lords gave Thomas two weeks to appear, if not, they would 'decern' him to have agreed to pay.[44] It seems that Thomas Maxvale was a law agent in Bruges, possibly working with the Scottish procurators at the curia to carry dispensations to and from Rome. In this case, we can discern a disregard for the forbidden degrees, as this marriage bad already been *comleatit* and some investigation is needed to see if they actually were dispensed. So prohibitive were the degrees that it appears that many Scots married within them, ignoring the rules promulgated by the church until such time, as with Henry Lovale, that it suited them to make supplication to Rome or, as in the case of David Bruse, once they were matched to the mutual satisfaction of their families or as with Henry Lovale, when it suited them to make a petition to Rome.

A third discernable reason for this drop is that, the later the year, the more social and religious unrest was gripping Scotland, as there was a general dissatisfaction with the Roman Church. Books were now being printed and brought into Scotland mostly by the east coast merchants who traded in the Baltic and the North Sea, and although very expensive, they were eagerly purchased by the nobility, the *nouveau riche*, and the emerging merchant classes who were by now quite wealthy and literate.[45] Professor Nicholson's analysis of sales of land in James IV's reign shows that the gentry sold more, whereas the 11 merchants from Edinburgh and 14 others sold little and bought much, illustrates the merchant's wealth. Jenny Wormald's observation that "A more sinister form of contact with Europe, from the church's point of view, was the Lutheran litera-

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[43] George Neilson and Henry Paton, ed., *Acts of the Lords of Council in Civil Causes 1496–1501* (Edinburgh: His Majesty's Stationery Office, 1918), vol. 2, 456.

[44] Alma Calderwood, ed., *Acts of the Lords of Council 1501–1503* (Edinburgh: Her Majesty's Stationery Office, 1993), vol. 2, 192.

[45] Wormald, *Court, Kirk and Community*, 79.

ture which began to circulate in the east-coast boroughs, prompting a panicky act banning it in 1525'[46] illustrates that the laity in Scotland were becoming more interested in this new religion which was sweeping across Northern Europe. However, Martin Luther's writings and other Lutheran texts were being distributed as fast as they could be printed and Scotland was slowly beginning to move toward the Reformation; so it is possible that people were beginning to find dissatisfaction with the Church and its remoteness in Rome. A nobleman may have thought it worthwhile to pay a large sum for a dispensation, but a cautious wealthy merchant may have thought otherwise.

It will be interesting to discover if devoutly Catholic Scottish couples continued making supplications to Rome after 1567, when an act was passed by the Scottish Parliament *Anent lawful marriage of awin blude, in degries not forbidden be God his Word*,[47] outlawing the Roman Church and reducing the forbidden degrees of consanguinity and affinity from the fourth degree to the second. This was backdated to 1558, and all marriages within the scriptural degrees were ratified.

Finally one has to ask again, what drove the Scots to make supplications in such large numbers from 1500 to 1508, piety or profit. Possibly piety in the Jubilee Year of 1500 prompted an increase but, on the other hand, the intention of the king to *feu* the land in the near future may have been well known within the noble families, many of whose patriarchs were royal advisors. The very substantial increase after 1501, which saw many of the great families of Scotland legalizing existing and new marriage alliances to consolidate their heritable tenure, leads me to the conclusion that this must have been driven by profit.

[46] Ibidem, 91.
[47] Murray of Glendook, *The Laws and Acts*, n. 15.

Appendix:

COUPLE	DIOCESE	
William **Turnbull** and Biseta Ridal	Glasgow	
Robert **Turnbull** and Joneta **Scot**	Glasgow	
Thos **Turnbull** of Bedderoul and Mariota **Scot** of Hayning	Glasgow	
James **Turnbull** and Catherine **Cranston**	Glasgow	
John **Cranston** and Agnes **Scot**	Glasgow	
Jasper Lawdor and Mariota **Cranston**	St Andrews	
Andrew **Turnbull** and Margaret **Turnbull**	Glasgow	
Roger **Schewel** and Catherine **Turnbull**	Glasgow	
Andrew **Schwel** and Joneta **Donglas**	Glasgow	Paupers
John **Carncross** and Elizabeth **Turnbull**	Glasgow	
Michael Banatan and Catherina **Cairncross**	Glasgow	Paupers
James **Turnbull** and Agnes **Schewel**	Glasgow	
John **Schewel** and Joneta Morison	Glasgow	
Philip **Schewel** and Margareta **Schewel**	Glasgow	
John **Campbel** and Margareta **Campbel**	Lismore	
John Mackay and Mariota **Campbel**	Lismore	
Duncan **Macgregor** and Elizabeth **Campbel**	Lismore	
Duncan Murtard and Mariota **Campbel**	Lismore / Dunkeld	
George Cockburn and Elena **Douglas**	St Andrews	
James **Donglas** and Catherina **Stewart**	St Andrews	
Jacob Emmetterlant and Margareta **Donglas**	Glasgow	
Jacob Maitland and Margareta **Donglas**	Glasgow	
William **Douglas** and Elizabeth Auchinlecke	St Andrews	
Alexander Kildayre and Elizabeth **Murray**	St Andrews	
William **Murray** and Margaret **Stewart**	Dunblane / Dunkeld	
Thomas **Murray** and Elizabeth Levynston	Dunblane / Dunkeld	
Charles **Murray** and Elizabeth **Murray**	Dunblane / Dunkeld	
Alexander **Stewart** and Margaret **Murray**	Dunblane / Dunkeld	
David **Murray** and Catherine Edmonston	Dunkeld	
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Late Medieval Christian Peripheries and Their Communication with the Holy See

Edited by

Gerhard Jaritz, Torstein Jørgensen, Kirsi Salonen

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ABBREVIATIONS RELATED TO THE COLLECTIONS OF THE VATICAN SECRET ARCHIVES

ASV = Archivio Segreto Vaticano

Arm. = Armadio

Congr. Vescovi e Regolari, Visita Ap. = Congregazione dei Vescovi e Regolari, Visita Apostolica

Instr. Misc. = Instrumenta Miscellanea

Penitenzieria Ap., Reg. Matrim. et Div. = Penitenzieria Apostolica, Registra Matrimonialium et Diversorum

Reg. Vat. = Registra Vaticana

Reg. Lat. = Registra Lateranensia

Reg. Suppl. = Registra Supplicationum

Reg. Aven. = Registra Avenionensia

RPG = Repertorium Poenitentiariae Germanicum

PREFACE

The present publication contains selected papers from two international conferences: the first was held at the Centre for Medieval Studies, University of Bergen (Norway), in October, 2003[1] and the second at the Department of Medieval Studies, Central European University, Budapest (Hungary), in January, 2004.[2] The purpose of these meetings was to gather researchers interested in the history and significance of the papal curia and, in particular, the Apostolic Penitentiary, in the later Middle Ages. The main emphasis was placed on a comparative approach and on the role of peripheral areas of Western Christendom in their communication with the Holy See.

There are various kinds of centre-and-periphery hierarchies.[3] There are geographic, social, economic, and cultural peripheries and centres. "The general textbooks ... address materials from the geographical and social peripheries of privileged cultures only as adjuncts to their central narrative. ... The history of Scandinavia and Eastern Europe become excursus to a central narrative."[4]

However, concerning the communication of the Holy See with various areas of Christendom in the Middle Ages, the impact of 'peripheries' has attracted a new interest in recent years. Since the opening of the archives of the Apostolic Penitentiary to researchers in 1983 relatively few scholars have exploited the sources, but recently their number has increased. Most of them have studied the supplications to the Penitentiary of petitioners from their own home countries and edited material on a national basis. The German Historical Institute, under the leadership of Ludwig Schmugge, has already published several volumes of entries concerning German-speaking territories. Also, the Norwegian and Icelandic material has recently been released by Torstein Jørgensen and Gastone Saletnich. Similar enterprises are in process in several other countries: Poland, Denmark, Sweden and Finland, England and Wales. The examination of territo-

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[1] "*The Late Middle Ages and the Penitentiary Texts: Centre and Periphery in Europe in the Pre-Reformation Era.*"

[2] "Ad Confines. *The Papal Curia and the Eastern and Northern Peripheries of Christendom in the Later Middle Ages(14th – 15th c.).*"

[3] For this and the following, see Teofilo F. Ruiz, "Center and Periphery in the Teaching of Medieval History," in *Medieval Cultures in Contact*, ed. Richard F. Gyug (New York: Fordham University Press, 2003), 252.

[4] Ibidem, 248.

ries on the geographic peripheries in their relation to Rome has been a main focus in these studies.

The archival material of the Penitentiary and the communication of the papal curia with the various regions of late medieval Europe should, however, not be studied only on national levels. There is an increasing need for such studies to be supplemented by comparative searches for differences and analogies in how Christians from different corners of Europe used the papal offices and were treated by them. It is well known that even though the regulations of canon law were in theory the same for everyone, regional differences in interpreting and applying them emerged in the Late Middle Ages. The need to turn to the papal authority in matters of canon law varied depending on the role of local bishops and the presence or absence of papal legates or collectors, who often had the power to deal with similar matters *in partibus.* Also, people in the central territories of Christendom had different opportunities for turning to the papal curia with their requests than those living on the peripheries of the Christian world.

Questions like these played the central role in the discussions of the two conferences noted above. In this book we will render an overview of the present status of this new field of research. As an introduction, Piroska Nagy deals with the question of how to apply centre-periphery models to a comparative analysis of the sources. Kirsi Salonen uses the Penitentiary registers from the period of Pope Pius II to analyse the supplications, their provenance, and the role of peripheries.

Two peripheral parts of late medieval Europe and their significance concerning the communication with the Holy See represent the main part of the publication: Northern Europe and East Central Europe. Comparative analyses of Scandinavian and Scottish source material from the Penitentiary Registers are made by Torstein Jørgensen, Kirsi Salonen, and Irene Furneaux. The studies on East Central Europe are introduced by an inquiry concerning the general importance of the area for the papal curia (Jadranka Neralić), and an overview of the communication of the Holy See with Albania (Etleva Lala). Piroska Nagy and Kirsi Salonen offer a quantitative analysis of East Central Europe and the Penitentiary (1458–1484), followed by contributions on individual territories, such as the Czech lands (Lucie Doležalová) and Dalmatia (Ana Marinković). The contribution by Gastone Saletnich and Wolfgang Müller indicates that in any studies of the role of peripheries one must not neglect the more central areas. Blanca Szeghyová and Ludwig Schmugge show that local archives and their contents are an indispensable additional source for comparative analyses.

Many friends and colleagues have helped in preparing this book for print. We are pleased to thank the personnel of the Penitenzieria Apostolica, especially Padre Ubaldo Todeschini, for reading the manuscript and suggesting useful corrections. We are also much obliged to the skilled staff of the *Sala di Studio* in the Vatican Archives, who patiently brought us volume after volume of the reg-

isters and helped with other problems. Judith Rasson from Central European University deserves our gratitude for copyediting our text.

Finally, we wish to thank the academic institutions which in a more direct way have promoted this project: the Centre for Medieval Studies at the University of Bergen, the Department of Medieval Studies at the Central European University in Budapest, the Institut für Realienkunde of the Austrian Academy of Sciences and the Academy of Finland, and the Department of History at the University of Tampere.

Bergen, Budapest, and Tampere, November 2004

Gerhard Jaritz, Torstein Jørgensen, Kirsi Salonen