

# Gypsies in Early Modern Scotland, c.1570-c.1700



Thomas Maximillian Tyson

This thesis is submitted for the degree of Doctor of Philosophy

Trinity Hall, Cambridge

May 2024

# *Declaration*

This thesis is the result of my own work and includes nothing which is the outcome of work done in collaboration except as declared in the preface and specified in the text. It is not substantially the same as any work that has already been submitted before for any degree or other qualification except as declared in the preface and specified in the text. It does not exceed the prescribed word limit for the relevant Degree Committee.

**Statement of word count:** The length of this dissertation is 74,727 words

# *Abstract*

This thesis comprises a study of the people labelled ‘Egyptians’, or Gypsies, in early modern Scotland. Between the 1570s and the eighteenth century, Gypsies were sporadically subjected to intense persecution and stigmatisation by Scottish authorities, yet nevertheless maintained their way of life at society’s margins throughout the period. In historiographical terms, Scottish Gypsies have also proven academically marginal, both in relation to the extant literature on early modern Scotland, and that addressing Europe’s Gypsies, Roma, and Travellers. This thesis uncovers the experience of Gypsies in early modern Scotland through the examination of legislation, proclamations, criminal court records, church court records, and printed works concerning Gypsies that have been little-studied since the nineteenth century. By considering the reception and treatment of Gypsies, it also offers a fresh perspective on some of the most debated aspects of early modern Scottish history, including the growth of central authority, the impact of the Protestant Reformation, and the decline of feuding. The thesis introduction outlines the historiographical and methodological issues involved in studying such a socially and historically marginal group, and is followed by two sections, each comprising three chapters. The first section, ‘Receiving Gypsies’, offers an overview of how Scottish elites perceived Gypsies during the sixteenth and seventeenth centuries, analyses the range of policy initiatives enacted in regard to Gypsies, and considers how such perceptions and policies were shaped by the Reformed Kirk. The second section, ‘Gypsy Lives’, examines the social ties forged between Gypsies and non-Gypsies during the seventeenth century, the impact of Atlantic imperialism and nascent racial discourses upon Gypsies following Charles II’s Restoration of 1660, and concludes with a survey of the social and economic lives of the Gypsies themselves over the entire period.

# *Acknowledgments*

I am extremely grateful to my supervisor Professor Clare Jackson for all her support, encouragement, and near saintly patience. Without you I would never have pursued this project in the first place, nor would I have seen it through to the end. Thank you so much.

The financial support I have received over the course of this thesis has been vital, and as such I would like to extend my gratitude to the Lightfoot Fund, the Cambridge History Faculty, Trinity Hall, the Institute of Historical Research, and the Scouloudi Foundation.

Much of the research I undertook for this thesis occurred during a particularly challenging time for archives, libraries, and research institutions, when pandemic restrictions made providing resources for researchers an almost insurmountable challenge. I am particularly grateful to staff at the National Records of Scotland and the National Library of Scotland for making my time in Edinburgh worthwhile. I have also benefitted from numerous fruitful conversations about my research over the years, not least with Thomas Acton, John Cairns, Alison Cathcart, Colin Clark, Julian Goodare, Allan Kennedy, Claire Langhamer, Ann Ostendorf, Becky Taylor, Alexandra Walsham, and Vita Zalar.

Thank you to all of my wonderful friends and family: I couldn't have managed without you. I'm not sure I would ever have made it over the final few hurdles without Anna, Frankie, Harriet, Nikita, Peter, and (of course) Sam. But most of all, I would like to thank my mother, Christobel Saunders. This work is dedicated to you.

# *Contents*

<b>List of Illustrations</b>	vi
<b>List of Abbreviations</b>	vi
<b>Conventions</b>	vii
<b>Chapter 1: Introduction</b>	1
Gypsies and Historians	8
The Scottish context	20
Sources, Chapters, Historiographies	29
<i>Part I: Receiving Gypsies</i>	41
<b>Chapter 2: Perceptions</b>	42
‘Egyptians’	43
‘Counterfeit Egyptians’	52
‘Gypsies’	60
<b>Chapter 3: Policy</b>	69
The earliest anti-Gypsy measures	70
Executive experimentation: the 1590s	78
The ‘Act anent the Egiptians’	82
Enforcing the Act, 1609-1625	85
<b>Chapter 4: The Kirk</b>	95
Kirk, crown, and the limits of discipline, 1592-1650	97
The creation of an exclusionary Kirk, c.1590-1609	99
The lower church courts: ambition and compromise, c.1609-1650	107
<i>Part II: Gypsy Lives</i>	120
<b>Chapter 5: Social Ties</b>	121
Moses Faw and his patrons	124
The Gypsies of Roslin and East Lothian	130

Communities in upheaval: the 1640s and 1650s	134
The Faws and Shaws in the 1670s	141
<b>Chapter 6: Empire and Race</b>	147
Gypsies, race, and the imperial Atlantic, c.1660-c.1700	148
Transportation	151
Racialising Gypsies	158
Language	161
Skin colour	164
Lineage	170
<b>Chapter 7: Ways of Life</b>	179
Language, religion, and appearance	182
Lords and captains, companies and troops	194
Itinerancy and subsistence	200
<b>Coda</b>	209
<b>Bibliography</b>	214

## *List of Illustrations*

**Frontispiece:** woodcut detail from Andrew Boorde [Borde], *The fyrst boke of the introduction of knowledge* (London: William Copland, 1555), unpaginated, ch. 38.

**Fig. 1:** detail from hand-coloured stipple engraving of Sarah Edgerton (née Fisher) as Meg Merrilies in Daniel Terry's 'Guy Mannering'. Engraved by James Thomson, 1817. National Portrait Gallery, D10966.

p. 2

**Fig. 2:** family tree of members of the Faw and Shaw families arrested at Dunbar in 1675 and tried before the high court of justiciary in 1678. Based on NRS, GD6/996 (the depositions of William Dumbar, Alexander Faw, Robert Faw, and Agnes Shaw), and JC26/49 (document dated 5 November 1677 and the petition of Agnes Shaw).

p. 142

**Fig. 3:** woodcut detail from broadside ballad, 'The Last Words of James Mackpherson Murderer'. NLS, Ry.III.a.10(029).

p. 210

## *List of Abbreviations*

<b>BL</b>	British Library.
<b>NLS</b>	National Library of Scotland.
<b>NRS</b>	National Records of Scotland.
<b>NSAS</b>	<i>New Statistical Account of Scotland.</i>
<b>SSNE</b>	The Scotland, Scandinavia and Northern European Biographical Database.
<b>RPS</b>	Records of the Parliament of Scotland.
<b>RPCS</b>	<i>Register of the Privy Council of Scotland.</i>
<b>RSS</b>	<i>Registrum Secreti Sigilli Regum Scotorum: Register of the Privy Seal.</i>

## *Conventions*

All sums of money are in pounds (£), shillings, and pence Scots unless otherwise specified. In 1603, the exchange rate between pounds Scots and pounds Sterling was fixed at 12:1, and a French crown was valued at three pounds six shillings and eight pence. A merk had the value of two-thirds of a pound, or thirteen shillings four pence. This was raised to fourteen shillings in 1681. References to other units of currency are explained in the text. Sums of money (and other numeric quantities) are written in full up to a hundred.

The dates used throughout this thesis follow the ‘old style’ Julian calendar, with the year beginning 1 January: a dating practice that only became standard in Scotland from 1600 onwards. Prior to 1600, the beginning of the calendar year was 25 March, so any pre-1600 dates that fell between 1 January and 25 March have been adjusted without comment.

The names of people and places have been standardised according to common usage, except where the standard spelling is not evident. In such cases, a standardised form based on the original spelling has been adopted. Original spelling and capitalisation has been retained within all quotations.

## Chapter 1

# Introduction

In February 1817, Sir Walter Scott finally abandoned his long-running ambition to write a ‘disquisition’ on Scottish Gypsies.<sup>1</sup> ‘I have given up my gipseys’, Scott declared in a letter to his publisher John Murray, for ‘I could not get some information that I wanted’.<sup>2</sup> Despite years of amassing material on the history, folklore, and contemporary conditions of Scotland’s Gypsies, he was still dissatisfied. Scott had promised to send Murray a manuscript on the subject for publication the previous summer, but had ‘been over head and ears in work’ and was also ‘partly stopped by finding impossible to procure a few words of their language’.<sup>3</sup> This was no writerly excuse: 1816 had been a particularly busy year for the famously industrious author. Already a celebrated Romantic poet, Scott had anonymously published his third novel, *The Antiquary*, in May 1816 – an enormous critical and commercial success – and had spent much of the rest of the year writing two further novels, *The Black Dwarf* and *Old Mortality*, which had been published as a single volume in December. In collaboration with the playwright Daniel Terry, he had also adapted his second novel, *Guy Mannering* (1815), for the stage, and had written an historical sketch of the year 1814 for the *Edinburgh Annual Register*. On top of his writing commitments, Scott served as the Clerk of the Court of Session, assuming overall responsibility for the operational administration of Scotland’s supreme civil court. Scott had spent the summer of 1816 dispensing criminal and civil justice as sheriff-depute of Selkirkshire, while also finding time for a short tour of Highland Perthshire. Furthermore, he began the task of renovating his house, Abbotsford, creating a ‘romance in Architecture’ that consumed much of his spare time and income. The disquisition on Gypsies proved one commitment too many.<sup>4</sup>

---

<sup>1</sup> J. G. Lockhart, *Memoirs of the Life of Sir Walter Scott, Bart.: A New Edition Complete in One Volume* (Edinburgh: Robert Cadell, 1850), p. 338.

<sup>2</sup> Walter Scott, *The Letters of Sir Walter Scott*, vol. iv, ed. Herbert Grierson (London: Constable, 1933), p. 544. Although a number of dates have been proposed for the composition of this letter, the most plausible (21 February 1817) has been supplied by James C. Corson. See James C. Corson, *Notes and Index to Sir Herbert Grierson's Edition of the Letters of Sir Walter Scott* (Oxford: The Clarendon Press, 1979), p. 140.

<sup>3</sup> Scott, *Letters*, vol. iv, p. 319.

<sup>4</sup> J. G. Lockhart, *Memoirs of the Life of Sir Walter Scott, Bart.*, vol. v (Edinburgh: Robert Cadell, 1837), pp. 130, 158-59, 163; Scott, *Letters*, vol. viii, p. 129.



Fig. 1. Sarah Edgerton (née Fisher) as Meg Merrilies in Daniel Terry's *Guy Mannering*, 1817.

But Scott's research on Scottish Gypsies had not been in vain. Gypsy characters featured prominently in *Guy Mannering*, a novel set in south-west Scotland during the latter half of the eighteenth century. Scott even included a brief historical account of European Gypsies in the novel via the sort of antiquarian digression that was typical of his prose fiction.<sup>5</sup> The success of *Guy Mannering* was such that the work's primary Gypsy character, Meg Merrilies – a six-foot-tall turban-wearing prophetess – became a cultural touchstone and an archetype of the Romantic Gypsy (see fig. 1).<sup>6</sup> Merrilies reached a huge popular audience through Terry's long-running theatrical adaptation, contributing to a brief period of 'Meg-mania' in the late 1810s, during which she was the subject of further plays, as well as

paintings, engravings, sculpture, a country-dance, and a poem by John Keats.<sup>7</sup> In an attempt to cash in on the craze, the twenty-one-year-old publisher William Chambers wrote, printed, and sold a sixpenny pamphlet entitled *Exploits and Anecdotes of the Scottish Gypsies* (1821).<sup>8</sup> Scott also provided extensive information concerning the history and way of life of Scottish Gypsies to the Quaker missionary John Hoyland, which the latter incorporated into his *Historical Survey of the Gypsies*, published in 1816 with the aim of bringing about the 'religious education' of Britain's

<sup>5</sup> Walter Scott, *Guy Mannering*, ed. P. D. Garside (Edinburgh: Edinburgh University Press, 1999), pp. 35-37.

<sup>6</sup> See Deborah Epstein Nord, *Gypsies and the British Imagination, 1807-1930* (New York: Columbia University Press, 2006), p. 25.

<sup>7</sup> See Annika Bautz, 'The "universal favourite": Daniel Terry's *Guy Mannering; or, The Gipsy's Prophecy* (1816)', *The Yearbook of English Studies* 47 (2017); Josephine McDonagh, *Literature in a Time of Migration: British Fiction and the Movement of People, 1815-1876* (Oxford: Oxford University Press, 2021), ch. 1.

<sup>8</sup> William Chambers, *Exploits and Anecdotes of the Scottish Gypsies* (Edinburgh: William Chambers, 1821). See also William Chambers, *Memoir of William and Robert Chambers*, thirteenth ed. (W. & R. Chambers, 1884), p. 169.

‘uncultivated race’.<sup>9</sup> Scott also managed to include further historical anecdotes concerning Scottish Gypsies into a mischievous review of two of his own novels, *The Black Dwarf* and *Old Mortality*, published anonymously in *The Quarterly Review* in 1817. But Scott entrusted the majority of his research notes on Scottish Gypsies ‘to some adventurers’ setting up a new periodical, *Blackwood’s Edinburgh Magazine*. The material was reworked by Walter Simson, and the first instalment of a lengthy piece, entitled ‘Notices Concerning the Scottish Gypsies’, was included in the magazine’s first issue, published in April 1817.<sup>10</sup> Scott moved on to new antiquarian pursuits after 1817, only briefly returning to his research on Gypsies when writing the novel *Quentin Durward* in 1823.<sup>11</sup> Meanwhile, Walter Simson continued to pursue the study of Gypsies for much of the 1820s and 1830s, travelling across Scotland in search of archival and ethnographic material, an activity he called ‘Gipsy-hunting’.<sup>12</sup> The fruits of Simson’s labours were published posthumously in a volume entitled *A History of the Gipsies* (1865), edited by his son James.<sup>13</sup>

The article authored by Simson and Scott for *Blackwood’s* in 1817 encapsulated contemporary scholarly knowledge of Gypsies, their origins, and history. The article described Gypsies as ‘an Asiatic people’ who had ‘resided four hundred years in the heart of Europe’, yet retained ‘their distinct oriental character, customs, and language’. They had first entered Continental Europe in the fifteenth century ‘from the east’, claiming to be Christian pilgrims, ‘under leaders who assumed the titles of Kings, Dukes, Counts, or Lords of Lesser Egypt’. Though initially welcomed by European monarchs, when their ‘true character’ as a ‘a race of profligate and thievish impostors’ came to be better known, successive states introduced ‘severe measures... to expel them from their territories’. The article posited that Gypsies managed to evade these edicts on account of their ability to easily

---

<sup>9</sup> John Hoyland, *A Historical Survey of the Customs, Habits and Present State of Gypsies* (York: printed for the author, 1816), p. 265. Much of the information concerning the present state of Scotland’s Border Gypsy population was provided to Scott by William Smith, a bailie of Kelso. See John A. Fairley ed., *Bailie Smith of Kelso’s Account of the Gypsies of Kirk Yetholm in 1815* (Hawick: privately printed, 1907). Following Hoyland’s example, further missionary and scholarly work relating to Scottish Gypsies was undertaken by John Baird in the 1830s. See John Baird, *The Scottish Gipsy’s Advocate: Being a Short Account of the Gipsies of Kirk-Yetholm* (Edinburgh: John Lindsay & Co., 1839).

<sup>10</sup> [Walter Simson], ‘Notices Concerning the Scottish Gypsies’, *Blackwood’s Edinburgh Magazine* 1 (1817), pp. 43-58. Further instalments were published in May and September the same year. See *Blackwood’s Edinburgh Magazine* 1 (1817), pp 154-61, 615-20. See also Alison Lumsden, ‘Walter Scott and *Blackwood’s*: Writing for the Adventurers’ *Romanticism* 23 (2017), pp. 218-21.

<sup>11</sup> See J. H. Alexander and G. A. M. Wood, ‘Explanatory Notes’, in Walter Scott, *Quentin Durward*, ed. J. H. Alexander and G. A. M. Wood (Edinburgh: Edinburgh University Press, 2001), pp. 525-26.

<sup>12</sup> Nord, *Gypsies and the British Imagination*, p. 24.

<sup>13</sup> Walter Simson, *A History of the Gipsies: with Specimens of the Gipsy Language*, ed. James Simson (London: Samson Low, Son, and Marston, 1865).

move between different states and live in the ‘remote parts of the country’, together with the support they received from ‘the common people’, as well as a lack of adequate policing. Although known by many names throughout the Continent, including ‘Cingari, Zigeuners, Tziganyis, Bohemiens, Gitanos, or Gypsies’, they were all ‘the same dark, deceitful, and disorderly race’ who had emigrated from India or Egypt.<sup>14</sup> Moving on to consider Gypsies in Scotland, the article included various folktales relating to Gypsies of two generations previous, describing the ‘stout, handsome, and athletic men’ who ‘cleared the waters and burns of fish’ and ‘the farmers’ out-houses of poultry and eggs’, but were ‘always civil, full of humour and merriment’, and looked upon with some fondness by ‘country people’.<sup>15</sup> By 1817, however, the Gypsies who still remained in Scotland were mere ‘tinkers’ and not ‘the proper Oriental... race’, having been ‘much intermingled with our national outlaws and vagabonds’.<sup>16</sup> Nineteenth-century Gypsies were, as a reader’s letter responding to the *Blackwood’s* article put it, a ‘degenerated race’ who were at ‘some risk of becoming extinct’.<sup>17</sup> Simson and Scott’s article also noted that, for centuries, the history and continued presence of Gypsies throughout Europe had been treated with ‘unaccountable indifference’, and that it was only ‘very lately’ that the ‘strange, picturesque, and sometimes terrific features of the gypsy character’ had attracted the interest of poets, novelists, and historians.<sup>18</sup>

The account of Gypsies and their history presented in *Blackwood’s* was grounded in the latest historical, linguistic, and folkloric scholarship, a range of oral testimonies, and familiarity with the archival material. It was also imbued with the contemporary values of early nineteenth-century Romanticism and scientific racism, reflecting a way of thinking about Gypsies that profoundly shaped scholarship on the subject for a century or more. ‘Gypsies’ were defined as a single racial category of people with a shared language, culture, and physical appearance. According to this definition, Gypsies’ eastern origins and historical experience had instilled in them a set of innate characteristics, including itinerancy, violence, and deceitfulness. Yet despite these negative attributes, Gypsies were also viewed a picturesque vestige of a simpler age: a proud people who had become tragically degraded by the modern world, and were at risk of vanishing altogether.<sup>19</sup> This

---

<sup>14</sup> [Simson], ‘Notices concerning Scottish Gypsies’, pp. 43-44.

<sup>15</sup> *Ibid.*, p. 53.

<sup>16</sup> *Ibid.*, pp. 156-57.

<sup>17</sup> ‘Some Account of Billy Marshall Gypsy Chief’, *Blackwood’s Edinburgh Magazine* 1 (1817), p. 462.

<sup>18</sup> [Simson], ‘Notices concerning Scottish Gypsies’, p. 43.

<sup>19</sup> For a full discussion of this typology, see Nord, *Gypsies and the British Imagination*, ch. 2.

typology of Gypsies, set out in the work of Scott, Simson, and other contemporary Scottish writers, was deeply indebted to *Dissertation on the Gipsies* (1787) by Heinrich Grellmann, an historian at the University of Göttingen. Originally published in German four years earlier under the title *Die Zigeuner*, Grellmann's treatise popularised the discovery of a linguistic connection between the 'Gipsey language' (Romani) and 'Hindostan language' (Hindi-Urdu), and also advanced the claim that 'Gypsies' were an 'eastern people' with 'eastern notions', reflective of their Indian origins.<sup>20</sup> According to Grellmann, 'Gypsies' were uncivilised, irrational, dishonest, and idle: an inversion of eighteenth-century Enlightenment values of civility, rationality, honesty, and industry. Grellmann's attitude towards the treatment of Gypsies by different governments was ambiguous: while he believed in Gypsies' innate racial inferiority, he also felt it was the responsibility of his enlightened contemporaries to try and 'humanise' them, and deplored the fact that they had 'wandered in error and neglect' for so long.<sup>21</sup> Grellmann did not 'discover' the linguistic origins of Romani, nor was he the first to treat 'Gypsies' as a single racial group.<sup>22</sup> Nevertheless, it was his work that firmly established 'Gypsies', defined in ethno-racial terms, as a subject of modern scholarly enquiry.<sup>23</sup>

While Grellmann was widely cited, quoted, and paraphrased by nineteenth-century writers such as Scott and Simson, the romantic aspects of their work on Scottish Gypsies denoted a clear departure from Grellmann's model. For Scott and Simon, Gypsies were not so much a menace to be assimilated as the subject of wistful nostalgia; their decline and disappearance a melancholy if inevitable symptom of a rapidly changing world.<sup>24</sup> Such a perspective continued to be shared by scholars interested in Gypsy history, culture, and folklore and, by the late nineteenth century, coalesced into a nascent academic discipline, known as 'Gypsyism' or 'Gypsiology'. Influenced by the formalisation of folklore studies, the Scottish scholar David MacRitchie spearheaded the

---

<sup>20</sup> Heinrich Grellmann, *Dissertation on the Gipsies: Being an Historical Enquiry, Concerning the Manner of Life, Economy, Customs and Conditions of there People in Europe, and their Origin*, trans. Matthew Raper (London: Elmsley, Cadell, and Sewell, 1787), pp. 131-33, 164-68; and *Die Zigeuner* (Dessau and Leipzig: Berlags, 1783).

<sup>21</sup> Grellmann, *Dissertation*, p. xv.

<sup>22</sup> See William Marsden, 'Observations on the Language of the People commonly called *Gypsies*', *Archaeologia* 7 (1785); Yaron Matras, 'Johann Rüdiger and the study of Romani in 18th Century Germany', *Journal of the Gypsy Lore Society* 9 (1999).

<sup>23</sup> See Wim Willems, *In Search of the True Gypsy: From Enlightenment to Final Solution*, trans. by Don Bloch (London: Frank Cass, 1997), pp. 9-10; Becky Taylor, *Another Darkness, Another Dawn: A History of Gypsies, Roma and Travellers* (London: Reaktion Books, 2014), pp. 98-99.

<sup>24</sup> See Sarah Houghton-Walker, *Representations of the Gypsy in the Romantic Period* (Oxford: Oxford University Press, 2014), p. 9-11.

creation of a corresponding society devoted to studying Gypsies: the Gypsy Lore Society, founded in Edinburgh in 1888. The society's aims, as set out in the preface of the first edition of the *Journal of the Gypsy Lore Society*, was 'to gather new materials, to rearrange the old, and to formulate results' regarding Gypsies' origins, history, language, manners, and folklore.<sup>25</sup> While the society was plagued by financial difficulties during its early history, its journal became the most significant forum for scholarship on Gypsies in the English-speaking world.<sup>26</sup> Many of the articles published in the *Journal of the Gypsy Lore Society* during the late nineteenth and early twentieth centuries were meticulously researched historical, linguistic, and ethnographic studies, particularly during the editorship of John Macfie between 1907 and 1935.<sup>27</sup> But the *Journal's* articles also promoted a highly racialised and romantic understanding of Gypsies: they were consistently portrayed as a single, coherent people who, for a long time, had possessed a cultural, ethnic, and linguistic purity despite geographical dispersion and the vagaries of time.<sup>28</sup> By the nineteenth century, according to the Gypsyloists, this 'purity' was becoming diluted; indeed, MacRitchie believed Gypsies to be 'all the more interesting because they must gradually disappear under pressure of modern law'.<sup>29</sup>

As a founding member of the Gypsy Lore Society, MacRitchie's conception of Gypsies and their history was similar to that of other Gypsyloists. MacRitchie's own monograph on premodern Scottish Gypsies, entitled *Scottish Gypsies under the Stewarts* (1894), sought to distinguish between 'the genuine Gypsy, the swarthy, fortune-telling Romany of our fairs and racecourses', and 'people of fair complexion, who cannot speak a word of Romanes'. He also described the Scottish Gypsies of the late eighteenth century as a 'people in their decay, after nearly two centuries of persecution'.<sup>30</sup> While MacRitchie also made extensive use of the earlier antiquarian research conducted by Scott, Hoyland, and Simson, he identified new archival material overlooked by these earlier writers.<sup>31</sup> In some respects, *Scottish Gypsies under the Stewarts* is not so much a work of

---

<sup>25</sup> 'Preface', *Journal of the Gypsy Lore Society* 1 (1888), p. 1.

<sup>26</sup> See David Mayall, *Gypsy Identities 1500-2000: From Egipcians and Moon-Men to the Ethnic Romany* (London: Routledge, 2004), pp. 188-98.

<sup>27</sup> *Ibid.*, p. 189.

<sup>28</sup> See Katie Trumpener, 'The Time of the Gypsies: A "People Without History" in the Narratives of the West', *Critical Inquiry* 18 (1992).

<sup>29</sup> David MacRitchie, 'Irish Tinkers and their Language', *Journal of the Gypsy Lore Society*, p. 351

<sup>30</sup> David MacRitchie, *Scottish Gypsies under the Stewarts* (Edinburgh: David Douglas, 1894), pp. 1, 50-51.

<sup>31</sup> *Ibid.*, p. viii.

history-writing as a source book, directly quoting or paraphrasing legislation, proclamations, court cases, and folk tales with relatively little analysis or contextual explanation. In selecting sources for inclusion, MacRitchie undoubtedly discriminated in favour of evidence that reflected the supposed romance and violence of Gypsy lives. But MacRitchie also articulated a theory of Scottish Gypsies' origins that departed from his Gypsyologist colleagues and antiquarian predecessors. He argued that the terms 'Gypsy' and 'Egyptian' were used imprecisely in premodern Scottish sources: no distinction was made racially pure, 'true Gypsies', and other groups who had been labelled 'Gypsies' because 'they lead a wandering, unsettled life'. Via a torturous chain of logic reliant on spurious etymological claims, MacRitchie proposed in *Scottish Gypsies under the Stewarts* that Gypsies had been resident in Scotland since the twelfth century, if not earlier. In an earlier work, he had suggested that Gypsies, while racially distinct from white Europeans, were actually an indigenous European race and not medieval migrants from India, as was widely believed.<sup>32</sup> Although few other Gypsyologists took up MacRitchie's theory regarding Gypsies' origin, in other respects he adopted the romantic and racialised historical typology of Gypsies established by Grellmann, Scott, Simson, and his fellow Gypsyologists.

This doctoral thesis is the first study of Scotland's premodern Gypsies since David MacRitchie's *Scottish Gypsies under the Stewarts*. Covering a period from c.1570 to c.1700, it returns to many of the same individuals, events, and sources described by Scott, Simson, and MacRitchie, while also examining a range of primary source material that has hitherto received little scholarly attention. As will be shown in more detail in subsequent chapters, groups of travellers 'calling themselves Egyptians' were first recorded in Scotland in the early sixteenth century. Although Scottish elites initially received these strangers with curiosity and good-will, local authorities across lowland Scotland soon associated their presence with theft and intra-communal violence, and King James V banished them from the realm in 1541. This banishment proved unenforceable and, following the Protestant Reformation of 1560, the people labelled 'Egyptians', 'counterfeit Egyptians', and (eventually) 'Gypsies' became associated with a range of sinful and disorderly behaviours. As a consequence, governmental authorities passed a barrage of punitive measures against such people between the 1570s and the 1620s, while ecclesiastical authorities sought to marginalise and exclude them from community life. Despite these efforts, Gypsies had become embedded within Scottish society, creating strong social and economic ties with individuals from a range of different

---

<sup>32</sup> *Ibid.*, p. 12; David MacRitchie, *Ancient and Modern Britons: A Retrospect*, vol. i (London: Kegan Paul, Trench & Co., 1884), p. 141.

backgrounds which ensured their survival. Following Charles II's Restoration in 1660, English imperial expansion in the Atlantic impacted Scottish policy towards Gypsies: Scottish governing authorities worked with merchants to arrest and transport Gypsies and other 'vagabonds' to the English colonies in the Caribbean and North America, where they worked as indentured labourers. At the same time, Scottish lawyers started to reimagine how Gypsies should be defined, using nascent racial typologies in order to categorise and prosecute them. All the while Gypsies maintained ways of living that remained distinct from the settled majority. Many were itinerants who presented themselves as 'Egyptians', spoke a language unrecognisable to Scots and Gaelic speakers, maintained their own kinship structures, and sustained livelihoods through elite patronage, trading in horses and small goods, fortune-telling, charming, and theft. Accordingly, this thesis recovers the perceptions and experiences of group of people who have been maligned, exoticised, and celebrated since the sixteenth century, but are all but absent from contemporary scholarship on early modern Scotland.

### ***Gypsies and Historians***

Scholars no longer define Gypsies with the certainty of Grellmann, Scott, and nineteenth-century Gypsylogists. According to the linguist Yaron Matras, the term 'Gypsy' became a 'double signifier' in twentieth-century English-language scholarship, referring both to a diverse range of communities with a shared tradition of nomadism, and to Romani-speaking groups specifically. The former category developed out of equating the historical experiences, social and economic position, and cultural practices of people labelled 'Gypsies' in English, 'Bohémiens' in French, 'Gitanos' in Spanish, 'Zigeuner' in German, and other terms treated as cognates since the seventeenth century. The latter category, by contrast, developed out of linguistic scholarship that has recognised that the various groups across Europe and the Middle East, referred to by endonyms including Roma, Kale, and Manouche, speak a language with a common grammar, syntax, and vocabulary, albeit with significant variations in dialect.<sup>33</sup> Further complicating the picture, in recent decades scholars have increasingly used the Romani-language terms 'Roma' (plural noun) and 'Romani' (verb) in place of 'Gypsies' and 'Gypsy'.<sup>34</sup> This change has been driven by activists from Romani communities who

---

<sup>33</sup> Yaron Matras, 'The Role of Language in Mystifying and Demystifying Gypsy Identity', in *Role of the Romanies: Images and Counter Images of 'Gypsies'/Romanies in European Cultures* (Liverpool: Liverpool University Press, 2004) p. pp. 53-54.

<sup>34</sup> Elena Marushiakova and Vesselin Popov, 'Roma Labelling: Policy and Academia', *Slovenský Národopis/Slovak Ethnology*, 66:4 (2018) pp. 386-87, 403-4.

have implored scholars to recognise that ‘Gypsy’ and its cognates such as such as ‘Gitano’ or ‘Zigeuner’ are exonyms that, for many, carry strongly pejorative connotations.<sup>35</sup>

For scholars working across a range of disciplines, ‘Gypsy’ is now employed only in the context of the term’s historical usage, or else to refer to the contemporary Romanichal Gypsy population of Britain, many of whom self-identify with the term ‘Gypsy’ and reject outright being categorised as ‘Roma’.<sup>36</sup> As a consequence, academics and policy makers in the United Kingdom have increasingly adopted the inclusive, if somewhat unwieldy, designation ‘Gypsies, Roma, and Travellers’ (GRT).<sup>37</sup> In a contemporary Scottish context, where Traveller groups identify as ‘Nawken’ (also spelled ‘Nacken’ or ‘Nakken’), ‘Travellers’, ‘Gypsies’, and ‘Gypsy-Travellers’, the catch-all terms ‘Scottish Gypsy/Travellers’ and ‘Gypsy Travellers’ have been adopted by the Scottish government, charities, and advocacy groups.<sup>38</sup> Nevertheless, some scholars avoid the term ‘Gypsy’ altogether, even in these specific contexts: Noémie Ndiaye, for instance, consistently uses the terms ‘Roma’ and ‘Romani’ when studying early modern England, definitively stating that ‘the term Gypsy is a racial slur’.<sup>39</sup> When discussing contemporary Romani-speaking populations, the terminological shift from ‘Gypsy’ to ‘Romani’ is undoubtedly welcome; but historians have continued to find analytical use in employing the term ‘Gypsy’ to study earlier periods, and in unpacking its various possible meanings and historical implications.<sup>40</sup> The term ‘Gypsy’ is used throughout the body of this thesis, capitalised and without quotation marks. The upper case noun is an acknowledgement that Scotland’s early modern Gypsies were the predecessors of today’s

---

<sup>35</sup> See Ethel C. Brooks, ‘The Possibilities of Romani Feminism’, *Signs* 38 (2012), p. 2; Ian Law and Martin Kovats, *Rethinking Roma: Identities, Politicisation and New Agendas* (Basingstoke: Palgrave Macmillan, 2018), esp. introduction; Jane Selling, *Romani Liberation: A Northern Perspective on Emancipatory Struggles and Progress*, trans. Dana Schlitter (Budapest: Central European University Press, 2022), esp. introduction.

<sup>36</sup> See Colin Clark, ‘Who are the Gypsies and Travellers of Britain?’, in Colin Clark and Margaret Greenfield eds., *Here to Stay: The Gypsies and Travellers of Britain* (Hatfield: University of Hertfordshire Press, 2006).

<sup>37</sup> See Becky Taylor and Jim Hinks, ‘What field? Where? Bringing Gypsy, Roma and Traveller History into View’, *Cultural and Social History* 18 (2021), p. 3.

<sup>38</sup> See Colin Clark, ‘Defining Ethnicity in a Cultural and Socio-Legal Context: the Case of Scottish Gypsy-Travellers’ *Scottish Affairs* 54 (2006).

<sup>39</sup> Noémie Ndiaye, ‘Black Roma: Afro-Romani Connections in Early Modern Drama (and Beyond)’, *Renaissance Quarterly* 75 (2022), p. 1266. See also Kristina Richardson’s discussion of the use of the term ‘Roma’ to describe the ‘Ghuraba’ of the medieval Islamic world: Kristina Richardson, *Roma in the Medieval Islamic World: Literacy, Culture, and Migration* (London: I.B. Tauris, 2022), pp. 2-4, 9-11.

<sup>40</sup> On the ethical and political implications of labelling when discussing ‘Roma’ and ‘Gypsies’, see Tatiana Zachar Podolinská and Daniel Škobla, ‘Why Labelling Matters. On Social Construction of Roma/Gypsies in Europe’, *Slovenský Národopis/Slovak Ethnology* 66 (2018).

Scottish Gypsy Travellers. At the same time, the historical uses of the term ‘Gypsy’ and its cognates were manifold and complex, and are explored in greater detail throughout the thesis. The following sub-section considers the historiography of premodern ‘Gypsies’ (broadly conceived), paying close attention to the different ways that historians have addressed methodological challenges inherent in approaching this subject.

Recent scholarship on the history of premodern Gypsies has faced two significant problems, both of which have generated debate, frustration, and defeatism. The first concerns how best to define and label the groups variously known as Roma, Egyptians, Gypsies, Travellers, and many other regionally and linguistically specific terms. Historically, these diverse groups of people have almost invariably been named, grouped, and classified by political and social elites, and in recent decades both scholars and activists have been attentive to the meaning, utility, and impact of these exonymous labels and definitions. Even within a relatively small historiographical field, the challenges posed in defining premodern Gypsies has led to a multiplicity of different approaches that may approximately be divided between those who treat premodern Romani peoples as an ethnicity, broadly defined, and those more focused on representations and stereotyping. Susan Wiseman has described this division as ‘an intermittently articulated fault line... between emphasis on recovery of experience and representation or image’.<sup>41</sup> Elsewhere, Vita Zalar has suggested that scholars are themselves divided according to different ‘historical sensibilities’, broadly categorisable as ‘essentialists’ and ‘constructivists’. According to Zalar, ‘essentialists’ accept Gypsy ethnicity as a suitable subject for historical enquiry, while ‘constructivists’ critique this position, arguing that such an approach replicates the ethno-racial categories used by the likes of Grellmann, Scott, and the Gypsylorists.<sup>42</sup> Although such binaries risk oversimplifying the nuanced theoretical and historiographical positions that they purport to describe, they nevertheless capture the fundamentally different ways that historians have hitherto conceived ‘Gypsies’, the interpretative consequences of which require further examination.

---

<sup>41</sup> Susan Wiseman, ‘Making ‘Gypsies’ in the English Reformation? Laws, Words and Texts (1530-1621)’, *Proceedings of the British Academy* 246 (2022), pp. 181-82.

<sup>42</sup> See Vita Zalar, ‘Essentialism and Constructivism in Romani Studies: Symptoms of Conflicting Time Regimes’, in *Methodenvielfalt in der Geschichtswissenschaft: Tagungsband zur 8. Doktorandentagung des Doktoratskollegs für Mitteleuropäische Geschichte an der Andrassy Universität Budapest* (Vienna: New Academic Press, 2022).

The second, interrelated problem faced by scholars of premodern ‘Gypsies’ is of an evidential nature. Premodern Romani speakers and others labelled ‘Gypsies’ produced no textual histories of their own, and the traces of their lives were often the product of individuals and institutions more invested in their stigmatisation, removal, or destruction. Many historians have lamented the difficulty, if not impossibility, of writing the social history of premodern Romani peoples. As Yaron Matras has put it:

The Roms have never set down any records of their own lives and the events that shaped them. All the information we have about the early phases in the life of the Romani people is based on the accounts and impressions of outsiders. Romani history is therefore one-sided, reflecting the perspective of the people who came into contact with the Roms but not of the Romani communities themselves.<sup>43</sup>

Elsewhere John Morgan has noted that, although ‘overcoming overwhelming source bias remains difficult’, it may be tackled either by attempting to read extant sources ‘against the grain’ and thus repurposing them to new social-historical ends, or by analysing the same sources as ‘contemporary images and fantasies’.<sup>44</sup> Although these two approaches are by no means mutually exclusive, their differences in emphasis and methodology has led to startlingly different conclusions regarding who (or what) was meant by pre-Enlightenment ‘Gypsies’. This sub-section further explores these approaches, demonstrating the diverse ways in which different historians have defined the premodern Gypsy subject and tackled the paucity and partiality of extant evidence.

The question of ‘Gypsy origins’ that so exercised nineteenth-century scholars has lost much of its significance for contemporary academics. There is now a large body of linguistic scholarship supporting the view that the earliest Romani speakers migrated west from the Indian subcontinent around AD 1000, thus confirming the initial claims of Grellmann and his contemporaries that Romani and Hindi-Urdu languages are closely related.<sup>45</sup> Several recent genome-wide studies have also demonstrated the genetic links between small samples of Romani-speaking individuals and

---

<sup>43</sup> Yaron Matras, *I Met Lucky People: the Story of the Romani Gypsies* (London: Allen Lane, 2014), p. 128.

<sup>44</sup> John Morgan, “‘Counterfeit Egyptians’: The Construction and Implementation of a Criminal Identity in Early Modern England”, *Romani Studies* 26:2 (2016), p. 110.

<sup>45</sup> See Yaron Matras, *Romani: A Linguistic Introduction* (Cambridge: Cambridge University Press, 2002), esp. ch. 3.

contemporary Indian populations.<sup>46</sup> Nevertheless, for academic historians working in the late twentieth and twenty-first centuries, this shared linguistic and genetic heritage has proven a poor basis on which to make general claims about Gypsies, their culture, and ethnic identity. In an influential historical survey simply entitled *The Gypsies* (1992), Angus Fraser pointed out that although those individuals labelled ‘Gypsies’ were highly fragmented and culturally varied, ‘the English term “people”, loose and ambiguous as it is... can just about be stretched to cover this rich mosaic of ethnic fragments which nowadays make up the populations that outsiders call “Gypsies”’.<sup>47</sup> In 2014, Becky Taylor opened her survey history of Gypsies, entitled *Another Darkness, Another Dawn*, with a note of caution, writing that ‘no one word that can cover the multitude of peoples who have been called, or might call themselves Roma, Gypsy or Traveller, or any of the national variations of these words over time and place’.<sup>48</sup> Taylor’s work nevertheless consistently employed the term ‘Gypsy’ (albeit ‘with hesitation and caveats’) since in all but the most recent historical contexts, ‘it seems most historically, if not socially, accurate’.<sup>49</sup> There is, however, an implicit assumption throughout Taylor’s work that, whatever their manifold variations and cultural diversity, Gypsies comprise an ethnic group that left India a thousand years ago, that they forged a ‘distinctive “Gypsy” identity’ based on language and nomadism in late medieval Europe, and that this identity that survives into the present.<sup>50</sup>

Another survey history, Klaus-Michael Bogdal’s *Europe and the Roma: A History of Fascination and Fear*, first published in German in 2010, makes for an instructive comparison. For Bogdal, ‘fifteenth-century Europe invented Gypsies’.<sup>51</sup> His history is concerned with representations, tropes, and stereotypes, creating a history of ‘Gypsies’ as a stigmatising category that has been constructed by outsiders, rather than a history of the Romani people. This is because, as Bogdal claims, for much of their history the experiences of the Roma have been veiled in an ‘impenetrable fog that

---

<sup>46</sup> See Peter Bakker, ‘Romani Genetic Linguistics and Genetics: Results, Prospects and Problems’, *Romani Studies* 22 (2012); Isabel Mendizabal *et al.*, ‘Reconstructing the Population History of European Romani from Genome-wide Data’, *Current Biology* 22 (2012); Priya Moorjani *et al.*, ‘Reconstructing Roma History from Genome-Wide Data’, *PLoS ONE* 8 (2013).

<sup>47</sup> Angus Fraser, *The Gypsies* (Oxford: Blackwell, 1992), p. 9.

<sup>48</sup> Taylor, *Another Darkness, Another Dawn*, p. 11.

<sup>49</sup> *Ibid.*, p. 19.

<sup>50</sup> *Ibid.*, p. 22.

<sup>51</sup> Klaus-Michael Bogdal, *Europe and the Roma: A History of Fascination and Fear*, trans. by Jefferson Chase (London: Allen Lane, 2023), pp. 15-16. First published in German as: *Europa erfindet die Zigeuner. Eine Geschichte kultureller Gewalt* (Berlin: Suhrkamp, 2010).

will likely never lift'.<sup>52</sup> The approach espoused by Bogdal was pioneered by the so-called 'Dutch School' of sociologists in the 1990s, most prominently including Wim Willems, Leo Lucassen, and Annemarie Cottaar, as well as the English social historian David Mayall.<sup>53</sup> These scholars presented their research as a direct response to a body of scholarship which they saw as shaped by the essentialist paradigms of nineteenth-century Gypsylorists, singling out Angus Fraser's *Gypsies* for particular criticism.<sup>54</sup> By contrast, the sociologists proposed that 'Gypsies' formed a discursive category rather than an ethnicity, and that representations of 'Gypsies' were constructed or co-opted by authorities to stigmatise and marginalise itinerant groups.<sup>55</sup> In tandem with this approach, Willems and Lucassen also examined the social and economic roles occupied by Gypsies and other itinerants, arguing that such a focus helped to reframe the historical narratives of these groups in terms of their socio-economic functions, rather than their status as perennial outsiders or passive victims of persecution.<sup>56</sup> While this sociologically-informed approach to the history of 'Gypsies' has sometimes been labelled 'Foucauldian', and extensively uses the vocabulary and concepts of poststructuralism, the work of these scholars on 'Gypsies' was directly indebted to the theoretical proposals of the anthropologist Judith Okely. In her ethnographic work on contemporary English Gypsies and Travellers, Okely proposed that the group should be defined by their occupying an economic niche rather than possessing a shared culture. Furthermore, she suggested that many individuals labelled 'Gypsies' or 'Egyptians' in early modern sources may have been largely, or entirely, 'indigenous recruits' who chose 'to organise themselves to exploit the economic opportunities on the road'.<sup>57</sup> Okely's aim was to dissolve boundaries that anthropologists continued to draw between the 'real' English and Welsh Gypsies of Indian origin, and Scottish and Irish Travellers who were viewed as "merely" descendants of vagrants'.<sup>58</sup>

---

<sup>52</sup> Bogdal, *Europe and the Roma*, p. 3

<sup>53</sup> See Leo Lucassen, Wim Willems, and Annemarie Cottaar, *Gypsies and Other Itinerant Groups: A Socio-historical Approach* (Basingstoke: Macmillan, 1998).

<sup>54</sup> Lucassen, Willems, and Cottaar, *Gypsies and Other Itinerant Groups*, pp. 5-6.

<sup>55</sup> *Ibid.*, p. 2, pp. 8-9.

<sup>56</sup> *Ibid.*, pp. 11-12. See also Leo Lucassen and Wim Willems, 'The Weakness of Well-Ordered Societies: Gypsies in Western Europe, the Ottoman Empire, and India, 1400–1914', *Review (Fernand Braudel Center)* 26 (2003).

<sup>57</sup> Judith Okely, *The Traveller-Gypsies* (Cambridge: Cambridge University Press, 1983), pp. 14-15. On the 'Foucauldian' characterisation of the 'Dutch School', see Michael Stewart, 'Roma and Gypsy "Ethnicity" as a Subject of Anthropological Inquiry', *Annual Review of Anthropology* 42 (2013), pp. 422-23. Michel Foucault is not included in the bibliographies of Lucassen, Willems, and Cottaar, *Gypsies and Other Itinerant Groups*; Willems, 'In Search of the True Gypsy'; or Mayall, *Gypsy Identities*.

<sup>58</sup> Okely, *The Traveller-Gypsies*, p. 19.

These ‘constructivist’ approaches generated fierce debate at the turn of the millennium, contested by Romani studies scholars and activists who opposed the reduction of Gypsies to ‘a series of representations, with only a shifting and tenuous relation to underlying reality’.<sup>59</sup> Nevertheless, as Zalar has noted, much historical scholarship on ‘Gypsies’ has adopted ‘constructivist’ vocabulary, even while advocating for the utility of ‘ethnicity’ as an historical category.<sup>60</sup> In 2018, for instance, David Cressy concluded his monograph entitled *Gypsies: An English History* by stating:

Gypsies are indeed a discursive category, a textual phenomenon, but behind the cultural construction lies the material embodiment of families and individuals... I have tried in this book, as much as possible, to relate the experience of named individuals, and to treat English Gypsies as people rather than as constructs or categories.<sup>61</sup>

Cressy’s approach sought to recognise the importance of representations, stereotypes, and categorical fuzziness, while also affirming that Gypsies were an ethnicity with a shared language, culture, and origins. Cressy’s approach contrasted to that adopted by Frances Timbers in her monograph on early modern English Gypsies entitled *The Damned Fraternitie*. Taking the approach espoused by Okely, Mayall, and the ‘Dutch School’ to its logical extreme, Timbers argued that ‘English gypsies were probably Scottish and English travellers, who usurped the gypsy persona that was already popular on the continent’. Timbers also suggested that scholarly conceptions of premodern Gypsy identities rooted in ethnicity, shared origins, and language were ‘at risk of basing identity on genetic characteristics or biological determinism’, thereby reaching a position reminiscent of the ‘primordialist’ view of Gypsyologists and, alarmingly, ‘eugenics as practiced by the nazis’.<sup>62</sup> Ironically, perhaps, Timbers’s monograph relied heavily on primary documentation selected, transcribed, and printed by early members of the Gypsy Lore Society, whereas Cressy’s study brought to light an array of archival material hitherto unexamined by historians of Gypsies.<sup>63</sup>

---

<sup>59</sup> Thomas Acton, ‘Modernity, Culture and “Gypsies”: Is there a Meta-Scientific Method for Understanding the Representation of “Gypsies”? And do the Dutch really exist?’, in *Role of the Romanies: Images and Counter Images of ‘Gypsies’/Romanies in European Cultures* (Liverpool: Liverpool University Press, 2004) p. 98. See also Yaron Matras, ‘Scholarship and the Politics of Romani Identity: Strategic and Conceptual Issues’, in *European Yearbook of Minority Issues* 10 (2013); Taylor and Hinks, ‘What field? Where?’, p. 634.

<sup>60</sup> Vita Zalar, ‘Essentialism and Constructivism’ in *Methodenvielfalt in der Geschichtswissenschaft*, pp. 242-43.

<sup>61</sup> Cressy, *Gypsies: An English History* (Oxford: Oxford University Press: 2018), p. 276.

<sup>62</sup> Frances Timbers, *The Damned Fraternitie’: Constructing Gypsy Identity in Early Modern England, 1500-1700* (Abingdon: Routledge, 2016), p. 3.

<sup>63</sup> *Ibid.*, pp 1-2.

A range of theoretically innovative approaches to the history of premodern ‘Gypsies’ have been constrained by an over-reliance on a narrow base of easily accessible source material.<sup>64</sup> The past two decades have seen several literary studies on premodern ‘Gypsies’ focusing on literary and theatrical representations. Noémie Ndiaye and Carole Mejia LaPerle, for instance, have examined representations of ‘Gypsies’ in the works of, among others, William Shakespeare, Ben Jonson, and Molière using the analytical tools of critical race theory, while Mark Netzloff has considered the same representations through the lens of early modern conceptions of English identity.<sup>65</sup> Also focusing on English ‘Gypsies’, John Morgan and Susan Wiseman have paid close attention to the construction of ‘Gypsy’ representations in sixteenth-century English law.<sup>66</sup> Geraldine Heng’s study of ‘race-making’ in medieval European literature, *The Invention of Race in the European Middle Ages* (2018), included a chapter on how late-medieval ‘Gypsies’ appear to have ‘clung to their own version of racial identity: an identity that shifted and remade itself, as groups of Romani spread through the Near East and the countries of the West’.<sup>67</sup> Heng’s argument rested on a capacious definition of race, defined as the product of ‘specific historical occasions in which strategic essentialisms are posited and assigned through a variety of practices and pressures, so as to construct a hierarchy of peoples for differential treatment’.<sup>68</sup> Unfortunately, the instances of ‘Gypsy race-making’ that Heng identified were drawn almost entirely from the survey histories of Fraser and Hancock, which themselves relied heavily on the selective evidence provided by nineteenth-century Gypsylorists, and uncritically applied an ethnic framework to understanding premodern ‘Gypsies’. As a result, Heng identified instances of ‘race-making’ where nineteenth-century scholars had found ‘race’, thence recapitulating the kind of fixed ethno-racial category that she sought to problematise elsewhere. While all the studies described here offer original interpretations

---

<sup>64</sup> See Lane B. Baker, ‘Marginal People, Marginal History: A Historiography of Medieval Romani Immigration’, *German Historical Institute London Bulletin* 45 (2023), p. 46.

<sup>65</sup> See Mark Netzloff, “Counterfeit Egyptians” and Imagined Borders: Jonson’s *The Gypsies Metamorphosed*’ *ELH* 68 (2001); Carol Mejia LaPerle, ‘An Unlawful Race: Shakespeare’s Cleopatra and the Crimes of Early Modern Gypsies’, *Shakespeare*, 13:3 (2017); Ndiaye, ‘Black Roma’. See also Bryan Reynolds, *Becoming Criminal: Transversal Performance and Cultural Dissidence in Early Modern England* (Baltimore: Johns Hopkins University Press, 2002); Sydnee Wagner, ‘Outlandish People: Gypsies, Race, and Fantasies of National Identity in Early Modern England’ (unpublished doctoral dissertation, The City University of New York, 2020).

<sup>66</sup> See John Morgan, “Counterfeit Egyptians”; Susan Wiseman, ‘Making “Gypsies” in the English Reformation?’.

<sup>67</sup> Geraldine Heng, *The Invention of Race in the European Middle Ages* (Cambridge: Cambridge University Press, 2018), p. 448.

<sup>68</sup> *Ibid.*, p. 3.

of some of the better-documented representations of ‘Gypsies’, they nevertheless remain dependent on survey histories and Gypsylorist texts to situate these representations in a broader historical context.

The last two decades have seen a trickle of studies of premodern ‘Gypsies’ informed by original archival research, providing a powerful rejoinder to the view that paucity of evidence renders impossible the writing of premodern ‘Gypsy’ social history. These more recent studies have approached the question of defining ‘Gypsies’ in various ways and, in order to indicate their diversity of approach, in the following paragraph I have retained the specific term used by each historian for their subject, whether ‘Gypsy’, ‘gypsy’, ‘Romani’, or ‘Ghuraba’. Despite divergent terminology and conceptions of the ‘Gypsy’ subject, these studies all to some extent realise the following suggestions for improving research in the field of Romani studies made by the sociologist Annabel Tremlett. First, they consider Roma alongside non-Roma, ‘opening up further possibilities of comparing and contrasting experiences of identity’. Second, they foreground the context in which Gypsies lived over the search for those identifiable as ‘true Roma’. Third, they let go of the distinction between the ‘good’ and ‘bad’ Gypsy; that is, they do not attempt to substitute the ‘bad’ Gypsy depicted in the source material with an imagined ‘authentic’ or ‘misunderstood’ Gypsy for the purpose of advocacy or apologetics.<sup>69</sup> These studies also share a broad approach that is informed by the nature of the archival source material: they are bounded by national or imperial frameworks, embrace long time-scales, and explore how premodern governments drove the marginalisation of ‘Gypsies’.

In this mould, Richard Pym’s *The Gypsies of Early Modern Spain 1425-1783* (2007) analysed the Spanish crown’s policy towards Gypsies in the Iberian peninsula and, rather than offering a narrative of persecution and victimisation, demonstrated the ways in which Gypsies adapted to, and resisted, discriminatory policies of expulsion and forced sedentarisation.<sup>70</sup> Likewise, Lech Mróz’s *Roma-Gypsy Presence in the Polish-Lithuanian Commonwealth* (2016) presented an overview of policies promulgated against ‘Gypsies’ within the Polish-Lithuanian Commonwealth, while also

---

<sup>69</sup> Annabel Tremlett, ‘Bringing Hybridity to Heterogeneity in Romani Studies’, *Romani Studies* 19 (2009), pp. 163-64.

<sup>70</sup> Richard J. Pym, *The Gypsies of Early Modern Spain, 1425-1783* (Basingstoke: Palgrave Macmillan, 2007). See also Richard J. Pym, ‘Law and Disorder: Anti-Gypsy Legislation and its Failures in Seventeenth Century Spain’, in *Rhetoric and Reality in Early Modern Spain*, ed. Richard Pym (Woodbridge: Tamesis, 2006).

showing the different ways in which ‘Gypsies’ became integrated into that polity’s society, through settlement, receiving civil rights, intermarrying with the wider population, and holding minor political offices.<sup>71</sup> In similar vein, Cressy’s research has reconstructed aspects of the social history of England’s early modern ‘Gypsies’, particularly in relation to sporadic efforts of English authorities to prosecute and stigmatise them.<sup>72</sup> Massimo Aresu has uncovered the concurrent persecution and integration of early modern ‘gypsies’ (or ‘Zingari-gitanas’) in the Kingdom of Sardinia and other territories of the Spanish crown outside the Iberian peninsula, utilising a range of source material – from government decrees to parish records – in order to illuminate the often paradoxical relationship between individual ‘gypsies’ and the societies in which they lived.<sup>73</sup> As Stephen Steiner has commented, across early modern Europe, ‘Gypsies’ were at once ‘inherent and inextinguishable parts of community life’ as well as ‘objects of excessive hate and persecution’. Indeed, Steiner’s research on the Holy Roman Empire has demonstrated how material and visual evidence can, and should, be integrated into such narratives, drawing attention to ‘Gypsy warning signs’ as illustrated noticeboards depicting anti-‘Gypsy’ policies used throughout the eighteenth-century Empire.<sup>74</sup> Looking beyond Europe, Ann Ostendorf’s research has traced the reception and experience of ‘Romani’ people in English and French colonial North America, while Kristina Richardson has recovered the rich cultural history of the ‘Ghuraba’ (or ‘Roma’) in the late medieval Islamic world.<sup>75</sup>

---

<sup>71</sup> Lech Mróz, *Roma-Gypsy Presence in the Polish-Lithuanian Commonwealth* (Budapest: Central European University Press, 2016).

<sup>72</sup> See David Cressy, ‘Trouble with Gypsies in Early Modern England’, *The Historical Journal* 59 (2016); and *Gypsies*; and ‘Marginal People in a Stressful Culture: Gypsies and ‘Counterfeit Egyptians’ in Margaret Spufford’s England’, in Trevor Dean, Glyn Parry, and Edward Vallance eds., *Faith, Place and People in Early Modern England: Essays in Honour of Margaret Spufford* (Woodbridge: The Boydell Press, 2018).

<sup>73</sup> See Massimo Aresu, ‘Representing Spanish Gypsies during the Second Half of the 18th Century: A Dissenting Voice’, *Frühneuzeit-Info* 30 (2019); ‘Zingari e gitani tra città e campagna. Forme e mutamenti di una presenza inammissibile. Il caso sardo (XVI-XVII secolo)’, in Giampaolo Salice ed., *La Terra ai Forestieri, Colonizzazioni Interne nel Mediterraneo Moderno* (Pisa: Pacini, 2019).

<sup>74</sup> See Stephan Steiner, ‘The Enemy Within: ‘Gypsies’ as EX/INternal Threat in the Habsburg Monarchy and in the Holy Roman Empire, 15th-18th Century’, in Eberhard Crailsheim and María Dolores Elizalde eds., *The Representation of External Threats from the Middle Ages to the Modern World* (Leiden: Brill, 2019); *Combating the Hydra: Violence and Resistance in the Habsburg Empire, 1500–1900* (West Lafayette, Indiana: Purdue University Press 2023).

<sup>75</sup> See Ann Ostendorf, ‘“An Egiptian and Noe Xtian Woman”’: Gypsy Identity and Race Law in Early America’, *Journal of Gypsy Studies* 1 (2017); ‘Racializing American “Egyptians”: Shifting Legal Discourse, 1690s–1860s’, *Critical Romani Studies* 2 (2019); and ‘Louisiana Bohemians: Community, Race, and Empire’, *Early American Studies* (2021); Kristina Richardson, *Roma in the Medieval Islamic World: Literacy, Culture, and Migration* (New York: Bloomsbury, 2021). Despite the title of her monograph, Richardson is resistant to ascribing the label ‘Roma’ to the ‘Ghuraba’. See Richardson, *Roma*, pp. 11-12.

By contrast, archival material concerning premodern Scottish Gypsies has not received comparable attention. It was Cressy's belief that 'the history of Gypsies in Scotland has been well served by the Victorian Gypsyologist David MacRitchie', and MacRitchie's work also served as the evidentiary basis for Fraser's discussion of premodern Scottish Gypsies.<sup>76</sup> Other studies on the subject by local and non-professional historians have largely replicated the concepts, source material, and analysis of MacRitchie, Simson, and other nineteenth- and early twentieth-century Gypsyologists.<sup>77</sup> At the same time, however, Gypsies have been studied by historians focusing on other aspects of early modern Scotland. Margo Todd, for example, has considered how the removal of Gypsies was among the roles assigned to post-Reformation church courts, as well as exploring the ways in which Gypsies figured in popular beliefs.<sup>78</sup> John McCallum has examined the ways in which Gypsies were specifically excluded from poor relief, while Julian Goodare has treated the proliferation of anti-Gypsy legislation as a key marker of state expansion and the crown's absolutist ambition under James VI.<sup>79</sup> With regard to the later seventeenth century, Gwenda Morgan and Peter Rushton have described attempts to enforce anti-Gypsy legislation and transport Gypsies as "ethnic cleansing" before the name'.<sup>80</sup> Reflecting on how early modern Scots defined 'Gypsies', Morgan and Rushton took 'Gypsy' to be a label applied to groups of itinerants, some from Ireland, noting that 'a great deal of the history of Scottish relations with gypsies is buried within romantic and legendary traditions', and that 'even today... gypsies have had an uncertain public identity in Scotland'.<sup>81</sup>

---

<sup>76</sup> Cressy, *Gypsies*, pp. 19-25, p. 286.

<sup>77</sup> See Anne Gordon, *Hearts upon the Highway: Gypsies in South-East Scotland* (Galashiels: McQueen Printers, 1980); Donald Whyte, *Scottish Gypsies and Other Travellers: A Short History* (Alfreton: Robert Dawson, 2001); A. V. Tokely, *The Kirk Yetholm Gypsies*, (Hawick: Hawick Archaeological Society, 2004). Other Gypsyologist histories of Scottish Gypsies not cited above include Joseph Lucas, *The Yetholm History of the Gypsies* (Kelso: J. & J.H. Rutherford, 1882); William Brockie, *The Gypsies of Yetholm: Historical, Traditional, Philological, and Humorous* (Kelso: J. & J.H. Rutherford, 1884). Andrew McCormick, *The Tinkler-Gypsies of Galloway* (Dumfries: J. Maxwell & Sons, 1906).

<sup>78</sup> See Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (London: Yale University Press, 2002), pp. 215, 236; and 'Fairies, Egyptians and Elders: Multiple Cosmologies in Post-Reformation Scotland', in Bridget Heal and Ole Peter Grell ed., *The Impact of the European Reformation: Princes, Clergy, and People*, (Aldershot: Ashgate, 2008).

<sup>79</sup> See John McCallum, *Poor Relief and the Church in Scotland, 1560-1650* (Edinburgh: Edinburgh University Press, 2018), pp. 188-89; p. 230; Julian Goodare, *State and Society in Early Modern Scotland* (Oxford: Oxford University Press, 1999), pp. 293-95; and *The Government of Scotland, 1560-1625* (Oxford: Oxford University Press, 2004), pp. 211, 263-64, 273-74.

<sup>80</sup> Gwenda Morgan and Peter Rushton, *Banishment in the Early Atlantic World: Convicts, Rebels and Slaves* (London: Bloomsbury, 2013), pp. 31-35.

<sup>81</sup> *Ibid.*, pp. 31.

This doctoral thesis embraces the history of a whole polity over a relatively long time-span, following similarly expansive studies by Richard Pym, David Cressy, and Lech Mróz.<sup>82</sup> It traces how authorities enacted and enforced a range of measures against Gypsies, and how Gypsies were able to accommodate, resist, and ignore those measures. As in the works of Cressy, Pym and Mróz, the prominence of narratives concerning the actions of authorities against Gypsies as well as Gypsy resistance reflects an evidence base dominated by the administrative records of civil government, criminal courts, and ecclesiastical authorities. The emphasis placed on representations, perceptions, and stereotypes in this study also reflects this evidence base. The problem of how to define Gypsies is approached in two distinct ways, broadly contiguous with each of the two parts of the thesis. The first part, ‘Receiving Gypsies’, comprises three chapters, all of which consider elite and governmental representations of Gypsies, and how such representations were integral to the stigmatisation and marginalisation of Gypsies by political and ecclesiastical authorities. As such, these chapters consider the interplay between representations and governmental action, applying the approach to Scotland that David Mayall, John Morgan, and Susan Wiseman adopted in their studies of Gypsies and policy in early modern England.<sup>83</sup> The three chapters that constitute the second part of the thesis, ‘Gypsy Lives’, focus on the interactions of Gypsies and non-Gypsies, showing both how these interactions shaped representations of Gypsies, and what they reveal about the ways of life and experiences of Gypsies themselves. Rather than treating Gypsies as a single ethnic category, the chapters that make up ‘Gypsy Lives’ demonstrate the heterogeneity of those labelled ‘Gypsies’ and ‘Egyptians’, and the role of political and legal authorities, social marginalisation, and prejudice in shaping their shared identities and occupations. ‘Gypsy Lives’ therefore explores aspects of Gypsies’ social history while also heeding the exhortations for a more inclusive understanding of ‘Gypsy’ identity and ethnicity made by Annabel Tremlett and Kristina Richardson.<sup>84</sup>

The overall approach taken in this doctoral thesis to the subject of ‘Gypsies’ is a conscious attempt to escape the paradigm forged by Grellmann, Scott, and the Gypsyloists. By interpreting the history of premodern Gypsies through the lens of Romanticism and scientific racism, these writers

---

<sup>82</sup> See Pym, *The Gypsies of Early Modern Spain*; Cressy, *Gypsies*; Mróz, *Roma-Gypsy Presence*.

<sup>83</sup> See David Mayall, ‘Egyptians and Vagabonds: Representations of the Gypsy in Early Modern Official and Rogue Literature’, *Immigrants and Minorities* 16 (1997); Mayall, *Gypsy Identities*, esp. ch. 3; Morgan, “‘Counterfeit Egyptians’”; Wiseman, ‘Making ‘Gypsies’ in the English Reformation?’.

<sup>84</sup> See Tremlett, ‘Bringing Hybridity to Heterogeneity’; Richardson, *Roma in the Medieval Islamic World*, pp. 2, 11-12.

created a simple and powerful conception of Gypsies' group identity: as a diasporic community of itinerants, with shared ancestry and origins in India, and a common language and cultural practices. By this account, any differences between groups labelled 'Gypsies' reflected dilution of a 'pure' ethnic identity by the cultural majority, or was a consequence of Gypsies succumbing to social and economic pressures of modernity. While 'Gypsy' ethnicity may no longer be articulated in such terms, scholarly efforts to separate the history of 'true' Romani people from others labelled as 'Gypsies' risks projecting a similar vision. At the same time, engagement with a range of new primary evidence suggests that Gypsies were not merely 'floating signifiers': a convenient category constructed entirely by elites to serve their political purpose, or an occupational status and socio-economic position.<sup>85</sup> The relatively sudden appearance of foreign groups of itinerants with their own language and customs in fifteenth- and sixteenth-century Europe requires explanation, the most plausible of which is that a significant proportion were the descendants of migrants from India. But the terms 'Gypsies', 'Egyptians', and their cognates encompassed a range of meanings for early modern Scots. By exploring the construction of these meanings and examining the source material 'against the grain', this doctoral thesis argues that Gypsies cannot be reduced to an ethnicity defined by shared lineage or common culture. At the same time, this thesis also demonstrates that those labelled 'Gypsies' were real people united by their experience of marginalisation, many of whom had shared cultural practices, existed within the same social structures, or pursued similar means of subsistence.

### ***The Scottish Context***

As much as this doctoral thesis is an history of Gypsies, it is also a social, political, and religious history of Scotland explored through the lens of Gypsies. This is because Gypsies are almost only visible in early modern Scottish history when their lives intersected with the political, legal, and ecclesiastical institutions that generated written records. The transformations that these institutions underwent during the period feature prominently, as do the aims, achievements, and failures of civil and ecclesiastical authorities. While much about the nature and organisation of Scotland's political, legal, and ecclesiastical institutions is directly comparable with those of neighbouring polities, they were also distinctive in a number of ways that require further elucidation. The following sub-section

---

<sup>85</sup> See Paolo Pugliatti and Alessandro Serpieri, *English Renaissance Scenes: From Canon to Margins* (Bern: Peter Lang, 2008), p. 271; Michael Stewart, 'Roma and Gypsy "Ethnicity" as a Subject of Anthropological Inquiry', *Annual Review of Anthropology* 42 (2013) pp. 422-24.

offers a brief overview of the institutions relevant to the study of Gypsies in early modern Scotland. This includes executive and legislative bodies such as the crown, privy council, and parliament; criminal courts such as the court of the justice-general, franchise courts, and sheriff courts; and the administrative bodies of the Reformed Kirk. Several terms and concepts particular to early modern Scotland are also explained here. While this thesis seeks to avoid using technical jargon as much as possible, certain terms remain unavoidable and have been used throughout, if only to maintain conceptual clarity and avoid false equivalences with other polities and other time periods.

While Scotland was a formally independent monarchy for almost the entire period under study, several remarkable features of Scottish governance should be explained further. Geographically rugged and sparsely populated, political power in Scotland was highly diffuse, with significant regional variations. Political authority was exerted by landed aristocracy in the localities; a dispersal of power that was so effective at preserving aristocratic interests during the period that, according to Laura Stewart, the aristocracy's 'socio-political hegemony survived a succession of over-bearing monarchs, over-enthusiastic Covenanters, and over-efficient Englishmen, to emerge stronger than ever'.<sup>86</sup> By comparison, crown authority was weaker, despite efforts to bolster it under James VI and his successors. Notably, the Gaelic Highlands and Islands were not only culturally different, but also had a different socio-political organisation based on clanship. Although Gaelic chiefs had an uneasy, often antagonistic, relationship with the Scottish crown, by the late seventeenth century they too were integrated into the loosely connected national political system.<sup>87</sup> Indeed, no part of early modern Scotland could be defined as subject to intense political centralisation or pervasive crown influence. Landed magnates possessed a high degree of political and judicial autonomy with little central oversight, as did the councils of Scotland's urban burghs. The bureaucracy generated by Scotland's central government was minimal, and the fiscal and military burden placed on Scottish subjects by central authorities relatively light, at least prior to the 1640s.<sup>88</sup>

---

<sup>86</sup> Laura A. M. Stewart, 'Power and Faith in Early Modern Scotland', *The Scottish Historical Review* 92 (2013), p. 29. See also Keith M. Brown, *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh: Edinburgh University Press, 2013).

<sup>87</sup> See Allan Kennedy, *Governing Gaeldom: The Scottish Highlands and the Restoration State, 1660-1688* (Leiden: Brill, 2014).

<sup>88</sup> A degree of representation was accorded to a 'fourth estate', the lairds, after 1587. See Julian Goodare, 'The Admission of Lairds to the Scottish Parliament', *The English Historical Review* 116 (2001); Laura Stewart and Janay Nugent, *Union and Revolution: Scotland and Beyond, 1625-1745* (Edinburgh: Edinburgh University Press, 2021), p. 126-27.

Crown authority rested with the person of the monarch, advised by the privy council. The privy council was made up of fifty appointed officials and members of the nobility, of whom about a quarter met routinely to carry out a range of executive and judicial conciliar functions. While the privy council did not have legislative powers, it could make proclamations that reflected the will of the crown and to which a degree of consent was expected. Legislation and taxation measures required the authority of the crown and Scottish parliament, the latter being a unicameral representative assembly summoned by the monarch, made up of ‘three estates’ representing clerics, nobility, and burgesses. Parliamentary business was controlled by a committee known as the ‘lords of the articles’; for much of the period this committee was used by the crown to shape the parliamentary agenda.<sup>89</sup> Scottish monarchs could also summon meetings of conventions of estates – bodies which could approve taxation levies, but differed from parliaments in being smaller, less formal, appointed at shorter notice, lacking judicial function, and unable to pass permanent legislation.<sup>90</sup>

In practice, the government of Scotland often deviated from this general outline. For forty-two years of the sixteenth century, Scotland was ruled by regents acting on behalf of monarchs who had not yet reached the age of majority. After the teenage James VI took control of the machinery of governance in the mid-1580s, Scotland experienced almost twenty years of direct rule by a ‘personal monarch’, brought to an end by the Union of the Crowns of Scotland and England in 1603 and the monarch’s permanent removal to London. After 1603, monarchs governed Scotland remotely through correspondence with the privy council, thereby facilitating greater conciliar scope to shape crown policy and the agenda of government.<sup>91</sup> Sittings of parliament and conventions of estates also varied widely from reign to reign. Following their relative decline under James IV and James V, parliaments and conventions of estates sat with more frequency under Queen Mary and James VI, although only one full session of parliament sat between 1621 and 1638. Between 1639 and 1651, the machinery of government was controlled by the Covenanters, a presbyterian religious movement that reintroduced regular sessions of parliament and enacted far-reaching constitutional changes, including strict limitations on monarchical power and abolition of the privy council and

---

<sup>89</sup> See Alan R. MacDonald, ‘Deliberative Processes in Parliament c.1567-1639: Multicameralism and the Lords of the Articles’, *Scottish Historical Review* 81 (2002); Goodare, *The Government of Scotland*, p. 103.

<sup>90</sup> See Julian Goodare, ‘The Scottish Parliament and its Early Modern “Rivals”’, *Parliaments, Estates and Representation* 24 (2004), pp. 148-55.

<sup>91</sup> See Maurice Lee, ‘James VI’s Government of Scotland after 1603’, *Scottish Historical Review* 55 (1976); Alan R. MacDonald, ‘Consultation and Consent under James VI’, *Historical Journal* 54 (2011).

lords of the articles.<sup>92</sup> With the final defeat of the Covenanters by English parliamentary forces in 1651, Scotland experienced almost a decade of sustained English occupation and military rule. The changes wrought by the Covenanters and English occupation were undone following the Restoration of Charles II, when the Rescissory Act of 1661 revoked all legislation passed over the previous two decades. Although the monarch's right to appoint ministers and privy councillors, summon and adjourn parliaments, and appoint the lords of the articles were all re-established, there was no return to the governing relationship between privy council and absentee monarch seen under James VI and Charles I. Instead, the king's commissioner administered many of the crown's executive functions in Scotland.<sup>93</sup> The overthrow of James VII in 1688-89 resulted in further constitutional reform, including permanent abolition of the lords of the articles, the removal of the ecclesiastical estate from parliament, the re-establishment of regular parliamentary sessions, and a privy council that was more accountable to parliament.<sup>94</sup> These changes remained in place until the Acts of Union with England in 1707 led to creation of a British parliament and the end of Scotland's formal political independence.

Early modern Scotland's criminal justice system also differed from its European counterparts in significant ways. Judicial authority was highly decentralised, and the kingdom divided into a variegated patchwork of uneven and overlapping jurisdictions. As in early modern England, the monarch was considered the 'fount of justice' and the privy council retained a significant judicial function, especially in relation to criminal matters. The privy council also acted as an appellate court, settling disputed verdicts, and played a supervisory role, ensuring that inferior courts were adequately executing justice and cooperating with one another. A large proportion of the criminal cases heard before the privy council involved socially prominent individuals or reflected royal political priorities.<sup>95</sup> Parliament also occasionally served as a criminal court, usually in high profile treason cases. There was also a central criminal court based in Edinburgh called the court of the justice-general, reconstituted as the high court of justiciary in 1672. Among the court's areas of competence were the 'four pleas of the crown': murder, robbery, rape, and fire-raising. The court's

---

<sup>92</sup> See John R. Young, 'The Scottish parliament and the War of the Three Kingdoms, 1639-1651', *Parliaments, Estates and Representation* 21 (2001).

<sup>93</sup> Gillian H. Macintosh, "'Royal Supremacy Restored?'" Scottish Parliamentary Independence in the Restoration Era, 1660-88', *Parliaments, Estates and Representation* 34 (2014), pp. 160-61.

<sup>94</sup> See Alasdair Raffe, *Scotland in Revolution, 1685-1690* (Edinburgh: Edinburgh University Press, 2018), esp. ch. 6.

<sup>95</sup> See Allan Kennedy, 'State Formation, Criminal Prosecution and the Privy Council in Restoration Scotland', *English Historical Review* 135 (2020).

presiding officer, the justice-general, was a position held heritably by the earls of Argyll until 1628, and a crown appointment thereafter.

Criminal justice was by no means confined to central jurisdictions. Local courts with competence to try a range of criminal cases included sheriff courts, burgh courts, and franchise courts, each of which had specific jurisdictions and different organisational arrangements. The most widespread and fundamental unit of local justice was the sheriff, who heard both civil and criminal cases. Sheriff courts had competence over all criminal cases except treason and the 'four pleas', and their jurisdictions were geographically coterminous with Scottish shires. Theoretically, sheriffs were agents of the crown, although often the position was held hereditarily rather than by crown appointment: almost two-thirds of Scotland's thirty-three sheriffdoms were heritable jurisdictions by 1700.<sup>96</sup> Burgh courts held a criminal jurisdiction covering their respective burghs, with competence to try a range of lesser crimes, and were presided over by bailies, who also sat on the burgh councils. Around half of Scotland's territory fell under the jurisdiction of franchise courts, which were privately administered by prominent landowners. Among the different iterations of franchise courts were baron courts, which saw a range of crimes comparable to that of sheriff courts, and regality courts, a superior jurisdiction to the baron courts.<sup>97</sup> The judicial scope of regalities was such that it potentially offered individual magnates considerable power: the regality of Argyll, for instance, covered all of Argyllshire, and its courts were competent to try all serious crimes except treason, and was held by the earls of Argyll on a permanent and heritable basis. Regalities that were escheated to the crown were known as stewardries, and were administered by crown-appointed stewards.<sup>98</sup> Meanwhile numerous irregularities meant that individuals might also hold multiple jurisdictions, such as combining sheriffdoms and regalities, while sheriff courts could occasionally try individuals for crimes technically outside their competence, such as murder, robbery, and fire-raising.<sup>99</sup> Sheriffs and holders of private jurisdictions such as regalities were

---

<sup>96</sup> Ann E. Whetstone, 'The Reform of the Scottish Sheriffdoms in the Eighteenth and Early Nineteenth Centuries', *Albion* 9 (1977), p. 62.

<sup>97</sup>The competence of regality courts in cases involving the 'four pleas' has been contested. See Goodare, *The Government of Scotland*, pp. 184-85; Davies, 'Law and Order', p. 251; Allan Kennedy, 'Crime and Punishment in Early-Modern Scotland: The Secular Courts of Restoration Argyllshire, 1660-1688', *International Review of Scottish Studies*, 41 (2016), p. 4.

<sup>98</sup> This position could also be held on an heritable basis. See Davies, 'The Courts and the Scottish legal System', in Gattrell, Parker, and Lenmann eds., *Crime and the Law*, pp. 141-46.

<sup>99</sup> See Kennedy, 'Crime and Punishment', p. 4.

usually private landowners with little or no legal training, and would routinely delegate their judicial responsibilities to better qualified deputies, or ‘deputes’.<sup>100</sup>

Given that there are many instances of Gypsies undergoing criminal prosecution throughout this thesis, it is worthwhile outlining the terminological and operational peculiarities of Scottish criminal procedure. Although there were wide variations in procedure between jurisdictions and over time, the following account offers a general sense of the key terms, officers, and processes involved, from arrest through to conviction. Criminal trials were sometimes preceded by a ‘precognition’: a preliminary investigation carried out by the prosecutor or another magistrate to establish the viability of a case. The investigator would gather depositions (i.e. statements under oath) from witnesses and suspects that could later be used as trial evidence. A lack of formal policing, as well as the fact that the majority of criminal prosecutions were still initiated by the victim or the victim’s kin, meant that criminal suspects were usually arrested because they had been caught in the act of committing crime or had attracted widespread suspicion of criminal activity within their local community.<sup>101</sup> An imprisoned individual might be released, pending trial, by providing a form of bail or judicial security known as a ‘band [bond] of caution’ which was a pecuniary sum set by the relevant magistrate.<sup>102</sup> Throughout lowland Scotland, civil magistrates including sheriffs, burgh bailies, and justices of the peace were responsible for coordinating the arrest of criminal suspects. Prisoners awaiting trial were usually warded in the local tolbooth, a building found in burghs throughout the country that usually contained a gaol, a court room, a meeting place for the burgh council, and municipal offices.<sup>103</sup> Prisoners were themselves liable for the costs of their imprisonment; in cases where prisoners lacked the means or assets to do so, burgh councils usually covered the costs, meaning that councils were usually unwilling to imprison poorer suspects for extended periods of time. The financial and logistical outlay required to transport poor prisoners from one jurisdiction to another also fell on local magistrates, disincentivising the transportation of such prisoners to Edinburgh and limiting the practical reach of superior jurisdictions, such as the high court of justiciary, over poor or politically insignificant suspects.

---

<sup>100</sup> Whetstone, ‘The Reform of the Scottish Sheriffdoms’, pp. 62-63.

<sup>101</sup> Davies, ‘Law and Order’, p. 67.

<sup>102</sup> J. Irvine Smith, ‘Criminal Procedure’, in *An Introduction to Scottish Legal History* (Edinburgh: Stair Society, 1968), p. 430.

<sup>103</sup> See Geoffrey Stell, ‘The Earliest Tolbooths: A Preliminary Account’, *Proceedings of the Society of Antiquaries of Scotland* 111 (1981).

A criminal trial began by reading aloud the criminal indictment to the accused, who then affirmed or denied the charge (or charges) made against them. In Scottish criminal law, the indictment (that is, the statement of the charge or charges brought against an individual), was also known as the ‘dittay’, and was usually a lengthy document presenting a general outline of the alleged crime.<sup>104</sup> The individual charges made against the accused were called ‘libels’, and the accused was referred to as the ‘pannel’. Unusually for early modern Europe, defence counsel was a right extended to pannels in criminal cases heard before all courts except the privy council, with advocates often providing counsel *pro bono* for those unable to afford representation.<sup>105</sup> It was, however, only in the late sixteenth century that it became routine for the defence counsel to be a professional lawyer rather than a family member or kinsman of the defendant.<sup>106</sup> Defence counsellors were generally called ‘prolocutors’, ‘procurators’, or ‘fore-speakers’. If the accused denied the indictment, then the prosecutor and defence would debate the relevancy of individual libels, which often contained extensive detail of the alleged criminal acts.<sup>107</sup> Articles of evidence, known as ‘proofs’, commonly relied on depositions made prior to the court sitting, and were produced by the prosecutor since the defence counsel were precluded from producing evidence that contradicted information libelled in dittays. From the viewpoint of the defence, this placed greater emphasis on disputing the relevancy of the libels on technical grounds, and when combined with the gradual professionalisation of legal counsel over the period, led to increasingly sophisticated legal debates in a range of criminal cases.

Juries were known as ‘assizes’, and were commonly employed in criminal cases held before sheriff and justiciary courts. Assizes were usually selected by the presiding judge, and constituted between eleven and seventeen men from the local area in which a crime had been committed.<sup>108</sup> The assize would return a verdict established by a majority vote and, if guilty verdict was reached, the sentence would generally be pronounced immediately by the presiding judge. If required, a presiding judge could force assizes to reconvene repeatedly until they reached a guilty verdict. The crown could

---

<sup>104</sup> ‘Dittay’ also referred to the manner in which criminal charges were taken up. Dittays were generally prosecutions against prisoners, and stood in contrast with a prosecution by ‘criminal letters’, effectively a summons to an at-large individual to appear before court to address criminal libels made against them, usually by a private individual. See Walker, *A Legal History of Scotland*: pp. 537-38.

<sup>105</sup> See John Finlay, *Legal Practice in Eighteenth-Century Scotland* (Leiden: Brill, 2015), p. 186.

<sup>106</sup> Michael Wasser, ‘Defence Counsel in Early Modern Scotland: A Study Based on the High Court of Justiciary’, *The Journal of Legal History*, 26 (2005), pp. 185-87.

<sup>107</sup> Smith, ‘Criminal Procedure’, p. 439.

<sup>108</sup> Smith, ‘Criminal Procedure’, p. 441.

also intervene in the process by threatening to indict assizes for ‘wilful error’ should they reach a verdict deemed erroneous, though actual indictments for ‘wilful error’ were rare.<sup>109</sup> While there was no system of appeal, convicted criminals sometimes petitioned the crown to have their convictions commuted or quashed.<sup>110</sup> After 1603, appeals to the crown effectively meant an appeal to the privy council, although councillors often corresponded with the monarch for guidance in relation to individual criminal cases. The crown could also delay criminal proceedings by granting a ‘respite’, which prevented a named individual from being tried for a specific crime for a fixed period of time. A form of pardon, known as a ‘remission’, might also be granted by the crown, effectively ending a criminal prosecution if the accused had not been tried, or else overturning a conviction if granted following a conviction. The granting of remissions significantly declined in the second half of the seventeenth century.<sup>111</sup>

Among the crimes heard by Scottish courts relevant to the prosecution of Gypsies are a number that are unfamiliar to the non-specialist. ‘Wilful fire-raising’ referred to deliberate arson: punishable by death, it was a crime that sixteenth-century central authorities closely associated with raiding and feuding in the Highlands and Anglo-Scottish Borders.<sup>112</sup> Likewise associated with feuding and banditry in the Highlands and Borders were the crimes of ‘sorning’ and ‘slaughter’, with the former denoting activity involving the extortion of free food, drink, and lodging.<sup>113</sup> ‘Slaughter’ differed from murder in that it was committed in the heat of a fight and ‘without ony fore-thought’, as explained by the late sixteenth-century jurist John Skene.<sup>114</sup> The offence of ‘reset’ involved provision of shelter, support, or protection to a criminal. ‘Stouth’ – a Scots word meaning private or secret – was used in criminal cases to mean clandestine acts of theft, while ‘reif’ referred to robbery. Accordingly, ‘Stouthreif’, a portmanteau of the two terms, referred to violent theft. The crime of witchcraft, as defined in Scots law, also differed in content from other European polities, as an act

---

<sup>109</sup> See Clare Jackson, ‘“Assize of Error” and the Independence of the Criminal Jury in Restoration Scotland’, *Scottish Archives* 10 (2004), pp. 1-25.

<sup>110</sup> George Mackenzie, *The Laws and Customes of Scotland, in Matters Criminal* (Edinburgh: James Glen, 1678), p. 382.

<sup>111</sup> Cairns, ‘Historical Introduction’, pp. 92-93; Walker, *A Legal History of Scotland*, vol. iv, p. 555.

<sup>112</sup> See Chelsea Hartlan, ‘Catching Fire: Arson, Rough Justice and Gender in Scotland, 1493–1542’, in Sara Butler and K. J. Kesselring eds., *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain* (Leiden: Brill, 2018).

<sup>113</sup> *RPS*, 1450/1/20.

<sup>114</sup> John Skene, *De Verborum Significatione: The Exposition of the termes and difficull words contened in the foure buikes of the Regiam Majestatem* (London: E.G., 1641), p. 100.

of parliament passed in 1563 confirmed that individuals could, in theory, be prosecuted for practicing ‘ony maner of witchcraftis, sorsarie or necromancie’, or for consulting someone who practiced magic, though this was rarely the case in practice.<sup>115</sup> Taken together, these offences hint at the range of criminal activities that authorities routinely associated with Gypsies by authorities from c.1570 to c.1700.

The Reformed Kirk was integral to the political and legal systems of Scotland during the period of study. Among the ecclesiastical innovations ushered in by the Protestant Reformation of 1560 was the introduction of a new system of church courts. Rather than enforcing canon law or exercising a commissary jurisdiction as the pre-Reformation church courts had done, the function of the reformed church courts was to manage the Kirk’s affairs and enforce the ‘law of God’ found in scripture.<sup>116</sup> The lowest of these new courts, the kirk sessions, were intended to supervise and improve the spiritual life of the parish. Comprising the parish minister, deacons, and ‘elders’ (laymen who held office by consent of the congregation), sessions had been established in most lowland parishes by 1600, as well as some Highland parishes. They were responsible for the administration of poor relief and parochial education and the investigation and trial of a range of moral transgressions, including fornication, adultery, drunkenness, sabbath-breach, and consorting with witches and Gypsies. Transgressors could be chastised, fined, subjected to ritualised public humiliation (such as repentance before the congregation wearing sackcloth), and, in serious cases, referred to a criminal court or superior church court. Beyond kirk sessions, the next court up in the hierarchy of church courts was the presbytery. Established from 1581 onwards, presbyteries were made up of ministers and elders drawn from ten to twenty local parishes, over which they had a supervisory jurisdiction.<sup>117</sup> Presbyteries heard cases referred to them by individual kirk sessions, conducted parish visitations, and (from 1592) excommunicated congregants for serial moral or spiritual transgressions. The two institutions of kirk sessions and presbyteries, as lower church courts, were an innovation in local governance that, by the seventeenth century, had become embedded throughout much of Scotland.

---

<sup>115</sup> *RPS*, A1563/6/9. See Julian Goodare, ‘The Scottish Witchcraft Act’, *Church History* 74 (2007), pp. 53-57; Edward J. Cowan, ‘Witch Persecution and Folk Belief in Lowland Scotland: The Devil’s Decade’, in Julian Goodare, Lauren Martin and Joyce Miller ed., *Witchcraft and Belief in Early Modern Scotland*, (Basingstoke: Palgrave Macmillan, 2008), p. 91.

<sup>116</sup> See Thomas Green, ‘Evolution and Varieties of Church Courts and Laws in Reformation Scotland’, in William Ian P. Hazlett ed., *A Companion to the Reformation in Scotland, c.1525-1638: Frameworks of Change and Development* (Leiden: Brill, 2021), pp. 410-12.

<sup>117</sup> Between 1586 and 1637, presbyteries were attended solely by ministers.

The higher courts of the Reformed Kirk were the synods (regional bodies held biennially), and the general assembly, which was the supreme institutional body of ecclesiastical government. Envisaged as a convention of the churches from across Scotland, the general assembly's intended purpose was to govern the affairs of the Kirk, to act as the final court of appeal and referral for lower church courts, and to work with civil magistrates on measures designed strengthen the moral and spiritual life of the realm.<sup>118</sup> Indeed, during the 1560s, parliament criminalised a number of spiritual and moral misdemeanours at the general assembly's behest, including witchcraft, adultery, fornication, and incest.<sup>119</sup> The general assembly embodied the 'doctrine of the two kingdoms' held by presbyterians: namely, that there should be no earthly head of the Kirk, no clerical hierarchy, and that the roles of civil and ecclesiastical authorities should be separate but mutually reinforcing. This position was opposed by episcopalians, who advocated for a hierarchical and episcopal system of church governance in which the monarch was the supreme governor of the Kirk and ecclesiastical matters were overseen by crown-appointed bishops. While the Kirk's structure and system of ecclesiastical governance remained an abiding source of controversy, the national Kirk moved closer to the presbyterian ideal during the 1590s, again under the Covenanter regime from 1638 to 1651, and following the Glorious Revolution and the abolition of episcopacy in 1690. No general assemblies were convened during periods of episcopal ascendancy, 1618-1638 and 1660-1690; as well as between 1653 and 1660, a period in which the Cromwellian regime sought to undo the institutions of the national Kirk and enact a policy of sectarian toleration. While the institutional significance of the general assembly fluctuated dramatically, the lower church courts retained their local presence and much of their significance despite the political vicissitudes of the seventeenth century.

### ***Sources, Chapters, Historiographies***

The political, legal, and ecclesiastical institutions and processes thus outlined left documentary records that form the evidentiary basis of this thesis. These records contain occasional, often incidental, references to Gypsies; small fragments of evidence that confirm Gypsies' scattered and

---

<sup>118</sup> James Kirk ed., *The Second Book of Discipline* (Edinburgh: The Saint Andrew Press, 1980), pp. 204-5.

<sup>119</sup> Duncan Shaw ed., *Acts and Proceedings of the General Assemblies of the Church of Scotland, 1560-1583* (Edinburgh: The Scottish Record Society, 2004), , p. 27; *RPS*, A1563/6/9; *RPS*, A1563/6/10; *RPS*, A1567/12/13; *RPS*, A1567/12/14; Goodare, 'The Scottish Witchcraft Act', pp. 41-42

irregular presence across Scotland throughout the period. Historians of early modern Gypsies in other polities have made extensive use of comparable administrative records, supplemented by depictions of Gypsies in literary texts including chronicles, news pamphlets, plays, and prose fiction.<sup>120</sup> In England, Gypsies featured extensively in the literary genre known as ‘rogue literature’, which consisted of sensationalised portrayals of the sixteenth- and seventeenth-century criminal underworld and was usually printed cheaply for a popular market. While rogue literature offers little by way of insight into Gypsies’ experience and social history, it has provided historians of early modern England with a wide range of evidence from which to reconstruct perceptions and representations of Gypsies.<sup>121</sup> Scotland, by contrast, had no comparable tradition of printed rogue literature prior to the eighteenth century. While this thesis utilises the few extant Scottish literary accounts of Gypsies and ‘Egyptians’ where relevant, and occasionally refers to English rogue literature by way of comparison, it relies primarily on the records of parliament, the privy council, burgh authorities, central criminal courts, and church courts.

The acts of Scottish parliament, conventions of estates, and parliamentary committee records have been fully transcribed, digitised, and made available through an online database used extensively throughout this thesis.<sup>122</sup> The register of the privy from 1545 to 1691, including privy council attendance, proclamations, responses to petitions, and royal letters received by the council, have been transcribed, often in summarised form, in three series of volumes printed between 1877 and 1970. Likewise, the register of the great seal, comprising of documents authorised by the monarch, including remissions and respites, has been transcribed and printed for the period covering 1306 to 1668. Printed volumes of crown correspondence and governmental correspondence during the interregnum have served to fill out the picture of central government responses to Gypsies during the period. The printed burgh council records of Aberdeen, Ayr, Edinburgh, Glasgow, Lanark, and Stirling also contain occasional references to Gypsies. Contained in these records are also petitions, which demonstrate the interactions between central authorities and Gypsies, as well as how local authorities and individuals perceived and treated Gypsies.

---

<sup>120</sup> See, for instance, Bogdal, *Europe and the Roma*, ch. 2; Massimo Aresu, ‘Representing Spanish Gypsies during the Second Half of the 18th Century: A Dissenting Voice’, *Frühneuzeit-Info* 30 (2019).

<sup>121</sup> See David Mayall, ‘Egyptians and Vagabonds: Representations of the Gypsy in Early Modern Official and Rogue Literature’, *Immigrants and Minorities* 16 (1997); Sujata Iyengar, *Shades of Difference: Mythologies of Skin Color in Early Modern England* (Philadelphia: University of Pennsylvania Press, 2005), pp. 173-75; Cressy, ‘Trouble with Gypsies’, pp. 57-59; Ndiaye, ‘Black Roma’, p. 1270.

<sup>122</sup> See Records of the Parliament of Scotland [RPS] — <https://www.rps.ac.uk/>.

A range of criminal and ecclesiastical court records, both manuscript and printed, have been utilised. Where available, this thesis has used the case papers (known as ‘processes’) of the court of the justice-general and its successor, the high court of justiciary. Processes tend to incorporate details of almost every aspect of the proceedings of a criminal trial, including the indictments, the legal debate, the depositions of pannels and witnesses, the members of the assize, the verdict, and the sentence. In tandem with the processes, the court minute books and books of adjournal have also been consulted, both of which provide summaries of court proceedings.<sup>123</sup> Printed selections of justiciary court, sheriff court, and regality court records containing references to Gypsies have also been used. These records offer more than just a summary of trial proceedings: they offer insights into Gypsies’ relationships, occupations, and self-presentation, as well as how Gypsies were perceived by a range of people from across the social spectrum. The church court records consulted range from the printed records of the general assembly to the manuscript minutes of the kirk sessions and presbyteries. Margo Todd has noted that the records of the lower church courts offer ‘a unique opportunity for seeking evidence of cultural change on the ground’ and reflect ‘the beliefs and behavior of individuals and the community’.<sup>124</sup> They also provide an extraordinary window into the local political dynamics and social relations that Gypsies were part of. The selection of church court records has not been systematic, and this thesis uses the records of presbyteries and kirk sessions from across lowland Scotland, covering both rural and urban areas. The available printed church court records have been consulted in search for references to Gypsies, as have manuscript records from localities where Gypsies were a notable presence at a specific period in time.<sup>125</sup>

The relatively rare and unpredictable appearances of Gypsies in premodern Scottish sources make them a particularly difficult subject for systematic analysis over a short timespan or small geographical area, and poorly suited to quantitative analysis. For instance, it might be expected that early modern kirk sessions and presbyteries, as institutions that have left a rich array of records and were assigned a key role in the exclusion of Gypsies from parish communities, would contain plentiful references to Gypsies and the punishment of those who reset them. But as the fourth and

---

<sup>123</sup> These include the following series held by the National Records of Scotland (NRS): JC2, JC6, JC26. Printed volumes transcribing select cases up to 1678 have also been consulted.

<sup>124</sup> Margo Todd, ‘Profane Pastimes and the Reformed Community: The Persistence of Popular Festivities in Early Modern Scotland’, *Journal of British Studies* 39 (2000), pp. 125-26.

<sup>125</sup> See references to NRS, CH2 in the bibliography.

fifth chapters of this thesis show, the efforts made by these institutions to marginalise Gypsies were sporadic at best. While a systematic study looking at the church court records of a single region might bring to light a few hitherto unknown references to Gypsies, the returns for such a labour are likely to be slight. For example, in his ‘sustained case-study’ of the impact of the Reformation in Fife between 1560 and 1640, John McCallum singles out one kirk session, that of Burntisland, for taking the unusual step of condemning ‘Egyptians’ specifically, in contrast with the all of the other sessions and presbyteries analysed in his study.<sup>126</sup> As a consequence, this thesis covers a long timescale and embraces the whole nation, using a wide range of printed and manuscript source material to provide an overview of elite perceptions and treatment of Gypsies, interactions between Gypsies and non-Gypsies, and the experiences of Gypsies themselves. The second chapter provides an overview of elite perceptions of Gypsies during the sixteenth and seventeenth centuries, while the seventh chapter considers Gypsies’ culture, social structure, and economic roles between c.1570 and c.1700. Chapters three to six adopt narrower timescales to significant themes within Scottish history as they pertain to Gypsies, including the growth of central authority, the impact of the Protestant Reformation, the changing significance of kinship ties, Scotland’s place in the imperial Atlantic, and the development of racial discourses. What follows is an outline of the subject, source base, and historiographical contribution of each chapter in turn.

The second chapter, ‘Perceptions’, traces the history of elite perceptions of Gypsies in the sixteenth and seventeenth centuries, and locates these perceptions within the context of the reception of Gypsies in late medieval and early modern Europe. As such, the chapter provides an overview of how Gypsies were represented and treated in early modern Scotland. It is divided into three sub-sections, each analysing the use of the labels ‘Egyptians’, ‘counterfeit Egyptians’, and ‘Gypsies’ to reflect on the varying ways in which Gypsies were perceived over the period. The first sub-section considers how sixteenth-century Scots viewed the relationship between the itinerant foreigners calling themselves ‘Egyptians’, and also compares the early reception of ‘Egyptians’ in Scotland to their reception in other polities. The second sub-section traces a shift in how Gypsies were represented by governing authorities under James VI. During the period, Gypsies came to be defined by their alleged criminality, sinfulness, and false claims to being Egyptian – a development embodied in the use of the label ‘counterfeit Egyptian’ in administrative records. The third sub-section considers the increased use of the term ‘Gypsy’ in seventeenth century Scotland, and how

---

<sup>126</sup> John McCallum, *Reforming the Scottish Parish: The Reformation in Fife, 1560-1640* (Farnham: Ashgate, 2010), pp. 56, 205. See also NRS, CH2/523/1, p. 2.

the term's meaning and implications reflected changes in how Gypsies were perceived and represented. While historians of other early modern polities have analysed literary representations of Gypsies to establish non-official perceptions, this chapter relies primarily on administrative and legal records to demonstrate the wide range of ways that 'Egyptians', 'counterfeit Egyptians', and 'Gypsies' were perceived and imagined in early modern Scotland.

The second chapter also makes a number of distinct historiographical contributions. The special regard with which Egypt and ancient Egyptians were held by late medieval and early modern Scottish elites has led Arthur Williamson to speculate that, due to their 'Egyptian' identity, Gypsies received a particularly positive reception at the courts of James IV and James V.<sup>127</sup> However, there is little to suggest that the early reception of Gypsies in Scotland was any more positive than in other European polities, and there is no evidence confirming that Scots closely identified Gypsies with ancient Egyptians. The chapter also proposes that Scottish lawmakers developed a Gypsy 'criminal identity' on the basis of which they stigmatised and prosecuted Gypsies, comparable to that proposed by John Morgan and Susan Wiseman with regard to anti-Gypsy policy in England.<sup>128</sup> In contrast with the findings of Morgan and Wiseman, however, it is suggested that use of the phrase 'counterfeit Egyptians' by Scottish lawmakers did not conflate Gypsies with other vagrants, but rather reflected their view that Gypsies were 'people of divers nationis' who falsely called themselves 'Egyptians', and were confidence tricksters whose performances of magic and divination were 'counterfeited'.<sup>129</sup> The chapter concludes by showing that the term 'Gypsy' was not a late import from England, as has been widely assumed, but was used interchangeably with 'Egyptian' by Scots from the late sixteenth century onwards, becoming more widespread in the second half of the seventeenth century.

The third chapter, 'Policy', outlines the series of measures taken by central authorities against Gypsies under James VI, tracing the development and enforcement of anti-Gypsy policies. Following a brief examination of the 1541 crown expulsion of Gypsies, the chapter focuses on a remarkably intense phase of governmental action against Gypsies starting in 1573 and ending

---

<sup>127</sup> Arthur H. Williamson, 'Numbers and National Consciousness: The Edinburgh Mathematicians and Scottish Political culture at the Union of the Crowns' Roger A. Mason ed., *Scots and Britons: Scottish Political Thought and the Union of 1603* (Cambridge: Cambridge University Press, 1994), p. 189.

<sup>128</sup> See Morgan, "'Counterfeit Egyptians'"; Wiseman, 'Making 'Gypsies' in the English Reformation?'

<sup>129</sup> *RPCS*, ser. 1, vol. ii, pp. 555-56.

c.1625. Three measures passed by parliament and the privy council during the 1570s categorised Gypsies as a type of able-bodied vagrant, and sought their removal from the realm through forced sedentarisation, exclusion from poor relief, and banishment by local authorities. The extirpation of Gypsies continued to be one of the crown's priorities when seeking to improve order and reduce crime during the 1580s, and in the 1590s central authorities experimented with various ways of better enforcing the social exclusion of Gypsies. These included utilising the institutional resources of the Kirk, improving the accountability of local magistrates, and introducing new forms of punishment such as indentured servitude for life. Scottish anti-Gypsy measures culminated in the 'Act anent the Egiptians', or Egyptians Act, parliamentary legislation enacted in 1609 that criminalised all those 'callit, knawin, repute and haldin Egiptianis', and which made the status of being an Egyptian equivalent to the crime of theft, and punishable by death. The act served as a touchstone for all subsequent early modern anti-Gypsy measures and prosecutions of Gypsies, and the two decades following its passage saw further attempts by the privy council to streamline and improve its enforcement. The chapter also considers the extent to which central authorities were willing and able to fully enforce anti-Gypsy measures under James VI.

The anti-Gypsy measures enacted between the 1570s and 1620s created a framework for the prosecution of Gypsies that remained in force until the latter half of the eighteenth century, but has not been the subject of systematic research since the publication of David MacRitchie's *Scottish Gypsies under the Stewarts*. The third chapter describes the context, impetus, and operation of each privy council proclamation and act of parliament against Gypsies through the examination of the records of measures passed by these institutions as well as their interactions with local authorities and private individuals. The manifold ways Gypsies were targeted by central authorities confirms Julian Goodare's argument that anti-Gypsy policy was a notable feature of Scottish governance under James VI.<sup>130</sup> However, the relative failure of central authorities to enforce anti-Gypsy measures, and particularly the role that the monarch and privy council in compromising enforcement, adds to the body of historical work undermining Goodare's claim that James VI forged an 'absolutist state' in Scotland.<sup>131</sup> So as well as offering a new account of how one early

---

<sup>130</sup> See Goodare, *The Government of Scotland*, p. 263.

<sup>131</sup> See Goodare, *State and Society*, esp. ch. 3. Cf. Alan R. MacDonald, 'The Parliament of 1592: A Crisis Averted?', in Keith M. Brown and Alastair J. Mann ed., *Parliament and Politics in Scotland, 1567-1707* (Edinburgh: Edinburgh University Press, 2005); Allan Macinnes, *Union and Empire: The Making of the United Kingdom in 1707* (Cambridge: Cambridge University Press, 2007), p. 4; Brown, *Noble Power in Scotland*, esp. ch. 1.

modern polity sought to extirpate Gypsies, the chapter is also a contribution to the extant historiography on the ambitions and limits of central governance in early modern Scotland.

The fourth chapter, 'The Kirk', looks at the role of the Reformed Kirk in the creation and implementation of anti-Gypsy measures from the 1590s to the 1640s, a period in which the institutions of the Kirk became embedded in lowland Scottish society. Both elite perceptions of Gypsies and anti-Gypsy policy were profoundly shaped by the ideals and ambitions of the Reformed Kirk, and this chapter scrutinises how the institutions of the Kirk were directly involved in efforts to marginalise Gypsies at all levels of society. The general assembly of the Kirk petitioned the crown and parliament to take further action against Gypsies in 1591, 1641, and 1646, and throughout the period, lower church courts were involved in excluding Gypsies from poor relief and the investigation and punishment of those who reset them. Nevertheless, ecclesiastical efforts against Gypsies were sporadic and the punishment of reseters relatively lenient, the consequence of a need to conciliate congregations and local political authorities, some of whom looked on Gypsies more favourably. The account of Gypsies and the Reformed Kirk in this chapter relies on the records of the church courts, from kirk session to general assembly, documents which not only reveal the explicit attitudes of ecclesiastical authorities towards Gypsies, but also the negotiations and compromises they made in seeking to realise their vision of a Reformed and godly Scotland.

The records of Scotland's lower church courts have been extensively utilised by historians to reflect on the long-term transformations wrought by the Protestant Reformation on Scottish society. Michael Graham's work on Protestant discipline has shown how the Reformed Kirk modified popular behaviour through disciplinary measures carried out by local church courts against sinful activities, from sexual impropriety to drunkenness. Graham defined ecclesiastical discipline as the effort 'to convert reformed doctrine into practice', and described it as a notable early attempt at 'social engineering on a societal scale'.<sup>132</sup> Margo Todd's work used a similar body of sources to reconstruct various aspects of lowland Scotland's 'culture of protestantism'.<sup>133</sup> This chapter shows that the exclusion of Gypsies was one of the disciplinary responsibilities of church courts between c.1590 and c.1650, and that they were not successful in totally excluding Gypsies from Scottish society, even if their efforts contributed to Gypsies' marginalisation. The high degree of co-

---

<sup>132</sup> Michael F. Graham, *The Uses of Reform: 'Godly Discipline' and Popular Behavior in Scotland and Beyond, 1560-1610* (Brill: Leiden, 1996), pp. 1-2.

<sup>133</sup> See Todd, 'Profane Pastimes'; and *The Culture of Protestantism*.

operation between ecclesiastical and civil authorities seeking to marginalise Gypsies described in the chapter also contributes to a body of historical research that has sought to emphasise the points of agreement and compromise between different authorities that helped entrench many aspects of Scotland's Reformation settlement, even as central authorities vehemently, and eventually violently, disagreed about the structure and liturgy of the Reformed Kirk.<sup>134</sup>

The compromises that central authorities and local church courts made in their efforts marginalise and exclude Gypsies were a consequence of the social ties that Gypsies forged and maintained with non-Gypsies throughout the early modern period. The fifth chapter, 'Social Ties', examines specific episodes that reflect the diversity of connections between Gypsies and non-Gypsies, and the various external factors that shaped them. As well as showing Gypsies' resilience in the face of top-down prosecution and stigmatisation, by examining the social ties between Gypsies and non-Gypsies this chapter also reveals the ways in which Gypsies were marginalised. While Gypsies developed patron-client relationships with locally powerful magnates, by carrying arms, remaining itinerant, and participating in feuds, they were often at odds with the wider communities in which they lived. The chapter explores social ties by first considering how a group of Gypsies found safety following the passage of the Egyptians Act in 1609 through the patronage of locally powerful magnates and by moving to the geographical margins. It then considers how, during the 1620s and 1630s, Gypsies maintained a presence in the vicinity of Edinburgh despite ongoing efforts to extirpate them. The chapter also examines how the political upheavals of the mid seventeenth century impacted social ties between Gypsies and non-Gypsies, looking at how groups of Gypsies took part in a Royalist uprising in 1644-45, as well as Gypsies' relationship with Commonwealth regime during the 1650s. Finally, the chapter considers an extended family of Gypsies, the Faws and Shaws, recounting their experiences during the 1670s in order to demonstrate the extent to which they had become embedded in lowland Scottish communities.

The episodes recounted in 'Social Ties' are drawn from a range of sources, including the records of the privy council and interregnum authorities, as well as judiciary court and church court records. The interpretation of this evidence in terms of social ties and experience signals a change in

---

<sup>134</sup> See Alan R. MacDonald, *The Jacobean Kirk, 1567 - 1625: Sovereignty, Polity, and Liturgy* (Aldershot: Ashgate, 1998), p. 4; McCallum, *Reforming the Scottish Parish*; John McCallum ed., *Scotland's Long Reformation: New Perspectives on Scottish Religion, c. 1500-c.1660* (Leiden: Brill, 2016) esp. the introduction; Christopher R. Langley, *Cultures of Care: Domestic Welfare, Discipline and the Church of Scotland, c. 1600-1689* (Leiden: Brill, 2020).

approach to the subject of Gypsies compared to the preceding chapters. While ‘Perceptions’, ‘Policy’, and ‘The Kirk’ considered the representations of Gypsies found in this body of evidence, ‘Social Ties’ focuses on the relational aspects of Gypsies’ social history. Laura Stewart has commented that historians of early modern Scotland ‘know something about how elites treated the poor, but almost nothing about how the poor responded, especially in rural areas’.<sup>135</sup> This chapter presents some of the ways that one group within the rural Scottish poor, Gypsies, responded to efforts to exclude them from society. It also contributes to the historiography of kinship ties and feuding, showing that Gypsies’ status as clients of non-Gypsy landowners, clan chiefs, and surname leaders were of enduring importance throughout the seventeenth century, and that Gypsies continued to participate in violent feuds long after other lowland Scots had abandoned the practice.<sup>136</sup>

The sixth chapter, ‘Empire and Race’, considers the perception and treatment of Gypsies by Scottish authorities between c.1660 and c.1700: in particular the impact of Atlantic imperialism on measures against Gypsies, and the emergence of a nascent racial typology to define and prosecute Gypsies. The chapter offers a brief overview of the various pressures that led to the increased use of penal transportation to England’s North American and Caribbean colonies as a punishment for Gypsies. Notably, it was merchants rather than central civil authorities who championed transportation, and often treated Gypsies and other vagrants interchangeably, as ‘disolute and louse persons’ who should be removed permanently from the realm.<sup>137</sup> During the same period, Scottish lawyers sought to clarify the legal distinction between ‘Egyptians’ and other vagrants, establishing new ways of defining the former on the basis of language, skin colour, and lineage. In particular, the lord advocate Sir George Mackenzie of Rosehaugh articulated a new way of ‘proving’ an individual was guilty of being an ‘Egyptian’ while prosecuting two groups of Gypsies in 1678. This influential attempt to establish a legal ‘proof’ of Gypsy identity presaged the increased racialisation of Gypsies in Scotland, and played a role in the continued enforcement of the Egyptians Act well into the eighteenth century.

---

<sup>135</sup> Stewart, ‘Power and Faith’, p. 31.

<sup>136</sup> See Jenny Wormald, ‘Bloodfeud, Kindred and Government in Early Modern Scotland’, *Past & Present* 87 (1980); Anna Groundwater, *The Scottish Middle March, 1573-1625: Power, Kinship, Allegiance* (Woodbridge, Suffolk: Boydell, 2010), esp. ch. 2; A. Mark Godfrey, ‘Rethinking the Justice of the Feud in Sixteenth-Century Scotland’, in *Kings, Lords, and Men in Scotland and Britain: Essays in Honour of Jenny Wormald* (Edinburgh: Edinburgh University Press, 2014).

<sup>137</sup> *RPCS*, ser. 3, vol. ii, p. 101.

To some extent, 'Empire and Race' continues the account of official representations and stigmatisation found in the third chapter. However, by looking at the ways in which prosecutors and witnesses interacted with Gypsies in criminal trials, this chapter is also a study of how such interactions shaped perceptions of Gypsies and their treatment by authorities. The historians Leo Lucassen and David Cressy have traced the decline in Gypsy prosecution in late Stuart England, which they have respectively attributed to a successful system of poor relief, and Gypsies' relative self-sufficiency.<sup>138</sup> This chapter shows that a confluence of factors enabled the continued prosecution of Gypsies in Scotland, not least their reconceptualisation along racial lines. By arguing that Gypsies were racialised in the late seventeenth century, this chapter contributes to a body of scholarship which has proposed that the seventeenth-century Atlantic world was a crucible for the development of racial discourses. Following Colin Kidd, Cristina Malcolmson, and Craig Koslofsky, it is suggested that perceived racial differences were articulated in new and influential ways during the seventeenth century, and that juristic knowledge, alongside theology and natural philosophy, played an important part in this development.<sup>139</sup>

The seventh chapter, 'Ways of Life', returns to a longer view of the period, utilising a wide range of source material in order to unearth the cultural practices, social structures, and economic livelihoods of Scotland's early modern Gypsies. All of the documentary evidence relating Gypsies from the period was produced by non-Gypsies, much of it was generated by institutions seeking their marginalisation and extirpation, and none of it was rooted in ethnographic observation. Nevertheless, taken together these sources show that there were a bundle of cultural characteristics, forms of social organisation, and forms of subsistence that tied together many of those labelled 'Egyptians' or 'Gypsies'. While it should not be assumed that any of these traits or relational qualities were universal to all Gypsies or stable throughout the period, they still go some way to establishing that early modern Gypsies in Scotland should be viewed as distinct from other itinerant groups. The chapter considers the extent to which Gypsies' language, religion, and appearance set them apart from other Scots, before looking at the unique internal social structures that

---

<sup>138</sup> Leo Lucassen, 'Between Hobbes and Locke. Gypsies and the Limits of the Modernization Paradigm', *Social History*, Vol. 33, No. 4 (Nov., 2008), pp. 430-31; Cressy, *Gypsies*, pp. 115-16.

<sup>139</sup> See Colin Kidd, *The Forging of Races: Race and Scripture in the Atlantic World, 1600-2000* (Cambridge: Cambridge University Press, 2006); Cristina Malcolmson, *Studies of Skin Color in the Early Royal Society: Boyle, Cavendish, Swift* (Farnham: Ashgate, 2013); Craig Koslofsky, 'Superficial Blackness?: Johann Nicolas Pechlin's *De Habitu et Colore Aethiopum Qui Vulgo Nigritae* (1677)', *Journal for Early Modern Cultural Studies* 18 (2018).

differentiated them from other vagrant or bandit groups, and the role of itinerancy, trading, magic, and theft in Gypsies' economic subsistence. The chapter also gestures to the significance of Gypsies' integration into, and interdependence with, seventeenth-century Scottish society, belying the claim that Gypsies were a separate and 'pure' ethnic group in premodern Scotland. 'Ways of Life' is therefore a contribution to the social history of Gypsies that accounts for the risks of uncritically adopting ethnic categories and assuming that boundaries between Gypsy and non-Gypsy were ever clearly delineated.<sup>140</sup>

Finally, it should be noted that the period boundaries of this thesis are to a great extent arbitrary. The 1570s marked the beginning of a period of intense anti-Gypsy action led by the privy council and parliament, and those same institutions continued to sanction the prosecution of Gypsies until their abolition in the in the first decade of the 1700s. But the policy of Scotland's independent central authorities towards Gypsies is only one part of this thesis, and there are numerous continuities in the perceptions, treatment, and experience of Gypsies in Scotland before c.1570 and after c.1700. While this thesis provides a brief overview of how Gypsies were received prior to c.1570, there is great scope for a rigorous comparative study of the early treatment of Gypsies in Scotland and other fifteenth- and early sixteenth-century polities, as Lane B. Baker has proposed.<sup>141</sup> Likewise, many of the representations of Gypsies and policies pursued against them that developed in the late sixteenth and seventeenth centuries continued well into the eighteenth century. Intensely negative representations of Gypsies rooted in their perceived foreignness, irreligion, and racial difference persisted, and the Egyptians Act continued to be sporadically enforced up to the 1770s. But the eighteenth century also saw the beginnings of new, more romantic and sympathetic ways of imagining Gypsies, as well as the eventual rejection of the 'long succession of severe and anxious statutes' against Gypsies passed under James VI.<sup>142</sup> Gypsies in Enlightenment Scotland have received scant scholarly attention, but the subject offers rich potential for further historical enquiry. While the history of premodern Gypsies remains, as David Cressy has noted, 'historically and

---

<sup>140</sup> See David Hitchcock, *Vagrancy in English Culture and Society, 1650–1750* (London: Bloomsbury, 2016), p. 4; Rogers Brubaker, 'Ethnicity without groups', *European Journal of Sociology/Archives Européennes de Sociologie* 43 (2002), pp. 164-66.

<sup>141</sup> Baker, 'Marginal People, Marginal History', pp. 73-74.

<sup>142</sup> David Hume, *Commentaries on the Law of Scotland, Respecting the Description and Punishment of Crimes*, vol. ii (Edinburgh: Bell & Bradfute, 1797), p. 351.

historiographically marginal', this thesis makes a case for seeing Gypsies as an integral part of the social, political, and religious history of early modern Scotland, Europe, and the Atlantic world.<sup>143</sup>

---

<sup>143</sup> Cressy, 'Trouble with Gypsies', p. 46.

## *Part I: Receiving Gypsies*

## *Perceptions*

In the first half of the sixteenth century, Scottish elites came to terms with the arrival of ‘Egyptians’. For James IV and his contemporaries, these ‘Egyptians’ were perceived as companies of foreigners led by impoverished aristocrats and had connections to Egypt, a distant land that had a powerful hold on the Scottish imagination. As in many European polities, the Scottish crown initially extended support and protection to putative ‘Egyptians’ on their initial encounters with them, but within decades, central and local authorities came to view ‘Egyptians’ as criminals of dubious origin, and they were expelled from the realm. Although the term ‘Egyptian’ was used throughout the early modern period, legislation and royal proclamations in the decades following the Protestant Reformation rebranded them ‘counterfeit Egyptians’: a ragtag group of diverse foreign origins, united by their false claim to be of Egyptian provenance and pursuing a way of life rooted in criminality. During James VI’s reign, ‘counterfeit Egyptians’ faced a barrage of measures designed to stigmatise and extirpate them, and which characterised their way of life as one of idleness, itinerancy, deception, theft, violence, and witchcraft. The same period also saw the first use of ‘gypsy’, a cognate of ‘Egyptian’ with English origins that clearly demarcated the contemporary inhabitants of Egypt from the itinerants proscribed in Scots law. By the second half of the seventeenth century, the widespread adoption of the term ‘gypsy’ was one indicator that Scotland’s Gypsies were seen as a discrete cultural group, increasingly viewed as part of a wider European diaspora with a shared language, appearance, and way of life. This chapter considers the changing perceptions of Gypsies during the sixteenth and seventeenth centuries by exploring three labels ascribed to them: ‘Egyptians’, ‘counterfeit Egyptians’, and ‘gypsies’. Focusing particularly on elite perceptions, it examines these three labels were used and defined in legislation, royal proclamations, treasury accounts, court cases, letters, chronicles, and local government records.

As well as tracing shifting perceptions of Gypsies in early modern Scotland, the three sub-sections of this chapter seek to address specific questions regarding the perception of Gypsies that have generated historiographical debate, or else eluded scholarly examination entirely. The first sub-section, ‘Egyptians’, draws on transnational comparisons to examine the relationship between the crown and ‘Egyptians’ during the reigns of James IV and James V, and considers the extent to which it was exceptionally positive, as proposed by Arthur Williamson and nineteenth-century

Gypsyloists.<sup>1</sup> The second sub-section, ‘counterfeit Egyptians’, posits that, in a Scottish context, the word ‘counterfeit’ referred specifically to Gypsies’ reputation as deceptive foreigners claiming to be ‘Egyptians’, rather than perceptions that they were ‘impure’ Gypsies or indigenous vagrants posing as Gypsies. The terminological distinction is significant, given that questions regarding Gypsies’ counterfeit identity in the early modern era has generated hypotheses that Gypsies were a product of economic upheaval, and not a migratory group with origins in India. The Scottish example presented here offers little positive evidence to support such claims, which were discussed more fully in the introduction. The third sub-section, ‘Gypsies’, considers distinctively Scottish uses of the term ‘gypsy’ in the early modern period which have been overlooked in existing scholarship, in order to demonstrate that the term was not a little-used import from England, but was employed widely and interchangeably with ‘Egyptian’, particularly from the late seventeenth century onwards.

### ***‘Egyptians’***

In the first decades of the fifteenth century, polities across western Europe responded to the new phenomenon: the sudden appearance of people calling themselves ‘Egyptians’. Chronicles, proclamations, letters of protection, and account books record the arrival of companies of people from Egypt or ‘Little Egypt’, led by men bearing titles such as ‘duke’, ‘count’, and ‘earl’, many of whom were travelling through Continental Europe as pilgrims or penitents. Local records hint at the poverty of these ‘Egyptians’, as well as the largesse they were shown by authorities throughout the Holy Roman Empire, France, the Spanish Kingdoms, Switzerland, and the Low Countries. Princes, nobles, and city councils gave ‘Egyptians’ alms, courtly receptions, guarantees of safe passage, and employed them as performers and entertainers. But these remarkable newcomers also provoked mistrust: even the earliest accounts relate how ‘Egyptians’ stayed in tented encampments beyond city walls, sometimes under guard, and that they were suspected of theft, fortune-telling, and sorcery.<sup>2</sup> Whatever apprehensions authorities may have felt towards them, ‘Egyptians’ could nevertheless procure letters of protection from some of Europe’s most powerful rulers. In 1425, for example, Alfonso V of Aragon granted a letter of safe conduct to Don Johan of ‘Little Egypt’ to

---

<sup>1</sup> Arthur H. Williamson, ‘Numbers and National Consciousness’, in Mason ed., *Scots and Britons*, p. 189; Simson, *A History of the Gypsies*, pp. 100-6; MacRitchie, *Scottish Gypsies*, pp. 29-36.

<sup>2</sup> For a concise overview of these early encounters, see Cressy, *Gypsies*, ch. 1.

travel through his kingdom.<sup>3</sup> Thirty other such letters survive from fifteenth-century Aragon, and similar letters of protection were granted by Pope Martin V in 1422 and the Holy Roman Emperor Sigismund the following year.<sup>4</sup>

The earliest known reference to Gypsies in the British Isles did not appear for another eight decades, when the Cornish knight, Sir John Arundell of Lanherne, paid twenty pence to ‘the Egyptians when they danced afore me’ in 1504. In Scotland, the earliest reference to ‘Egyptians’ is a short entry in the account book of James IV’s Treasurer: a payment of 10 French crowns made ‘to the Egiptianis, be the Kingis command’ in April 1505.<sup>5</sup> The entry does not elaborate on why the payment was made, though the sum was relatively generous, equal in value to a horse from the royal stables.<sup>6</sup> It is likely that the payment was an act of charity shown towards a people of whose presence the crown had only just become aware. Less than three months later, James IV wrote to his uncle, King John of Denmark, asking the Danish monarch to offer protection to Anthony Gawino (alternatively spelt Gagino), a ‘comes’ (meaning ‘count’ or ‘earl’) of Little Egypt, as well as ‘the rest of his company, from Little Egypt’.<sup>7</sup> James IV related how the ‘Egyptians’ were Christian pilgrims seeking refuge in Scotland, and members of an ‘afflicted and miserable gens’ (‘nation’, ‘race’, or ‘tribe’) whose ‘hard fortune’ had invited royal pity.<sup>8</sup> James IV concluded his letter by contrasting his lack of familiarity with the ‘wandering Egyptians’ with that of his Danish uncle: James assumed that there were a greater number of ‘Egyptians’ in Denmark because of its closer proximity to Egypt. Despite his faulty sense of geography, James IV was evidently aware that, though they were recent arrivals in Scotland, the ‘Egyptians’ had enjoyed a longer-term presence in Continental Europe. In both England and Scotland, then, ‘Egyptians’ were accorded a similar reception to that received in Continental Europe almost a century earlier: initial generosity towards

---

<sup>3</sup> Pym, *The Gypsies of Early Modern Spain*, pp. 5-7.

<sup>4</sup> Fraser, *Gypsies*, pp. 63-76.

<sup>5</sup> James Balfour Paul ed., *Accounts of the Lord High Treasurer of Scotland*, vol. iii (Edinburgh: James Hedderwick and Sons, 1901), p. 136.

<sup>6</sup> *Ibid.*, pp. 36, 41, 120-21, 124; Janet Hadley Williams ed., *Stewart Style: Essays on the Court of James V* (East Linton: Tuckwell press, 1996), p. 120.

<sup>7</sup> James Gairdner ed., *Letters and Papers of Richard III and Henry VII*, vol. ii (London: Longman, Green, Longman, Roberts, and Green, 1863), pp. 213-14: ‘Anthonius Gawino, ex Parva Aegypto comes, et caetera comitatus’.

<sup>8</sup> *Ibid.*: ‘... gens afflicta et miseranda... Impretat facile quae postulat miserorum hominum dura fortuna’.

mysterious groups of ‘Egyptians’, viewed as temporary itinerants deserving of charity and letters of protection.

Like other European sovereigns, James IV initially assumed that the ‘Egyptian’ newcomers were pilgrims, led by impoverished nobles, and treated them accordingly. But there are no further Scottish references to ‘Egyptians’ being pilgrims, and under James V they appear to have been employed as entertainers, as many of their counterparts were throughout fifteenth- and early sixteenth-century Europe. In 1529, the royal Treasury accounts record a payment of forty shillings ‘to the Egyptianis that dansit before the King, in Halyrudhouse’.<sup>9</sup> In Ayr, the local bailies employed ‘Egyptians’ to dance before them in 1541 and provided the troop with two quarts of wine.<sup>10</sup> Foreigners were routinely employed at Court during the early sixteenth century: James IV kept eight Italian minstrels in 1502, as well as John Damian, an Italian alchemist, and a ‘more’ (likely African) drummer. By 1513, there were eleven Italian and French musicians on the crown payroll.<sup>11</sup> At least one French minstrel remained at Court throughout James V’s reign, and Flemish artists and craftspeople were employed by both monarchs.<sup>12</sup> Authorities paying ‘Egyptians’ to perform was not unique to Scotland and, contrary to Sujata Iyengar’s suggestion, was hardly a lavish or unusual expense.<sup>13</sup> Patronage of ‘Egyptians’ by crown authorities resulted in some of the earliest archival traces of ‘Egyptians’ in Europe; and it was through music, dancing, and fortune-telling at late medieval and renaissance courts that ‘Egyptians’ first made their presence felt amongst European elites, their reputation bolstered by their purported Egyptian origin.<sup>14</sup>

---

<sup>9</sup> James Balfour Paul ed., *Accounts of the Lord High Treasurer of Scotland*, vol. v (Edinburgh: James Hedderwick and Sons, 1903), p. 379.

<sup>10</sup> George S. Pryde ed., *Ayr Burgh Accounts 1534–1624* (Edinburgh: T. and A. Constable, 1937), p. 84.

<sup>11</sup> Helena M. Shire, ‘Music for “Goddis Glore and the Kingis”’ in Janet Hadley Williams ed., *Stewart Style: Essays on the Court of James V* (East Linton: Tuckwell Press, 1996), pp. 120.

<sup>12</sup> *Accounts of the Lord High Treasurer*, vol. ii, pp. 97, 99, 464, 457-58; vol. iii, p. 163; vol. v, pp. 44, 53, 87, 198, 203, 261, 311, 431; Andrea Thomas, *Princelie Majestie: The Court of James V of Scotland, 1528-1542* (Edinburgh: John Donald, 2005), ch. 3; William Hepburn, *The Household and Court under James IV* (Woodbridge: Boydell, 2023), p. 109.

<sup>13</sup> Iyengar, *Shades of Difference*, p. 173.

<sup>14</sup> See Donald Kenrick, ‘The Origins of Anti-Gypsyism: The Outsiders’ View of Romanies in Western Europe in the Fifteenth Century’, in Nicholas Saul and Susan Tebbutt eds., *The Role of the Romanies: Images and Counter-Images of “Gypsies”/Romanies in European Cultures* (Liverpool: Liverpool University Press, 2004).

Despite their perceived poverty under James IV, and status as entertainers under James V, ‘Egyptian’ leaders were consistently referred to by noble titles including ‘comes’, ‘dominus’, ‘earl’, ‘lord’, and ‘master’. Although such titles were rarely used to describe ‘Egyptian’ leaders in English documents, they were commonly applied in fifteenth- and early sixteenth-century Continental Europe, as Angus Fraser has shown.<sup>15</sup> Anthony Gawino’s title, ‘comes of Egypt’, was much like that used three decades later by one John Faw, who was referred to as ‘lord and erle of litill Egipt’, as well as ‘earl of little Egypt, lord and master of the Egyptians in the kingdom of Scotland’.<sup>16</sup> Other impoverished foreigners purporting to be nobility had received comparable largesse and protection from the Scottish crown in previous decades. In 1459, James II had offered a letter of safe conduct to the Byzantine Greek Nikolaos Georgios. The letter also allowed Georgios to seek alms towards restitution of his property, which he claimed had been captured by the Ottomans.<sup>17</sup> In 1502, James IV also ordered payments to ‘the erle of Grece’ and ‘ane knyght of Grece’ which were nearly identical to those made to John Faw three years later.<sup>18</sup>

It is possible that the claims to noble status made by ‘Egyptian’ leaders were taken so seriously by James V that he granted them a degree of juridical autonomy. In a proclamation to local civil authorities throughout Scotland in February 1541, James declared that John Faw should receive assistance in the ‘executioune of justice upoun his cumpany and folkis’ so that they ‘conforme to the lawis of Egipt’, while also allowing Faw to punish any of his company ‘that rebellis aganis him’.<sup>19</sup> The proclamation echoed the letters of safe conduct granted by John II of Navarre and Marco Pio, lord of Carpi (a minor Italian city-state), in the 1470s and 1480s. In both polities, the letters of safe conduct not only allowed ‘Egyptians’ to travel freely, but also granted their titled leaders the authority to resolve internal disputes.<sup>20</sup> Marco Pio, for instance, proclaimed that ‘in case

---

<sup>15</sup> Fraser, *The Gypsies*, ch. 4. See also Gerald Power, ‘Gypsies and sixteenth-century Ireland’, *Romani Studies* 24 (2014), pp. 204-5.

<sup>16</sup> RSS, vol. ii, 3511, p. 522: ‘Minoris Egipti Comititis, ac domini et magistri Egiptiorum infra regnum Scotie existentium’.

<sup>17</sup> Alasdair C. Grant, ‘Scotland’s “Vagabonding Greekes, 1453-1688”, *Byzantine and Modern Greek Studies*, 46(1) (2022), p. 84.

<sup>18</sup> Pitcairn, *Ancient Criminal Trials in Scotland: comp. from the original records and mss., with historical illustrations, &c.*, vol. iii (Edinburgh: Printed for the Maitland Society, 1833), p. 592.

<sup>19</sup> David Hay Fleming, *Registrum Secreti Sigilli Regum Scotorum: The Register of the Privy Seal of Scotland*, vol. ii (Edinburgh: Her Majesty’s Stationary Office, 1921), pp. 580-81.

<sup>20</sup> Angus Fraser, ‘Juridical Autonomy among Fifteenth and Sixteenth Century Gypsies’, *American Journal of Comparative Law* 45 (1997), pp. 295-96.

any dispute arises among the Egyptians themselves’, local officials should assist the leader of the ‘Egyptians’, ‘comes’ Michael of Egypt, in reaching a resolution.<sup>21</sup> James V’s proclamation in favour of John Faw should be understood within this context – as a pragmatic form of dispute resolution by an authority dealing with a group of foreign itinerants. It was evidence neither that ‘Egyptians’ were ‘recognized and protected as a distinct culture’, nor that Faw had ‘extraordinary powers conferred on him’ as has been previously suggested.<sup>22</sup>

According to the account of the ‘Egyptian earl’ John Faw in 1540, his long-running dispute with Sebastian Lalow had culminated in intervention by the lord justice-general, Archibald Campbell, fourth earl of Argyll. At some point between 1537 and 1540, Lalow had made an obligation in the presence of Argyll, acting as arbitrator, promising that ‘he and his cumpany’ would remain with Faw ‘and on na wyse depart fra him’. Some time thereafter, John Faw had expressed a wish to ‘pass home’ with his company of Gypsies but had been prevented from doing so by Lalow, who had rebelled against his authority and stolen money, jewels, clothes, and other valuable goods from Faw and his company.<sup>23</sup> In May 1540, a royal proclamation was made empowering John Wanne, the ‘son and heir’ of John Faw, to ‘compel and punish’ all ‘Egyptians in the kingdom of Scotland’.<sup>24</sup> For his part, Lalow also managed to secure a letter from the crown the following month, granting protection to Lalow and his company of ‘Egyptians’. In the letter, Lalow was described as ‘lord of little Egypt’.<sup>25</sup> The letter of protection was later condemned by James V as having been secured ‘be sinister and wrang informatioun, fals relatioun, and circumventioun of us [the crown]’. Lalow and his supporters had used the letter to obtain help from some of the king’s subjects in his struggle ‘aganis the said Johnne, thair lord and maister’, and delayed Faw’s efforts to apprehend his rebellious kin and return together to ‘thaire awin cuntre’.<sup>26</sup> In an attempt to end the dispute amongst

---

<sup>21</sup> Alessandro Giuseppe Spinelli, ‘Gli Zingari nel Modenese’, *Journal of the Gypsy Lore Society*, new series, vol. iii (1910), pp. 46-47: ‘quodque casu aliquo inter ipsos Egyptianos differentia aliqua, vel quando oriri contingat medio asistere velint...’

<sup>22</sup> Mark Netzloff, ‘“Counterfeit Egyptians” and Imagined Borders’, pp. 770-71; Colin Clarke, ‘“Severity has often enraged but never subdued a gipsy”: The History and Making of European Romani Stereotypes’ in Saul and Tebbutt eds., *The Role of the Romanies*, p. 323. See also Iyengar, *Shades of Difference*, p. 173.

<sup>23</sup> RSS, vol. ii, 3860, pp. 580-1.

<sup>24</sup> *Ibid.*, 3511, p. 522: ‘Johannis Uanne, filii et heredis... plectere et punire’. Confusingly, this letter refers to ‘the late John Faw [*quondam JOHANNIS FALL*]’, despite the fact that John Faw appears to have been alive and still ‘earl of little Egypt’ a year later. Cf. *ibid.*, 3860, pp. 580-1.

<sup>25</sup> *Ibid.*, 3549, p. 527: ‘Minoris Egipti Domino’.

<sup>26</sup> *Ibid.*, 3860, pp. 580.

the Gypsies and assist Faw in this purpose, James issued another proclamation in February 1541 ordering civil magistrates throughout the realm to assist ‘oure lovit Johnne Faw, Lord and Erle of Little Egipt’ in the ‘executioune of justice vpoun his cumpany and folkis, [so they] conforme to the lawis of Egipt’. Magistrates were not to harass Faw and his company as they undertook their ‘lefull besynes [lawful business]’ and were ordered to lend Faw their prisons, stocks, and fetters to detain Lalow and the other rebels. If requested by Faw, mariners were also required to transport the Gypsies from Scotland at the mariners’ own expense.<sup>27</sup> In a seemingly remarkable volte-face, just four months later in June 1541, James V ordered John Faw, Sebastian Lalow, and their ‘Egyptian’ followers to return home and never return to Scotland, under pain of death.<sup>28</sup>

Interpreting the crown’s measures prior to the expulsion order, scholars from MacRitchie onward have asserted that pre-Reformation Scottish authorities were ‘fairly lenient’ towards Gypsies.<sup>29</sup> The writs issued to John Faw and John Wanne are the most striking evidence of such leniency and suggest that the crown actively supported Gypsies and appeared to give them full juridical autonomy, and may have recognised a legal code separate from Scots law. On closer inspection however, the crown’s actions in 1540-41 did not intend to establish Gypsies’ legal autonomy in Scotland, but rather sought to ease their departure from the kingdom. Faw’s wish to ‘pass hame’ with his company was incentivised by the crown, first by assistance and then by compulsion. The letters of protection granted to Faw and Wanne were not unlike crown commissions of justiciary, which empowered named individuals to enforce order or to try particular crimes within specific temporal and geographical limits. Some ‘Egyptians’ probably did leave Scotland due to the expulsion order. In October 1541, for instance, ‘John Naune and his company, Egyptians’ arrived in Ireland, claiming to have been ‘driven from Scotland by stress of weather’.<sup>30</sup> But, as discussed in the following chapter, the order failed to create a legal mechanism to incentivise the removal of ‘Egyptians’.<sup>31</sup>

---

<sup>27</sup> *Ibid.*, 3860, pp. 580-1. This writ is commonly misdated to 1540. See [Simson], ‘Notices concerning Scottish Gypsies’, p. 49; MacRitchie, *Scottish Gypsies*, p. 37; Cressy, *Gypsies*, pp. 19-20.

<sup>28</sup> Robert Kerr Hannay ed., *Acts of the Lords of Council in Public Affairs, 1501-1554* (Edinburgh: H. M. General Register House, 1932), pp. 503-4.

<sup>29</sup> MacRitchie, *Scottish Gypsies*, p. 35; Netzloff, ‘“Counterfeit Egyptians” and Imagined Borders’, p. 775.

<sup>30</sup> Gerald Power, ‘Gypsies and Sixteenth-century Ireland’, *Romani Studies* 24 (2014), p. 205.

<sup>31</sup> See ch. 3, pp. 70-73.

In the longer term, the expulsion order proved ineffective and was not enforced. In 1553, John Faw again approached the crown for support against rebellious ‘Egyptians’. He showed to Queen Mary’s regent, James Hamilton, second earl of Arran, the writ that he (or his father) had received from the crown in 1540. Faw complained that he had long been pursuing Lalow and his accomplices, as he was obliged ‘to bring hame with him all thame of his cumpany’. Faw lamented that Lalow’s rebellion made it impossible for them to return home, was ‘expres aganis justice’, and put Faw ‘in grete perell’ of losing his inheritance. Arran renewed James V’s writ that granted Faw authority over his company, copying much of the earlier document verbatim.<sup>32</sup> The following year, the crown issued letters of respite to John Faw, ‘Andro Faw, captaine of the Egiptianis’, and twelve other ‘Egyptians’ for their part in the slaughter of a servant at the village of Linton in the Scottish Borders a year previously.<sup>33</sup> Such inconsistency in the crown’s attitude towards ‘Egyptians’ was not exceptional when compared to that of other polities. In France, for instance, Francis I issued a proclamation banishing ‘Bohemians’ in 1539, and only five years later granted a letter of safe conduct to Antoine Moreul, ‘his well-loved captain of Little Egypt’.<sup>34</sup> The treatment of ‘Egyptians’ by governing authorities was not always neatly linear and in Scotland, as elsewhere, the paucity of evidence regarding their early reception is such that tracing the cause or outcome of policy shifts is not always possible.

The extant evidence regarding the early treatment of ‘Egyptians’ in Scotland suggests that ways that Scottish elites perceived ‘Egyptians’ were unexceptional. Nevertheless, Egypt retained a particular resonance in Renaissance Scotland that may have influenced perceptions of the people ‘callit of Egypt’. Ancient Egypt was integral to the intellectual culture of James IV’s and James V’s courts and played an important role in ideas about Scottish nationhood and the nation’s mythic origins. From the fourteenth century onwards, a patriotic myth centring on the Greco-Egyptian origin of the Scots had been disseminated by various chroniclers which rivalled the more prevalent, Anglocentric legend of Brutus. Written between 1363 and 1385, John of Fordun’s unfinished *Chronica Gentis Scotorum* outlined a compelling narrative of the origins of the Scots that was repeated, elaborated,

---

<sup>32</sup> RSS, vol. iv, 1953, pp. 317-19.

<sup>33</sup> *Ibid.*, 2595, 2715, pp. 445, 468.

<sup>34</sup> Taylor, *Another Darkness, Another Dawn*, p. 60.

and epitomised numerous times over the next three centuries.<sup>35</sup> Fordun's account formed the basis for a history of Scotland's Egyptian origins that was exceptionally popular at James V's court. Fordun had traced the lineage of the Scots people to the Greek Gathelus and his wife Scota, daughter of the Egyptian Pharaoh Chencres, who had been contemporaries of Moses. Gathelus and Scota had fled from Egypt with a band of Greeks and Egyptians, wandering around the Mediterranean before finally settling in Galicia, to which Gathelus lent his name. Gathelus had been succeeded by his son Hiber, whose conquests and colonisation were indicated in the place-names of Iberia and Hibernia. A later descendant of Gathelus and Scota had come to settle in Northern Britain, and named the new kingdom after Scota and its language, Gaelic, after Gathelus. Often described as a political and 'patriotic' myth, the legend of Gathelus and Scota was developed and reiterated to justify Scotland's existence and to inspire pride in the Scottish kingdom and its people's lineage.<sup>36</sup>

Egyptians, specifically ancient Egyptians, thus held a privileged place in sixteenth-century Scottish intellectual culture. This special status was epitomised in the view of the prominent Renaissance humanist George Buchanan, who wrote in 1579 that 'Nature hath granted' to Egyptians 'more subtle motions of the mind, and a greater sharpness of wit' than that given to other nations.<sup>37</sup> In 1531, James V had himself patronised the publication of Hector Boece's *Scotorum historia*, which had been written four years earlier and translated into Scots by John Bellenden, and which opened by claiming that the Scots were 'discendit of the Grekis and Egipcianys'.<sup>38</sup> Linking this origin myth to James V's treatment of the 'Egyptians', Arthur Williamson remarked that 'it is surely no accident that the Gypsy community within Scotland, consistently well received by the court, should receive the king's favour at just that moment and eventually become his proteges — in marked contrast to

---

<sup>35</sup> Laurie A. Finke and Martin B. Shichtman, *King Arthur and the Myth of History* (University of Florida Press, 2004) p. 147; Roger A. Mason, 'From Chronicle to History: Recovering the Past in Renaissance Scotland' in Rudolph Suntrup and Jan. R. Veenstra eds., *Building the past — Konstruktion der eigenen Vergangenheit* (Frankfurt am Main: Peter Lang, 2006), p. 56; Walter Bower, *The Scotichronicon*, vol. i, ed. D. E. R. Watt (Aberdeen: Aberdeen University Press, 1993), p. 27.

<sup>36</sup> It should be noted that the myth's popularity and political significance before 1500 is contentious. See William Matthews, 'The Egyptians in Scotland: The Political History of a Myth', *Viator* 1 (1970), pp. 289-306; Steve Boardman, 'Late Medieval Scotland and the Matter of Britain' in Edward J. Cowan and Richard J. Finlay ed., *Scottish History: The Power of the Past* (Edinburgh: Edinburgh University Press, 2002), p. 49.

<sup>37</sup> George Buchanan, *De jure regni apud Scotos. Or A Dialogue, concerning the due Priviledge of Government in the Kingdom of Scotland*, trans. 'Philalethes' (London: Richard Baldwin, 1689), p. 2.

<sup>38</sup> R. W. Chambers and Edith C. Batho eds., *The Chronicles of Scotland: Compiled by Hector Boece, translated into Scots by John Bellenden, 1531*, vol. i (Edinburgh and London: William Blackwood and Sons, 1938), p. 21.

their experience elsewhere in contemporary Europe'.<sup>39</sup> However, there is no evidence that 'Egyptians' became protégés of James V; rather, it was during his reign that perceptions of 'Egyptians' became markedly more negative.

As early as 1527, the bailies of Aberdeen heard from 'famouss diuerss witnes' that 'the Egiptiens' had stolen spoons from a safe-box in the house of one Thomas Watsoun. The 'maister of the said Egiptiens', Eken Jaks, was summoned to answer for the said crime. The fact that no specific perpetrator was named and that the crime was viewed as collective, to be responded to by Jaks on the group's behalf, suggests that the 'Egyptians' were collectively viewed as thieves. Jaks was ordered to return Watsoun's spoons within twenty-four hours or else face trial, and the burgh council noted that Watsoun, his mother, and servant should not be disturbed by 'the said Egiptiens' again.<sup>40</sup> A similar case of burglary by 'a company of Egiptians' in 1540, this time in Haddington, led to the group of 'Egyptians' being collectively fined 19s. 5d. by the bailies of the burgh.<sup>41</sup> In the same year, burgh council records in Edinburgh recorded that one 'Jhonn Auny, Egiptiane, and his complices' received a royal remission for their part in the slaughter of an Edinburgh burghess named Thomas Richardson. Since Auny was unable adequately to recompense the victim's father, the council ordered his banishment and 'all vtheris the Egiptianes' from the burgh, with scourging threatened should they return.<sup>42</sup> When all Gypsies were first banished from Scotland in 1541, the proclamation noted 'the gret thiftis and scathis [damages] done be the saidis Egiptianis vpoun our soverane lordis liegis'.<sup>43</sup> The proclamation therefore acknowledged the reputation that Gypsies had already acquired for theft and violence. At the same time, the collective punishments 'Egyptians' administered by authorities before 1541 were remarkably lenient and included the return of stolen items, a small fine, and remission for manslaughter.

---

<sup>39</sup> See Williamson, 'Numbers and National Consciousness', in Mason ed., *Scots and Britons*, p. 189.

<sup>40</sup> John Stuart ed., *Extracts from the Council Register of the Burgh of Aberdeen, 1398-1570*, vol. i (Aberdeen: Printed for the Spalding Club, 1844).

<sup>41</sup> Thomas Thomson ed., 'A Description of the Oldest Council Books and other Records of the Town of Haddington, with copious extracts', in *Proceedings of the Society of Antiquaries of Scotland*, vol. ii, part 3 (Edinburgh: Neill and Company, 1859), p. 400.

<sup>42</sup> J. D. Mawick ed., *Extracts from the Records of the Burgh of Edinburgh, 1528-1557* (Edinburgh: Printed for the Scottish Burgh Records Society, 1871), p. 98.

<sup>43</sup> Hannay ed., *Acts of the Lords of Council*, pp. 503-4

Although there was no specific point at which authorities' attitudes towards 'Egyptians' decisively changed, doubts about their professed origins were apparent from the 1530s onwards. In another case of theft dating to 1540, the local authorities in Aberdeen prosecuted ten individuals whom they described as 'frends and servands to Erle George [Faw], callit of Egipt'. At no other point in the council record is Faw referred to by the title of earl: later, he was simply 'captaine' of his company of 'Egyptians'. The fact that Faw was 'callit of Egipt', rather than 'of Egipt', implied scepticism regarding the company's alleged place of origin and identity. George Faw and his brother, John, were convicted by an assize a week later for the separate crime of 'blud drawing', meaning assault drawing blood, and ordered to pay for the victim's medical treatment which comprised a course of leeches. Due to a lack of evidence, all ten 'Egyptians' were acquitted of the theft but were nevertheless required to leave the burgh with their company within a week, and not to enter any house or courtyard before departure.<sup>44</sup> The burgh authorities palpably distrusted 'Erle George, callit of Egipt', and his whole company of so-called 'Egyptians'.

### ***'Counterfeit Egyptians'***

The link between the importance of Egypt in Scottish intellectual culture and the treatment of 'Egyptians' under James IV and James V appears largely coincidental. There is no surviving evidence to suggest that 'Egyptians' were more warmly treated in Scotland because they shared a mythic lineage with Scots. In most respects, the reception of 'Egyptians' in Scotland paralleled that in other polities, which seems even clearer when looking at the second half of the sixteenth century — a period in which Egypt remained significant in Scottish court culture. An inventory of the royal wardrobe compiled in 1578 noted 'thre Egiptianis hattis of reid and yallow taffeteis', items that Michael Lynch has speculated were used in the masque staged to celebrate the baptism of Prince James that was organised by Queen Mary in 1566.<sup>45</sup> The celebrations were modelled on court entertainments that Mary had witnessed at Bayonne in France, at which 'Moors' had dressed in the style of Egyptians.<sup>46</sup> A generation later, in 1594, the baptismal celebrations for James VI's son, Prince Henry, involved use of a new royal emblem that featured 'mistique & hieroglyphique'

---

<sup>44</sup> Stuart ed., *Extracts from the Council Register of... Aberdeen*, pp. 167-69.

<sup>45</sup> Thomas Thomson ed., *A Collection of Inventories and other Records of the Royal Wardrobe and Jewelhouse, 1488-1606* (Edinburgh: [s.n.], 1815), p. 237; Michael Lynch, 'Queen Mary's Triumph: The Baptismal Celebrations at Stirling in December 1566', *The Scottish Historical Review*, Vol. 69, No. 187, Part 1 (Apr., 1990), p. 14.

<sup>46</sup> Lynch, 'Queen Mary's Triumph', pp. 2-3.

devices, as well as a feast held at a table surrounded by six women dressed as Goddesses, carrying objects of ‘hieroglyphik’ significance.<sup>47</sup> During Prince Henry’s baptismal celebrations, a masque was also held in which the performers dressed as Turks, knights of Malta, Amazons, and Moors, who, ‘comming from sundry parts and at diuers times, together with the diuersitie of their apparell, should bring some noueltie to the behoulders’.<sup>48</sup> The baptism’s Master of Ceremonies was William Schaw, a Catholic mason and architect with a deep interest in hermeticism, a form of esoteric knowledge with supposed roots in the ancient Egyptian wisdom of the legendary Hermes Trimegistus.<sup>49</sup> More widely, a strand of occult mysticism was nurtured at James VI’s court, with scholars including Sir David Lindsay, John Napier, and Sir George Erskine all drawing on hermetic, alchemical, and rosicrucian traditions in their writings.<sup>50</sup> A common thread running through this constellation of ideas was belief in the power of ancient Egyptian religion and magic, and the notion that hieroglyphs contained the key to arcane ‘Egyptian wisdom’. Nor were such ideas confined to the nobility. An early seventeenth-century presbyterian minister in Stirling decorated his manse with murals depicting hieroglyphs taken from an Italian humanist treatise on the Christian iconographical significance of Egyptian hieroglyphs.<sup>51</sup>

In the post-Reformation era, ideas and iconography related to ‘Egyptian wisdom’ and ‘Egyptian magic’ continued to find favour amongst educated Scots, despite the prevalent fear of black magic and a Calvinist suspicion of some aspects of Christian and allegorical visual culture. But it was not hieroglyphs and hermeticism that shaped how royal authorities viewed ‘Egyptians’ living under James VI. They were, according to a privy council proclamation issued in 1576, the ‘counterfaitit people calland thame selffis Egiptianis’; vagrants who practised a ‘wickit and mischevous maner of leving, committing murthouris, thift, and abusing the sympill and ignorant people with sorcery and devinatioun’.<sup>52</sup> The people labelled ‘counterfeit’ or false ‘Egyptians’ were viewed not as possessors

---

<sup>47</sup> William Fowler, *A true reportarie of the most triumphant, and royal accomplishment of the baptisme of the most excellent, right high, and mightie prince, Frederik Henry; by the grace of God, Prince of Scotland Solemnized the 30. day of August. 1594* (Edinburgh: R. Waldegrave, 1594) [unpaginated].

<sup>48</sup> *Ibid.*

<sup>49</sup> David Stevenson, *The Origins of Freemasonry: Scotland's Century, 1590–1710* (Cambridge: Cambridge University Press, 1988), p. 86.

<sup>50</sup> John Read, ‘Scottish Alchemy in the Seventeenth Century’, *Chymia*, Vol. 1 (1948), pp. 139-151; Dmitri Levitin, *Ancient Wisdom in the Age of the New Science* (Cambridge: Cambridge University Press, 2015), p. 118.

<sup>51</sup> Michael Bath, *Emblems in Scotland: Motifs and Meanings* (Leiden: Brill, 2018), pp. 178-79.

<sup>52</sup> *RPCS*, ser. 1, vol. ii, pp. 555-56.

of arcane wisdom, but as mere confidence tricksters. Reverence for Egypt and the condemnation of ‘counterfeit Egyptians’ thus ran concurrently in Scottish elite culture. During James VI’s reign, Scotland’s central authorities stigmatised and stereotyped ‘Egyptians’ in serial proclamations and acts of parliament, culminating in an act of 1609 that made being ‘callit, knawin, repute and haldin Egiptianis’ a criminal offence. ‘Counterfeit Egyptians’ were seen as embodying a range of subversive and sinful behaviours: not only were they foreigners of obscure origin who were pretending to be of much-admired Egyptian stock, but they were accountable to nobody except their own leaders, roamed around the realm in armed bands, and maintained a life of unproductive idleness through theft, robbery, deception, and even magic. Such behaviours were regularly attributed to ‘Egyptians’ by the crown, privy council, parliament, and general assembly of the Kirk in formulaic and repetitive missives. With reference to sixteenth-century England, John Morgan has suggested that the stereotyping and stigmatisation of ‘counterfeit Egyptians’ by lawmakers amounted to the ‘the construction and implementation of a criminal identity’.<sup>53</sup> Morgan’s formulation also neatly describes the shift in official perceptions of Gypsies in Scotland.

Following Morgan, the picture of ‘counterfeit Egyptians’ generated by records of the central executive and legislature in Scotland should be understood as a typology created for the purposes of ‘identification, detection and prosecution’.<sup>54</sup> The influence of English legislation is detectable, with Scottish lawmakers adopting terms to describe ‘Egyptians’ similar to those used by their English counterparts.<sup>55</sup> The privy council’s use of ‘countirfute’ and ‘counterfaitit people’ to describe ‘Egyptians’ in 1573 may echo English legislation enacted in 1563, which referred to ‘counterfeit and disguised Vagabonds, commonly called or calling themselves Egyptians’.<sup>56</sup> Both measures prescribed the forcible settlement of ‘counterfeit Egyptians’ in order that they might take up ‘some lawful Work, Trade or Occupation’, as the English law put it, or an ‘honest meane craft or industre’, as in the Scottish proclamation.<sup>57</sup> Both the English Egyptians Act and the Scottish proclamation issued in 1575 shared, then, a parallel means of defining ‘Egyptians’ as itinerant and masterless

---

<sup>53</sup> Morgan, “Counterfeit Egyptians”, p. 110.

<sup>54</sup> *Ibid.*

<sup>55</sup> Cressy, *Gypsies*, p. 21. This was also true of proclamations and acts of parliament in other areas. See, for instance, Laura A. M. Stewart, ‘Poor Relief in Edinburgh and the Famine of 1621-24’, *IRSS* 30 (2005), pp. 7-8; Goodare, ‘The Scottish Witchcraft Act’, pp. 49-50.

<sup>56</sup> 5. Eliz. 1 c. 20.

<sup>57</sup> *RPCS*, ser. 1, vol. ii, p. 210.

foreigners, while simultaneously casting doubt regarding their claims to Egyptian origins. Lawmakers in both kingdoms framed Gypsies' criminality in terms of their behaviour – a failure both to submit to authority and to take up legitimate economic roles.

These were official representations of those labelled 'counterfeit Egyptians' as enshrined in law, and almost certainly did not reflect how the majority of Scots perceived people 'calling themselves Egyptians'. But such official representations comprise the bulk of sources relating to Gypsies from James VI's reign; they shaped Gypsies' social position and reflected some aspects of how Gypsies were perceived by non-Gypsies. The ways in which 'Egyptians' were described by Scottish lawmakers diverged from those of their English counterparts, reflecting particularly Scottish perceptions and anxieties. While Tudor parliaments passed four pieces of legislation against 'Egyptians', Scottish executive action against 'Egyptians' was more intensive and temporally limited to James VI's reign. Between 1573 and 1624, the Scottish parliament and privy council passed at least ten acts and proclamations targeting 'Egyptians' and their reseters throughout Scotland, with numerous other executive orders targeting 'Egyptians' and reseters in specific localities, both during James's reign and for the rest of the seventeenth century. The majority of such anti-Gypsy measures outlined in detail the targets of their opprobrium, and thus offer insights into how local authorities perceived Gypsies, as well as how authorities wished Gypsies to be perceived. Both English and Scottish authorities shared the view that 'Egyptians' were 'idle' and 'counterfeit' vagrants who falsified their origins, but the more numerous Scottish statutes also disregarded other key identifiers of 'Egyptians' noted by Tudor lawmakers. The Scottish records from James VI's reign do not refer to the 'outlandish dress' of the 'Egyptians', nor their language or skin colour.<sup>58</sup> This does not mean that such attributes were not cultural identifiers attributed to Scottish 'Egyptians', but they evidently played no role in the criminal classification of 'Egyptians'. The specific behaviours and characteristics that were cited, however, reveal much about the contemporary aspirations and anxieties of Scottish authorities.

In 1593, an anti-vagrancy statute described Gypsies as the 'counterfute idill lymmaris [rogues] and harlottis falslie calling thame selffis Egiptianis', but were in fact 'thevis, witcheis and abusaris of the people'. In 1624, a privy council proclamation also claimed that 'the counterfute thevis and lymmaris callit Egiptianis' abused 'the simple and ignorant with thair jugling [conjuring] trikkis and

---

<sup>58</sup> Compare 22 Henry VIII, c. 10; 1&2 Ph. and M., c. 4; 5. Eliz. 1 c. 20; 39 Eliz. 1 c. IV.

coysenage [deception]', and oppressed those of sounder judgement 'by thair stouthis [theft] and reaffis [robbery]'.<sup>59</sup> Together, the statute and proclamation capture the intersection of different criminal behaviours allegedly embodied by 'Egyptians'. Some of their assumed crimes were straightforward crimes against the person, such as theft and robbery, while others were spiritual crimes of particular concern to the Reformed Kirk. Fear of witchcraft and magic led to periods of intense if sporadic witch-hunts in the 1590s and late 1620s, and anti-Gypsy legislation and executive action, like that taken suspected against witches, was part of broader governmental efforts aimed at introducing Protestant moral discipline.<sup>60</sup> 'Egyptians' were mentioned only once in the surviving proceedings of the Kirk's general assembly during James VI's reign, when the body called on 'the King and Counsell to take ordour with the colourit and vagabound Egyptians, quhilk defyles the countrey with all maner of abominatioun'.<sup>61</sup> Nonetheless, the worldview of Protestant reformers profoundly impacted how 'Egyptians' were perceived and stigmatised by both ecclesiastical and secular authorities. Throughout the seventeenth century, statutes and privy council proclamations, secular court cases as well as kirk sessions and presbyteries referred to 'Egyptians' as 'harlots', which carried much the same connotations of fornication and sexual deviancy in Scots as it did in English. 'Egyptians' were also linked to other vagrants for their 'wiked and ungodlie forme of leving... without mariage or baptizing of a greit nowmer of thair bairnis', according to a parliamentary act of 1579.<sup>62</sup> Though fornication could be prosecuted in the secular courts from 1567 onwards, and adultery was technically punishable by death from 1563 onwards, crimes involving sexual immorality were generally handled by the lower Church courts.<sup>63</sup> While these courts do not appear to have punished 'Egyptians' directly, they did make efforts to punish members of the community who harboured, fraternised with, or supported them. Reformers' anxieties over public morality certainly influenced the stigmatisation of 'Egyptians' by the secular executive. This close connection between 'Egyptian' persecution and Scotland's Reformation is discussed further in the fourth chapter.

---

<sup>59</sup>RPCS, ser. 1, vol. xiii, pp. 392-93.

<sup>60</sup> Goodare, 'The Scottish Witchcraft Act', p. 40.

<sup>61</sup> Duncan Shaw ed., *Acts and Proceedings of the General Assemblies of the Church of Scotland, 1583-1619* (Edinburgh: The Scottish Record Society, 2004), p. 922; *Acts and Proceedings of the General Assemblies of the Kirk of Scotland*, vol. ii (Edinburgh: Maitland Club, 1845), p. 780.

<sup>62</sup> RPS, 1579/10/27.

<sup>63</sup> Brian P. Levack, 'The Prosecution of Sexual Crimes in Early Eighteenth-Century Scotland', *The Scottish Historical Review*, 89 (2010), pp. 173-74.

Another of the ‘abominatiouns’ that central authorities associated with ‘Egyptians’ was witchcraft. The emphasis on ‘Egyptians’ practice of ‘jugling’, and their identification as ‘witcheis’, was particular to Scotland during this period. It may be that the reference to witches in a statute enacted against ‘Egyptians’ in 1593 was a result of the witch-hunt of 1590-91. One trial of alleged witchcraft in 1590 included a claim that the accused, Katherine Ross, had sent for ‘the Egyptianis’ as they had knowledge of ‘the craft of poysoon’.<sup>64</sup> But the association of ‘Egyptians’ with magic had been established in a parliamentary statute as early as 1575, when they were bracketed with magicians, ‘juglars’ and ‘ony uther that senyeis thame to have knowlege in physnomie, palmestre or utheris abused sciencis, quhairby thay perswade the people that thay can tell thair weardis deathis and fortunes and sic uther fantasticall ymaginationis’.<sup>65</sup> In this and later statutes referring to fortune-telling, ‘jugling’, and charming, ‘Egyptians’ were not seen as committing *maleficium* (i.e. harmful ‘black’ magic) and were not held to be in direct communion with the Devil. Rather, ‘Egyptians’ were seen primarily as deceivers, who took advantage of the credulity of superstitious, poorly educated, and insufficiently godly subjects. ‘Jugling’ referred to legerdemain, or conjuring tricks involving deceit rather than magic, while ‘charming’ referred to healing and other types of magic not involving *maleficium*. In practice (though not in law), ‘charming’ was treated as a milder offence than maleficent witchcraft, and the lower church courts dealt with several cases in which parishioners approached ‘counterfeit Egyptians’ to solicit charms.<sup>66</sup> As a privy council proclamation issued in 1616 put it, ‘Egyptians... abuse the simple and ignorant people by telling of fortunes and useing of charmes, and a number of jugling trikis and falsettis unworthie to be hard of in a cuntrey subject to religioun, law, and justice’.<sup>67</sup> Since ‘Egyptians’ were seen as pretending to magical ability without possessing it, this seems to explain why ‘Egyptians’ were not prosecuted under the Scottish Witchcraft Act of 1563, and also why witchcraft was rarely mentioned in criminal cases involving ‘Egyptians’.

When ‘counterfeit Egyptians’ were prosecuted in criminal courts, it was not because they were suspected of witchcraft, but almost always because they were suspected of crimes against the person or against property. When a convention of estates created a commission of justiciary to deal

---

<sup>64</sup> Robert Pitcairn, *Ancient Criminal Trials in Scotland: comp. from the original records and mss., with historical illustrations, &c.* (Edinburgh: Printed for the Maitland Society, 1833), vol. i, part 3, pp. 195-196.

<sup>65</sup> *RPS*, A1575/3/5.

<sup>66</sup> Goodare, ‘The Scottish Witchcraft Act’, pp. 54-55.

<sup>67</sup> *RPCS*, vol. X, pp. 655-57.

with ‘thieves, rogues and sorners’ in 1593, it singled out those ‘falslie calling thame selffis Egiptianis’.<sup>68</sup> By James VI’s reign, the association of ‘Egyptians’ with theft was already long-standing, as lawmakers and local magistrates had treated groups of ‘Egyptians’ as thieves since James V’s reign. But it was only from 1576 onwards that the crown characterised ‘Egyptians’ as ‘murtheraris’ who made a living through violence.<sup>69</sup> It was also during James VI’s reign that ‘counterfeit Egyptians’ became closely associated with the crime of sorning. Criminalised since 1450, sorning was initially tied specifically to Highland feuding and banditry.<sup>70</sup> Following the Egyptians Act of 1609, however, privy council proclamations, commissions of justiciary, and criminal indictments invariably accused ‘counterfeit Egyptians’ of sorning. By the end of the seventeenth century, the charge became formulaic: suspected ‘counterfeit Egyptians were indicted as ‘Egyptians and sorners’ even when no specific accusation of sorning was made.<sup>71</sup> The Egyptians Act described Gypsies as ‘vagaboundis, sorneris and commoun theiffis’ and sought to make simply being known as an ‘Egyptian’ sufficient to infer the crime of theft, as explored in more detail in the next chapter.<sup>72</sup> So although the Egyptians Act sought to make being a ‘counterfeit Egyptian’ a crime of status rather than arising from a specific action, it rested on the assumption that their very way of life was itself predicated on theft and sorning.

The picture of the ‘counterfeit Egyptian’ that emerges from the Scottish statute book and privy council minutes during James VI’s reign was an officially-sanctioned stereotype, a legal fiction, a criminal identity. As such, it cannot reflect the multitude of ways that the ‘people calling themselves Egyptian’ were perceived in Scotland, including the possibility that non-elites continued to accept that ‘Egyptians’ were indeed from Egypt. Julian Goodare has suggested that ordinary Scots considered Egypt to be ‘an abode of marvellous beings’, while Margo Todd has proposed that many drew a strong link between those labelled ‘counterfeit Egyptian’ and the supernatural world of fairies and magic.<sup>73</sup> Both Goodare and Todd cite a deposition made by Alison Pearson when she stood trial suspected of witchcraft in 1588, in which she said that her uncle had been taken as an

---

<sup>68</sup> *RPS*, A1593/9/14.

<sup>69</sup> *RPCS*, ser. 1, vol. ii, pp. 555-56.

<sup>70</sup> *RPS*, 1450/1/20.

<sup>71</sup> See *NRS*, JC2/14, fo. 399r.

<sup>72</sup> *RPS*, 1609/4/32. See ch. 3, pp. 82-85.

<sup>73</sup> Todd, ‘Fairies, Egyptians and Elders’, pp. 206-7; Julian Goodare, ‘Boundaries of the Fairy Realm in Scotland’, in Karin Olsen and Jan R. Veestra eds., *Airy Nothings: Imagining the Otherworld of Faerie from the Middle Ages to the Age of Reason* (Leiden: Brill, 2014), pp. 162-63.

infant to Egypt by ‘ane mann of Egypt, ane gyant’, and that he had spent twelve years there. Pearson also claimed that he had been subsequently abducted by fairies.<sup>74</sup> Goodare has argued that, whatever the magical associations of Egypt, in Pearson’s deposition she was clearly referring to a supernatural giant, and not ‘the human “Egyptians” living in Scotland’.<sup>75</sup> It is unclear if the same could be said of Helen Guthrie who was tried for witchcraft during the Forfar witch-hunt of 1661 and confessed that she ‘went abroad with the Egiptians shee being a witch then’.<sup>76</sup> Guthrie may have been confessing either to travelling with supernatural ‘Egyptians’, or to joining a band of ‘counterfeit Egyptians’.

The fact that the Scottish privy council felt obliged to condemn ‘the simple and ignorant’ as susceptible to the magic and deceptions of the ‘counterfeit Egyptians’ suggests that non-elites may have believed that ‘counterfeit Egyptians’ were of Egyptian origin and that their fortune-telling and magic was efficacious. Scots knew little about contemporary Egypt. One of the few contemporary Scottish travellers to Egypt, William Lithgow, reported in 1609 that the ‘Inhabitants here, were the first Inventors of the Mathematicall Sciences, of Letters, and of the use of Writing: Great Magicians and Astrologians, and are yet indued with a speciall dexterity of Wit; but somewhat sloathfull, and given to Ryot and Luxury: Merry also, great Singers, and sociable Companions’.<sup>77</sup> To Lithgow, contemporary Egyptians had an affinity with magic, astrology, sloth, and entertainment which were all qualities associated with ‘counterfeit Egyptians’. It is no great speculative leap, then, to suggest that, after the Reformation, many Scots continued to believe that ‘counterfeit Egyptians’ were in fact Egyptians, notwithstanding official injunctions. The ‘people calling thame selffis Egiptianis’, by presenting themselves as Egyptians, may have been able to profit from the positive associations that Egypt had for early modern Scots, though without positive evidence, this remains a matter of speculation.

---

<sup>74</sup> Pitcairn ed., *Criminal Trials* vol. i, p. 162.

<sup>75</sup> Goodare, ‘Boundaries of the Fairy Realm in Scotland’, pp. 162-63.

<sup>76</sup> William Mackay ed., *Chronicles of the Frasers* (Edinburgh: T. and A. Constable, 1905), p. 255.

<sup>77</sup> William Lithgow, *The Totall Discourse of The Rare Adventures & Painefull Peregrinations of long Nineteene Yeares Travayles from Scotland to the most famous Kingdomes in Europe, Asia and Affrica* (Glasgow: James MacLehose and Sons, 1906), p. 309.

## ‘Gypsies’

In 1652, an English soldier observed the presence in the northeast of Scotland of ‘about an hundred people of severall nations, call’d heere by the name of Egyptians’. Sent to Inverness to report on the surviving remnants of the Covenanter forces at the tail end of the Anglo-Scottish War, the soldier described how the ‘Egyptians’ living in the region ‘ramble uppe and downe the North Highlands’, and that the ‘the cheifest of which are one Hause and Browne’. He then commented that these ‘Egyptians’ were ‘of the same nature with the English Gypsies, and doe after the same manner cheate and cosen the country’. The anonymous soldier appears to have been well-informed: the surname ‘Browne’ (also spelled ‘Brown’ and ‘Broun’) had been used by Gypsies living in Scotland throughout the seventeenth century, and as recently as 1630, the privy council had complained of ‘ane great number’ of ‘Egyptians... in the north parts of this kingdome’, travelling around ‘the countrie in troupes and companeis armed’.<sup>78</sup> The notion that Scottish ‘Egyptians’ and English ‘Gypsies’ were a single cultural group known by different names either side of the Anglo-Scottish border proved enduring. For example, in J. M. Barrie’s novel *The Little Minister*, published in 1891, one character remarks that ‘Egyptian’ was ‘what the auld folk call a gypsy’, making it clear to readers that the terms were synonymous, and that ‘Egyptian’ was the older term.<sup>79</sup> The novel, set in a fictionalised version of Barrie’s birthplace of Kirriemuir during the late 1830s, drew on sentimental anecdotes and folktales from the author’s childhood.<sup>80</sup> The term ‘Gypsy’ would therefore appear to have been imported into Scotland from England, and only in the nineteenth century came to replace ‘Egyptian’ as the term commonly used by Scots.

The term ‘Gypsy’ almost certainly had its origins in early modern England, where it did indeed gradually replace the earlier term of ‘Egyptian’ over the course of the sixteenth century. As early as 1495, the English poet John Skelton had used the term ‘gipcy’ to mean ‘of Egypt’, although its application specifically to travelling people in England was a later phenomenon.<sup>81</sup> In 1564,

---

<sup>78</sup> For Gypsies in the north of Scotland carrying the surname ‘Brown’, see *Miscellany of the Maitland Club*, vol. ii (Edinburgh: printed for the Maitland Club, 1840), p. 164; *Miscellany of the Spalding Club*, vol. iii (Aberdeen: printed for the Spalding Club, 1846), p. 175. For the 1630 reference to Gypsies in the north of Scotland, see *RPCS*, ser. 2, vol. iv, pp. 85-86.

<sup>79</sup> J. M. Barrie, *The Little Minister* (London: Cassell and Company, 1894), p.101.

<sup>80</sup> See Andrew Nash, ‘From Realism to Romance: Gender and Narrative Technique in J.M. Barrie’s “the Little Minister”’, *Scottish Literary Journal* 26, (1999).

<sup>81</sup> John Skelton, *The Poetical Works of John Skelton*, vol. ii, ed. Alexander Dyce (Boston: Little, Brown, and Co., 1862), p. 235.

churchwardens at Yeovil in Somerset referred to ‘Gypsians’ in their parish, while constables in Great Chesterford in Essex apprehended a group of ‘Gypsyas’ in 1566, suggesting that diminutives closely related to ‘Gypsy’ were used interchangeably with ‘Egyptian’ and ‘counterfeit Egyptian’ by the 1560s.<sup>82</sup> The *Oxford English Dictionary* cites Geoffrey Fenton’s translation of Jean Talpin’s *La Police Chrestienne*, published in 1574, as containing the earliest recorded use of the term.<sup>83</sup> In a chapter on ‘vacabondes’ and ‘poore Beggars’, Fenton described

a people drawn together from many places, bearing the name of Gipsies, or Bohemiens, who, much lesse that they euer sawe Egypt, but knowe not where it standeth. These with their wiues, being sorcerors & interpretors of Satan, abuse the simple, & vnhappye, casting a powder into their purses whose vertue is to bring away al ye money.<sup>84</sup>

The phrase ‘Gipsies, or Bohemiens’ was a translation of Talpin’s ‘Egiptiens, ou Bohemiens’, following which Talpin continued that they had not seen Egypt or Bohemia, and did not know where they were.<sup>85</sup> Fenton’s translation discarded the reference to Bohemia, as the place had no associations with Gypsies for English readers. Fenton used ‘Gipsies’ to highlight the lack of connection between Egypt’s actual inhabitants and the wandering vagrants who fraudulently claimed to be Egyptian. Just over three decades later, the English writer Thomas Dekker suggested that ‘Gipsy’ was an exonym whereas ‘Egiptian’ was a term of self-ascription: ‘they are called Gipsies, they call themselues Egiptians, others in mockery call them Moone-men’.<sup>86</sup> By the early seventeenth century, the term ‘Gipsy’ had become common in English printed publications, from Sir Thomas Overbury’s poem on the ‘tinker’ who ‘recanted Gypsisme’, to Ben Jonson’s immensely

---

<sup>82</sup> Cressy, *Gypsies*, p. 78.

<sup>83</sup> ‘Gypsy, N., Sense 1.a.’ *Oxford English Dictionary* (Oxford: Oxford University Press, 2019), <https://doi.org/10.1093/OED/2989327914>; Geoffrey Fenton, *A forme of Christian pollicie drawne out of French* (London: H. Middleton, 1574); Jean Talpin, *La Police Chrestienne* (Paris: Chez Nicolas Chesneau, 1572).

<sup>84</sup> Fenton, *A forme of Christian pollicie*, p. 167.

<sup>85</sup> Jean Talpin, *La Police Chrestienne*, fo. 109r: ‘... lesquels ne veirent iamais Egypte ne Boheme, ne sçuent ou elle est’.

<sup>86</sup> Thomas Dekker, *Lanthorne and candle-light. Or, The bell-mans second nights-walke* (London: Printed for John Busby, 1609), G5 [unpaginated].

successful masque *The Gypsies Metamorphos'd*, first performed in 1621.<sup>87</sup> The term was also widely circulated in print via the chapbooks in the 'rogue literature' tradition.<sup>88</sup>

The earliest recorded use of the term 'Gypsy' in Scotland may have been in 1597, when the presbytery of Glasgow ordered two landowners to banish 'the gipseis' from their estates.<sup>89</sup> The presbytery's record provides no further context regarding the identity of 'the gipseis', although five years previously the same presbytery had gone to some length to remove 'egiptianis' from its jurisdiction.<sup>90</sup> The previous year, burgh magistrates in Glasgow had punished 'ane of the cumpany of Egipsianes'; an unusual spelling of 'Egyptian' in a Scottish context that may have implied an alternative pronunciation, as well as a different meaning when compared to 'Egiptiane'.<sup>91</sup> A similar spelling was also used in a privy council proclamation issued in 1619 against any subject who harboured 'the counterfoote theiveis and lymniairis callit Egipsianis'.<sup>92</sup> Whether or not variant spellings indicate slippage between 'Egyptian' and 'gypsy', the latter term was clearly already in circulation in Scotland by the late sixteenth century, even if it rarely appeared in documentary sources. Its earliest use in a criminal court was in 1610, when Elizabeth Warrock was prosecuted before the court of the justice-general as 'ane commone Vagabund and follower of the gipseis'.<sup>93</sup> The fact that Warrock was described as a 'follower' of Gypsies may have several implications; including simply being a Gypsy distinct from other kinds of itinerant 'vagabund', or denoting someone who was not a Gypsy but had joined a band of Gypsies and learned their ways. Regardless, the use of 'gipseis' suggests that the term enjoyed currency. Given that Warrock's case did not make use of anti-Gypsy legislation, there was no need to use the legally 'correct' term in her indictment. The textual rarity of the term 'Gypsy' in seventeenth-century Scotland cannot be taken

---

<sup>87</sup> 'A tinker' in Thomas Overbury, *Sir Thomas Ouerburie his wife with new elegies vpon his (now knowne) vntimely death*, 7th ed. (London: Edward Griffin, 1616) [unpaginated]; 'The Gypsies Metamorphosed' in C. H. Herford, Percy Simpson, and Evelyn Simpson eds., *Ben Jonson, Vol. 7: The Sad Shepherd; The Fall of Mortimer; Masques and Entertainments* (Oxford: Oxford University Press, 1941). On the popularity of Jonson's masque, see James Knowles, *Politics and Political Culture in the Court Masque* (Basingstoke: Palgrave Macmillan, 2015), ch. 6.

<sup>88</sup> See David Mayall, 'Egyptians and Vagabonds: Representations of the Gypsy in Early Modern Official and Rogue Literature', *Immigrants and Minorities* 16 (1997).

<sup>89</sup> NRS, CH2/171/32, p. 128.

<sup>90</sup> NRS, CH2/171/31, pp. 42-46.

J. D. Marwick ed., *Extracts from the Records of the Burgh of Glasgow* (Glasgow: Scottish Burgh Records Society, 1876), p. 182.

<sup>92</sup> *RPCS*, ser. 1, vol. xii, pp. 151-52.

<sup>93</sup> Pitcairn ed., *Criminal Trials*, vol. iii, p. 99.

to denote a lack of use: rather, it reflects the fact that the great preponderance of archival material concerning Gypsies is of legal provenance, and thus connected with the measures against ‘Egyptians’ passed under James VI.

In Scotland, as in England, ‘Egyptian’ remained the more common term in seventeenth-century legal documentation, yet the term ‘gypsy’ also occasionally appeared in court records and magistrates’ proclamations.<sup>94</sup> In a series of ‘overtures’ made by the commissioners of the general assembly of the Kirk to the Scottish parliament of 1646, for example, Kirk officials complained of various ‘grosse and horrid impieties and abominations’ common throughout Scotland, not least ‘the lewdnes and impieties of... beggers and gipsies’. The commissioners demanded that parliament ‘take some solide and effectuell course for restraining’ beggars and ‘gipsies’, including reinforcement of ‘acts already made for that purpose’.<sup>95</sup> To the author of the ‘overtures’, ‘gipsies’ appear to have been synonymous with the ‘Egyptians’ condemned in parliamentary legislation. While the Scottish parliament did not pass new legislation concerning Gypsies in 1646, it responded to the ‘overtor anent... sturdie beggers and gypsies’ by ordering the matter to be investigated and, if necessary, made the focus of legislation in the next parliamentary session.<sup>96</sup> Although no further action was taken, the parliamentary response was the earliest recorded use of the term ‘gypsy’ by Scotland’s central government, and predated its earliest use in English legislation by over six decades.<sup>97</sup> The term was also used occasionally by prosecutors. For example, in a list of interrogatories prepared by the lord advocate, Sir John Nisbet of Dirleton, in 1675, a number of prisoners held in the Edinburgh tolbooth were asked if ‘they be of those they call gypsies’.<sup>98</sup> Witnesses in the same case also testified in their depositions that the prisoners ‘went vnder the reputation of gipties’.<sup>99</sup> A privy council order relating to the same group of prisoners described them as ‘vagabonds and Egiptians’, deploying a phrase that echoed anti-Gypsy legislation. The interrogatories and depositions indicate vernacular use of the term ‘Gypsies’ over that of

---

<sup>94</sup> Cressy, ‘Trouble with Gypsies’, p. 48.

<sup>95</sup> Alexander F. Mitchell and James Christie eds., *The Records of the Commissions of the General Assemblies of the Church of Scotland Holden in Edinburgh in the Years 1646 and 1647* (Edinburgh: R. and A. Constable, 1892), p. 123.

<sup>96</sup> *RPS*, 1646/11/405

<sup>97</sup> Angus Fraser, *The Gypsies*, p. 136.

<sup>98</sup> NRS, GD6/996, document entitled ‘Interrogatores for the prisoneris thought to be AEgyptians and / Sorners.’

<sup>99</sup> *Ibid.*, depositions of William Dumbar and Thomas Tuedy.

‘Egyptians’, given that they reflect, however indirectly, the language used by people who were not professional lawyers or magistrates. By 1675, the term ‘Gypsy’ was in sufficiently wide circulation as to be unremarkable and easily understood, albeit imprecisely defined, by a range of people, from the lord advocate to the defendants themselves.

‘Gypsy’ was increasingly used by Scottish officialdom during the late seventeenth and early eighteenth centuries, although it never entirely replaced ‘Egyptian’. In 1695, for example, the presbytery of Biggar summoned a parishioner of Lamington named Margaret Shanklaw for committing adultery with one William Baillie who was ‘Commonly designed Gypsie’.<sup>100</sup> The phrase ‘Commonly designed’ implied a widespread use of the ‘Gypsie’ label to describe Baillie. The same term was used by criminal prosecutors such as lord advocate Sir James Stewart in 1698, and by Banff’s procurator-fiscal two years later.<sup>101</sup> In 1708, a southern circuit court held in Jedburgh indicted eight men and women as ‘Gypsies and Vagabonds’, while another circuit court held the following year in Dumfries described two men awaiting trial as ‘Gypsies’. The same court also indicted three individuals ‘for resetting of Beggars Gypsies and vagabonds’.<sup>102</sup> Such was the reputation of ‘Gypsies’ in the early eighteenth century that Lanark’s burgh council acquired firearms for an armed guard against ‘gypsies, theeves, and others transgressours of the lawes’ in 1714.<sup>103</sup> The following year, the burgh council of Glasgow also referred to eight prisoners awaiting punishment ‘for being habite and repute gypsies, sorners, etc’, paraphrasing the prisoners’ conviction under the Egyptians Act, but substituting ‘Egyptians’ with ‘gypsies’.<sup>104</sup> In all these instances, ‘Gypsies’ were taken to be dangerous vagrants who travelled around Scotland committing acts of theft and violence and were thus a people subject to punishment under the Egyptians Act of 1609. Accordingly, they were represented in similar ways to ‘counterfeit Egyptians’ at the beginning of the century.

‘Gypsy’ and ‘Egyptian’ was often used interchangeably by early modern magistrates, sometimes even within the same document. Notwithstanding, there is also evidence of divergence in the

---

<sup>100</sup> NRS, CH2/35/4, p. 26.

<sup>101</sup> NRS, JC2/19, 397v-404v; ‘Process: Procurator Phiscall against the Egyptians’ in *Miscellany of the Spalding Club*, vol. iii (Aberdeen: printed for the Spalding Club, 1846).

<sup>102</sup> NRS, JC12/1, p. 21.

<sup>103</sup> Robert Renwick ed., *Extracts from the Records of the Royal Burgh of Lanark* (Glasgow: Carson & Nicol, 1893), p. 288.

<sup>104</sup> Mawick ed., *Extracts from the Records of the Burgh of Glasgow*, pp. 529-30.

meaning and implication of the two terms, despite being used to refer to the same group of people. For example, when John Geills, as procurator-fiscal of Banff, brought a case against James Macpherson, James Gordon, Patrick Brown, and Donald Brown in 1700, he described the defendants as ‘notorious Egiptians and wagabonds’ and also as ‘notorious Gipsies’.<sup>105</sup> The minute book of Banff town council likewise described the defendants as both ‘gipsies’ and ‘Egiptianis’.<sup>106</sup> But the question of whether the defendants were ‘Egyptians’, according to the legal definition of the term, became a point of contention during the trial. The defence counsel, John Cuthbert of Brackenhills, argued that the Egyptians Act specifically targeted those who were ‘idle beggars, blakeing their faces, fortune-tellers’ which were ‘inseperable attributes of those called Egyptians’.<sup>107</sup> Cuthbert drew such identifiers from the published works of the jurist Sir George Mackenzie of Rosehaugh, who had also served as lord advocate from 1677 to 1687 and again from 1688 to 1689. In 1687, Mackenzie, who had first-hand experience of prosecuting ‘Egyptians’, wrote that ‘Our Law allows that such as call themselves Aegyptians, or go up and down the Countrey, bleaking their Faces, telling Fortunes, and speaking the Gebrish... shall be punished as Aegyptians’.<sup>108</sup> To exculpate the Gypsies he was defending, Cuthbert cherry-picked the aspects of Mackenzie’s definition of ‘Egyptians’ that did not apply in this instance: the defendants did not appear to have been fortune-telling beggars with darkened skin. His approach invited a response from procurator-fiscal Geills, who argued that ‘our lawiours opinion thereon, particularlie McKenzie in his observations on the same, sayes that our law allowes such as calls themselves Egiptians should be punished’.<sup>109</sup> Since Macpherson, Gordon, and the Browns were widely known to be ‘gipsies’, Geills argued that they could thus be prosecuted under the Egyptians Act.

The persistence of the term ‘Egyptian’ in Scottish official records was at least partly due to its association with provisions set out in the statute. Given its use in anti-Gypsy measures passed under James VI, ‘Egyptian’ continued to be used as a specifically legal term in the century following the Restoration, and was redefined and repurposed to suit a different intellectual and juridical climate.

---

<sup>105</sup> *Miscellany of the Spalding Club*, vol. iii (Aberdeen: printed for the Spalding Club, 1846), pp. 179-81.

<sup>106</sup> William Cramond ed., *The Annals of Banff*, vol. i (Aberdeen: The New Spalding Club, 1891), p. 112.

<sup>107</sup> *Miscellany of the Spalding Club*, vol. iii, p. 179.

<sup>108</sup> George Mackenzie, *Observations on the acts of Parliament, made by King James the First, King James the Second, King James the Third, King James the Fourth, King James the Fifth, Queen Mary, King James the Sixth, King Charles the First, King Charles the Second* (Edinburgh: The heir of Andrew Anderson, 1686), p. 334.

<sup>109</sup> *Miscellany of the Spalding Club*, vol. iii, p. 180.

This redefinition of ‘Egyptians’ is the subject of the sixth chapter, which examines further the cases prosecuted by Nisbet and Mackenzie, as well as the trial at Banff. Nevertheless, it is worthwhile noting here that, during the last three decades of the seventeenth century, a shift occurred in how Scottish elites perceived ‘Egyptians’ or ‘Gypsies’, moving from an understanding wherein they were defined by foreignness, vagrancy, and criminal behaviour, to one wherein they were identified by skin pigmentation, language, and their perceived connection to a Europe-wide diaspora. Mackenzie not only wrote of ‘Egyptians’ as people ‘bleaking their Faces’ and speaking a language ‘peculiar to those people’, but also identified them with the people known as ‘Bohemians’ in French, ‘Tartare’ in Swedish, and ‘Zigeuner’ in German, all terms used interchangeably with ‘Egyptian’ in each respective language.<sup>110</sup> The sixth chapter demonstrates how this process of racialisation had profound practical and legal implications for those labelled ‘Egyptians’ that persisted well into the eighteenth century.

Other terms that would become synonymous with ‘Gypsy’ are notable by their absence from early modern records. Nineteenth-century Gypsyologists fretted over distinctions between ‘tinkers’, ‘cairds’, and ‘gypsies’, as part of an effort to establish the history of a ‘pure’ Gypsy race.<sup>111</sup> While ‘tinker’ or ‘tinkler’ was a common early modern term, it was applied specifically to workers in metal, who were sometimes itinerant, and was not used interchangeably with ‘gypsy’ or ‘Egyptian’ until the eighteenth century.<sup>112</sup> When ‘tinkers’ and ‘Egyptians’ were discussed together, seventeenth-century observers carefully distinguished between the two. Commenting on the hanging of Robert Faw in 1678, the justice Sir John Lauder of Fountainhall described Faw as an ‘Aegyptian’ who had been convicted for, among other things, killing John Young, ‘a caird or tinker in Aberdene’.<sup>113</sup> Young’s murder had also been commented upon by a suspected ‘giptie’, Robert Shaw, during his interrogation by Nisbet three years earlier. Shaw had identified Young as ‘a brasier or tinker’, suggesting that Young’s identity was indeed tied to metalworking.<sup>114</sup> Incidentally,

---

<sup>110</sup> Mackenzie, *Observations*, p. 334. See also Angus Fraser, ‘The Present and Future of the Gypsy Past’, *Cambridge Review of International Affairs* 13 (2000), pp. 17-18.

<sup>111</sup> See Mary M. Burke, ‘Dwellers in Archaic Cultural Time: “Gypsies”, “Tinkers” and “Gaels” in 19th c. Scottish Writing; in Neal Alexander, Shane Alcobia-Murphy, and Anne Oakman eds., *To the Other Shore: Cross-currents in Irish and Scottish Studies* (Belfast: Cló Ollscoil na Banríona, 2004).

<sup>112</sup> On the interchangeable use of ‘tinker’ and ‘gypsy’ in the eighteenth century, see NRS, JC13/5/155, pp. 155-161; John A. Fairley ed., *Bailie [William] Smith of Kelso’s Account of the Gypsies of Kirk Yetholm in 1815* (Hawick: privately printed, 1907), p. 3.

<sup>113</sup> John Lauder, *Historical Notices of Scottish Affairs*, vol. i (Edinburgh: Bannatyne Club, 1848), p. 188.

<sup>114</sup> NRS, GD6/996, deposition of Robert Shaw.

Lauder's mention of Young being a 'caird' was one of the few recorded uses of the term before 1700.<sup>115</sup> It was in the eighteenth century, if not later, that 'caird' (like 'tinker') became more regularly used as a synonym for 'Gypsy'.

Irrespective of subtle differences in meaning, the terms 'Gypsy', 'Egyptian', and 'counterfeit Egyptian' were used to refer to same people in late-seventeenth century Scotland. 'Gypsies' were perceived as a subset of vagrants, and thus a section of the itinerant poor that also included 'idle beggars', 'vagabonds', 'tinkers', and 'cairds'. 'Gypsies' were, however, viewed as distinct from these other groups by late seventeenth-century elites, possibly due to legible cultural difference and their claims to Egyptian origin, but also because they understood them as part of a wider European diaspora that was linked by a similar language, way of life, and lineage. Accordingly, the term 'Gypsy' has a longer history of use in Scotland than has hitherto been recognised, and its use suggests that for Scots, the 'Egyptians' of their realm were one and the same people as the 'Gypsies' of England, the 'Bohemiens' of France, the 'Tattare' of Scandinavia, and the 'Zigeuner' of the Holy Roman Empire.

\*

The diverse and shifting perceptions of 'Egyptians', 'counterfeit Egyptians' and 'Gypsies' explored in this chapter cannot be an exhaustive account of the manifold ways in which Gypsies were perceived in early modern Scotland. Nevertheless, it demonstrates some of the elite and 'official' perspectives that underlay much anti-Gypsy policy and action, and which shaped the social position of those labelled 'Egyptian' and its cognates. While 'Egyptians' in pre-Reformation Scotland were able to obtain support from the Scottish crown and use their status as 'Egyptians' to their advantage, they were also limited by perceptions that they were itinerant and impoverished foreigners and thus faced mistrust and risked expulsion wherever they travelled. In James VI's reign, the representation of 'counterfeit Egyptians' found in the statute book conjured a vision of a people who were hyperbolically evil, and combined all the qualities that Protestant elites most detested. The impact of these policies, and Gypsies' relations with the reformed Kirk, are considered further in the third and fourth chapters respectively. While new sets of assumptions and stigmas undoubtedly impacted the lives of those labelled 'counterfeit Egyptians', it is clear that they were not widely shared in

---

<sup>115</sup> For an earlier use of the term, see John Spalding, *Memorialls of Trubles in Scotland & England A.D. 1624- A.D. 1645* vol. i, (Abedreen: Printed for the Spalding Club, 1850), p. 309.

seventeenth century Scotland, as demonstrated in the fifth chapter. Finally, use of the term ‘Gypsy’ in Scotland, and the meanings ascribed to it, suggests that by the late seventeenth century, those labelled ‘gypsies’ were no longer seen simply as a strange people from Egypt or as ‘counterfeit’ vagabonds, but as a culturally distinct group of people long resident in Scotland, ethnically distinct and part of a wider European diaspora. This development and its consequences are discussed at length in the sixth chapter. The majority of this thesis is concerned with expanding upon the perceptions of Gypsies presented in this chapter, as well as examining their broader meanings and impact. Only in the last chapter are these perceptions read ‘against the grain’ in an attempt to arrive at a representation that is closer to the lived experiences of Gypsies in early modern Scotland.

## Chapter 3

# Policy

During the reign of James VI, Scotland's central civil authorities introduced a battery of measures aimed at extirpating Gypsies from Scotland. Between 1573 and 1625, the privy council passed six general proclamations against Gypsies and their reseters, and successive parliaments and conventions of estates passed five acts that either targeted Gypsies specifically or Gypsies alongside other vagrants. Additionally, the crown and privy council cajoled specific authorities to arrest Gypsies, created commissions of justiciary to apprehend and try particular groups of Gypsies, and intervened on numerous occasions when Gypsies were arrested and imprisoned across Scotland. The vigour with which anti-Gypsy policy was pursued in Scotland during James's reign is remarkable, but has received little scholarly examination or explanation. As with other aspects of the country's early modern history of Gypsies, the research conducted by David MacRitchie in the nineteenth century has provided the basis for subsequent forays into the subject. Brief accounts of anti-Gypsy policy under James VI written by David Cressy, Angus Fraser, Julian Goodare, Gwenda Morgan and Peter Rushton, Mark Netzloff, and Frances Timbers have drawn almost exclusively from MacRitchie, or from other studies reliant on MacRitchie.<sup>1</sup> While MacRitchie's achievement in collating a great deal of the primary source material related to Scottish anti-Gypsy legislation is valuable, the subject – *pace* Cressy – has not been 'well served' by his analysis.<sup>2</sup> MacRitchie treated anti-Gypsy measures as 'a succession of adverse laws' that ended in little more than failure: 'although every "Egyptian" was under the ban of the law, yet that did not very greatly affect his daily life, or threaten to cut short his existence altogether'. The density of measures passed, MacRitchie contended, reflected their serial lack of success, as well as 'the personal influence of James VI... a monarch who... realised his duty of bringing the whole United Kingdom into a state of order and civilisation'.<sup>3</sup> MacRitchie glossed the anti-Gypsy measures passed by James's administration to present them as a catalogue of failures, by which brutal if semi-enlightened rulers had attempted to remove an 'obdurate, irreclaimable' race.<sup>4</sup>

---

<sup>1</sup> See Fraser, *The Gypsies*, pp. 136-39; Goodare, *The Government of Scotland*, pp. 263-64; Mark Netzloff, "'Counterfeit Egyptians" and Imagined Borders', pp. 775-76; Morgan and Rushton, *Banishment in the Early Atlantic World*, p. 31; Timbers, *Damned Fraternity*, ch. 1; Cressy, *Gypsies*, pp. 18-24.

<sup>2</sup> Cressy, *Gypsies*, p. 286.

<sup>3</sup> *Ibid.*, pp. 77-78.

<sup>4</sup> *Ibid.*, pp. 80-82.

This chapter examines the content of anti-Gypsy measures passed by the Scottish central authorities in order to trace the development and operation of anti-Gypsy policies. It shows that, during James VI's reign, the serial passage of acts and proclamations against Gypsies and other vagrants created a legal framework within which Gypsies could be prosecuted, a framework which remained in use well into the eighteenth century. During the 1570s, as Scotland's central authorities worked to transform the country into a reformed and godly society, Gypsies became closely associated with vagrants in official discourse, and were targeted by acts and proclamations that sought either to end their itinerant way of life, or else to remove them from Scotland. While seen as a subset of vagrants in general, Gypsies were not treated interchangeably with other groups of itinerant poor, and were subjected to specific measures during the last three decades of the sixteenth century. The suppression of Gypsies was a key royal priority in the sphere of criminal justice during the 1580s, when the impact of plague increased perceptions that unwanted itinerancy endangered the whole of society. In the 1590s, fear that vagrancy and disorder were on the rise and frustration with the perceived failure of existing anti-vagrancy and anti-Gypsy measures led to a period of executive experimentation, in which Scottish authorities sought to improve the mechanisms by which Gypsies could be apprehended and removed from Scotland. These developments culminated in passage of the Egyptians Act of 1609: a piece of legislation that sought to close any remaining loopholes potentially allowing Gypsies to remain in Scotland. The Egyptians Act did not, however, result in the extirpation of Gypsies from Scotland, with the remainder of James VI's reign seeing repeated attempts to improve its enforcement. At the same time, evidence indicates that the Act's provisions were only partially and inconsistently applied by the crown and civil magistrate alike. Focusing on these developments, this chapter nevertheless argues that extirpation of Gypsies remained one of the core ambitions of central authorities in James VI's, and shows how they sought to achieve this ambition.

### ***The earliest anti-Gypsy measures***

The earliest measure against Gypsies predated James VI's reign by more than two decades. In June 1541, the lords of council and session (a precursor to the privy council) ordered the 'Egyptians' John Faw and Sebastian Lalow to leave the realm along 'with their wifis, barnis, and companeis'

within thirty days or face death.<sup>5</sup> The ordinance was a response to complaints heard by James V and the lords of council from Faw and Lalow, each of whom claimed to be the leader of Scotland's Gypsies, and accused the other of 'diverse faltis and iniuris'. The proclamation cited an agreement reached between the two men 'to passe hame' and have their dispute settled by 'the Duke of Egipt', the putative ruler of the 'Egyptians'. Nevertheless, the lords felt that given 'the gret thiftis and scathis [damages]' Gypsies committed, the time for voluntary emigration had passed. Gypsies were stripped of the protection or privileges previously granted, and letters were sent to civil magistrates throughout Scotland informing them of the 'expulsioun of Egiptianis', and asking that they proclaim the order of banishment from mercat crosses in all majors burghs.<sup>6</sup> As discussed in the previous chapter, this was the last in a series of crown interventions in 1540 and 1541 that sought to resolve the internal disputes amongst Scotland's Gypsies, and followed accusations of theft, assault, and slaughter against Gypsies in Edinburgh, Aberdeen, and Haddington.

In some respects, the order of expulsion issued in 1541 resembled measures taken against Gypsies throughout fifteenth- and sixteenth-century Europe. Similar measures were adopted in England where, by 1530, Gypsies had developed a reputation for 'idleness, immorality, falsehood, and crime', and attracted the opprobrium of local authorities.<sup>7</sup> In 1531, the English parliament passed an act banishing the 'divers and many owtlandishe people calling themselves Egiptions' who travelled throughout the realm 'in grete companye', deceiving people with palmistry and fortune-telling, and committing 'many haynous Felonyes and Robberyes to the grete hurt and Disceipt of the people'. The act gave all Gypsies fifteen days to leave England, and threatened any who remained or returned with imprisonment as well as confiscation of their goods and chattels.<sup>8</sup> Although superficially similar, the Scottish ordinance issued in 1541 was not a straightforward imitation of the English act passed a decade earlier. The Scottish measure named Gypsy leaders, who were still recognised as 'earls' travelling with their companies from 'little Egypt', and evinced no concern with Gypsies' supposed idleness, deceit, fortune-telling, or vagrancy. Despite the ordinance's harshness, expulsion seems to have had a measure of consent from the Gypsy leader

---

<sup>5</sup> Robert Kerr Hannay ed., *Acts of the Lords of Council in Public Affairs, 1501-1554* (Edinburgh: H. M. General Register House, 1932), pp. 503-4. Acting in an executive function, the lords of council and session may be seen as roughly synonymous with the privy council. See Amy Blakeway, 'The Privy Council of James V of Scotland, 1528-1542', *The Historical Journal*, 59(1), pp. 23-44.

<sup>6</sup> *Accounts of the Lord High Treasurer of Scotland*, vol. vii, p. 457.

<sup>7</sup> Cressy, 'Trouble with Gypsies', p. 49.

<sup>8</sup> 22 Hen. 8. c. 12.

John Faw, given his previous interactions and negotiations with the Scottish authorities, in contrast with the equivalent experiences of ‘Egyptians’ in England and other polities.<sup>9</sup> Furthermore, the ordinance offered no indication of how any Gypsies who remained or returned to Scotland would be prosecuted, and did not stipulate penalties for harbouring Gypsies. The order of expulsion was not an empty gesture, an imitation of English legislation, or an aberration in the otherwise lenient treatment of Gypsies in pre-Reformation Scotland. However, it failed to establish a legal framework for the continued prosecution of Gypsies. It was not until the 1570s that central authorities began to implement anti-Gypsy policy that was lasting and enforceable, and which fundamentally transformed the relationship between Gypsies and magistrates for the next two centuries.

The first measure in this new phase of Gypsy prosecution was a proclamation passed by Regent Morton and the privy council in April 1573, entitled the ‘charge upoun the Egiptianis’. The proclamation targeted the ‘vagabound ydill and countirfute people of diverse nationis falslie namyt Egiptianis’ who made a living by theft ‘and utheris unlauchfull meanys’, and had ‘bene lang permittit to wander up and doun this realme unpuneist’. The proclamation suggested that a ‘haistie’ remedy was required if they were not to cause still ‘greittar inconvenientis’. All Gypsies, regardless of age or sex, were required either to leave Scotland permanently, or to settle in a single dwelling place under a master and adopt some ‘honest meane craft or industrie’. To encourage enforcement, any Gypsy who chose the latter option was to inform a local magistrate who would ensure compliance. The proclamation stipulated that Gypsies were to emigrate or settle by 1 May 1573. Thereafter, any itinerant Gypsies still living in Scotland would be treated ‘as thevis’, apprehended, and transported to the nearest burgh, where they would be imprisoned for eight days at their own expense: just enough time to ‘find cautioun to observe this present proclamation’. Failing this, they were to be scourged from parish to parish until ‘utterlie removit furth of this realme’.<sup>10</sup>

The privy council repeated the ‘Charge upoun the Egiptianis’ almost verbatim in August 1576, adding that the earlier proclamation still ‘wantit executioun’, and that Gypsies ‘continewit in thair wickit and mischevous maner of leving, committing murthouris, thift, and abusing the sympill and ignorant people with sorcery and devinatioun’. The proclamation, entitled simply ‘Egiptianis’, required civil magistrates to seek out and arrest all Gypsies in their jurisdictions and transport them

---

<sup>9</sup> See ch. 2, pp. 46-48.

<sup>10</sup> *RPCS*, ser. 1, vol. ii, p. 210.

to Edinburgh within six weeks. Magistrates were also told to discount ‘ony licence or privilege that thay [the Gypsies] can pretend’. Once transported to Edinburgh, the captured Gypsies would be tried for any crimes of which they were accused or suspected, presumably ranging from murder, slaughter, theft, and witchcraft to vagabondage and carrying false documents.<sup>11</sup> As in other polities, Scottish authorities anticipated that Gypsies would seek to use real or pretended documents to circumvent the law. In 1577, authorities in Berkshire, England, arrested eighty Gypsies who had used ‘a counterfett licence’ to travel throughout that kingdom.<sup>12</sup> Allegedly granted by the Council of the North, the licence was in fact forged by a Cheshire schoolmaster.<sup>13</sup> Given that licences and remissions were granted to Gypsies in the reigns of James IV, James V, and Mary I, it would be plausible to suspect Gypsies continuing to produce similar documents, whether real or counterfeit, under James VI.

Although the proclamations issued in 1573 and 1576 again banished Gypsies from Scotland, they marked a departure from the order of expulsion issued in 1541. No longer travellers from little Egypt led by respectable foreign nobles, Gypsies were viewed as vagrant foreigners and itinerants peddling a ‘counterfeit’ identity that needed suppressing, either through banishment or forcible settlement. Unlike the earlier order, the proclamation of 1573 also supplied a protocol that civil magistrates should follow in dealing with Gypsies. In common with those convicted of being able-bodied vagrants, Gypsies were to be punished with scourging and banishment. Unlike other vagrants, scourging of Gypsies did not only entail expulsion from the local community, but their complete removal from the realm; a distinction justified on the grounds of Gypsies’ status as foreigners ‘from diverse nations’. Since Gypsies were not considered subjects of the Scottish crown, the crown was not responsible for them unless they could be settled, made productive, and integrated into the existing social hierarchy. The proclamation issued in 1576 sought to centralise the prosecution of Gypsies, and encouraged their apprehension by threatening negligent magistrates with prosecution as ‘favouraris and sustenaris of thevis and murtheraris’.<sup>14</sup>

---

<sup>11</sup> *Ibid.*, pp. 555-56.

<sup>12</sup> John Roche Dasent ed., *Acts of the Privy Council of England*, vol. ix (London: Her Majesty’s Stationary Office, 1894), pp. 311-12, 314.

<sup>13</sup> *Ibid.*, pp. 304-5.

<sup>14</sup> *RPCS*, ser. 1, vol. ii, pp. 555-56.

The shift towards viewing Gypsies as vagrants was also apparent in the two poor laws enacted during the same decade. The first, passed by a convention of estates in 1574, sought to establish a new system of poor relief, tasking the ‘heidismen’ of each parish to register the names of the poor born or permanently resident in the parish and to raise a local tax, or stent, to fund their subsistence. Those from the parish and deemed unable to work and were to be granted tokens or licences recognising them as worthy recipients of alms. This ambitious, potentially transformative, proposal to reform poor relief was not, however, the primary focus of the act.<sup>15</sup> Over four-fifths of the act’s text concerned vagrancy and regulating movements of the poor: the preamble restated earlier measures against vagrants, before making several amendments. It restricted the receipt of alms to those deemed physically unable to make a living for themselves, and outlawed begging outside of the recipient’s parish of birth. Offenders could be punished in two ways, either by being scourged and burnt through the right ear, or by being kept in servitude for a year by any ‘honest and responsall persoun’ willing to take them on. If an offender was caught begging a second time, they were to ‘suffer the panis of death as a theif’. Harboursing or giving alms to unlicensed beggars was also punishable by a fine of up to five pounds. Among the ‘ydill and strang beggaris and vagaboundis’ the act specified as unworthy of charity were those who travelled across the realm practising ‘crafty’ or ingenious amusements such as ‘juglerie’ (conjurers’ illusions or magic), claimed knowledge of physiognomy, palmistry and other ‘abusit sciences’, and ‘sic utheris, the ydill people calling thame selffis Egiptianis’. Minstrels, songsters, and tale-tellers who were not in the service of ‘greit barronis’ or civil authorities also fell under the act, as did anyone who used or produced counterfeit licences allowing them to beg.<sup>16</sup>

A second, permanent, poor law was passed by the Scottish parliament in 1579. The statute covered similar ground to the act passed five years earlier in 1574, with an additional provision clarifying the role of magistrates in implementing poor relief and anti-vagrancy measures. It dispensed with vague references to ‘heidismen’: vagrants were to be brought before the provost and bailies in burghs, the lord of regality in regalities, and before a judicial commissioner appointed by the crown in other jurisdictions. Civil magistrates were also tasked with surveying the poor, establishing their place of birth, marital status, familial relations, physical health, and income received in alms. The act also reframed the problem of vagrancy in theological terms: vagrants, including Gypsies,

---

<sup>15</sup> See Christopher R. Langley, *Cultures of Care*, pp. 3-4.

<sup>16</sup> *RPS*, A1575/3/5.

incurred ‘the wraith and displesar of God for the wiked and ungodlie forme of leving... without mariage or baptizing of a great number of their bairns’.<sup>17</sup> As a practical attempt to improve poor relief and exclude vagrants, the act reflected the system of Calvinist discipline established following the Protestant Reformation. Immediate impetus for the act also, however, owed something to the crown and privy council’s first-hand experience of vagrancy. Earlier the same year, the young king James VI had been faced with the ‘unplesand and lamentabill spectacle’ of crowds of beggars gathered near Stirling Castle, while the privy council had expressed frustration at the ‘ydell vagaboundis’ to be found ‘hanting about Edinburgh and athort [across] all the realme’. A commission was established into how the ‘mater may be best helpit’, and just over six months later, the amended poor law was passed.<sup>18</sup>

In their form and provisions, the two poor laws of the 1570s took direct inspiration from the ‘Vagabonds Act’ passed by English parliament in 1572.<sup>19</sup> This begs the question of whether, in their concern with Gypsies, the Scottish acts and proclamations of the 1570s were primarily imitations of English statutes, or if they reflected specifically Scottish concerns. Though the ‘Vagabond Act’ made no reference to Gypsies, an English anti-Gypsy act of 1554 described them as

using great, subtil and craft Means to deceive the King’s subjects... by Palmistry... and by so many Times by Craft and Subtilty deceive the People of their Money, and committed divers great and heinous Felonies and Robberies, to the great Hurt and Deceit of the People...<sup>20</sup>

In 1562, the English parliament passed another act against the ‘Vagabonds... calling themselves Egyptians, or counterfeiting, transforming or disguising themselves... unto such Vagabonds’ and such concerns were expanded further in legislation of 1572. Cressy has suggested that the use of ‘counterfeit Egyptians’ in Scottish anti-Gypsy measures ‘derived from Elizabethan English law’, and there are other comparable phrases: the Scottish poor law bracketed Gypsies among those ‘using subtile, crafty and unlauchfull playis’ such as palmistry, and the privy council proclamation against Gypsies of 1576 described them as ‘abusing the sympill and ignorant people with sorcery and devinatioun’. Both the English act of 1554 and the Scottish proclamation of 1576 addressed Gypsies holding forged licences. The punishment of settling Gypsies under a master proposed in the

---

<sup>17</sup> *RPS*, 1579/10/27.

<sup>18</sup> *RPCS*, ser. 1, vol. iii, pp. 137-38.

<sup>19</sup> McCallum, *Poor Relief*, p. 16

<sup>20</sup> 22 Henry VIII, c. 10.

Scottish poor law of 1574 also had clear parallels in English act of 1563, which called for Gypsies to be put ‘to some honest Service, or exercise some lawful Work, Trade or Occupation’.<sup>21</sup>

Nevertheless, the descriptions of Gypsies and punishments proposed in the Scottish measures were not mere imitations of English statute. The Scottish poor law of 1574, for instance, defined vagrants in much the same way as the English ‘Vagabonds Act’ of 1572, with Scottish lawmakers inserting a reference to ‘Egiptianis’ not to be found in the English model.<sup>22</sup> By contrast, the vagrancy act passed by Ireland’s parliament in 1635 replicated English anti-vagrancy legislation wholesale, including references to Gypsies that had little applicability in an Irish context.<sup>23</sup> While Scottish lawmakers in the late sixteenth century undoubtedly utilised models from English law, they were crafting original proclamations and legislation to deal with Gypsies, at a time of particular concern about the growth of vagrancy.

The Scottish poor laws enacted during the 1570s arose from a desire to demarcate the ‘deserving’ from the ‘undeserving’ poor, and were intended to support the God-fearing and law-abiding and to suppress the sinful and deviant. The creation of an exclusionary system of parish relief, coupled with the enactment of anti-Gypsy proclamations, would have left Gypsies vulnerable to prosecution by an array of magistrates, with ‘not a loophole to escape’.<sup>24</sup> But the poor laws were overly ambitious in terms of the administrative and financial burden posed; by 1592, they were little-implemented outside Edinburgh.<sup>25</sup> It is likewise difficult to gauge the impact of the proclamations against Gypsies, although they likewise appear to have failed. While the 1576 proclamation was read from mercat crosses throughout Scotland, there were no recorded trials of Gypsies in Edinburgh in the years that followed.<sup>26</sup> In July 1579, Robert Baillie, ‘capitane of certane Egiptianes’, presented himself before the council of Glasgow ‘to ansuer... for ony crym’ committed by him ‘and his cumpany’, as alleged by one John Pollok. Though answerable to the authorities in this instance, Baillie was clearly still identifiable as an ‘Egyptian’, had remained in Scotland after

---

<sup>21</sup> 5. Eliz. I c. 20; Morgan and Rushton, *Banishment in the Early Atlantic World*, pp. 30-31.

<sup>22</sup> 14. Eliz. I c. 5; *RPS*, A1575/3/5.

<sup>23</sup> See Gerald Power, ‘Gypsies and sixteenth-century Ireland’, *Romani Studies* 24 (2014).

<sup>24</sup> MacRitchie, *Scottish Gypsies*, p. 68.

<sup>25</sup> Goodare, *The Government of Scotland*, pp. 201-2.

<sup>26</sup> *Accounts of the Lord High Treasurer of Scotland*, vol. xiii, p. 138.

1576, and was not subsequently prosecuted, either by Pollok or by the Glasgow authorities.<sup>27</sup> As with the new poor laws, it is likely that the proclamations were not widely enforced, if enforced at all.

Tackling vagrancy remained a key priority of central authorities over the 1580s as well. During the plague years of the mid-1580s, the privy council did its best to stop the spread of disease by closing down fairs and markets, encouraging the population to stay ‘at thair awin houssis’, and ordering vagrants to cease travelling and be housed in their own parish at the discretion of local magistrates.<sup>28</sup> When the plague hit Edinburgh in May 1585, the privy council issued a proclamation blaming the spread the movement of ‘vagaboundis, Strang and idill beggaris, and disorderit people’, and suggested that the ‘pestilence’ might have been prevented if the provisions of the poor law of 1579 had been properly enacted. In an emergency measure, the privy council ordered that these provisions fully implemented throughout Scotland, giving the authorities of Edinburgh, Canongate, and Leith just six days to expel all ‘strangers’ from their jurisdictions, provide dwellings to any native-born vagrants, and clear all ‘filth’ and cattle from the roads, all to stop the ‘forder spreding and incres of the... contagious infectioun’. Magistrates in the rest of Scotland were given just ten days to comply with the same order.<sup>29</sup> While the proclamation contained no explicit mention of expelling Gypsies, their expulsion was nevertheless implied.

In 1585, the plague continued to spread despite the privy council’s attempt to lock down the realm. The central justice courts ceased to function, and further powers were given to burgh and parish authorities to deal with vagrants, including the use of capital punishment for infected people who moved between jurisdictions.<sup>30</sup> By the time the epidemic had abated in 1587, ‘the force and majestie’ of criminal law had ‘sa fer [so far] decayed’ that the king and privy council revived circuit courts and declared that a ‘hie courte of justiciarie’ would be held before James VI, to try various ‘heich offenssis’ that ‘aboundit in all quartars of this realme’. Among the ‘heich offenssis’ listed for trial by the new court were the ‘four pleas of the crown’ — robbery, rape, murder, and fire-raising — along with spiritual misdemeanours such as incest, adultery, witchcraft, harbouring Jesuits, and

---

<sup>27</sup> J. D Mawick [?Marwick] ed., *Extracts from the records of the Burgh of Glasgow, A.D. 1573-1642* (Glasgow: Scottish Burgh Records Society, 1876), p. 75.

<sup>28</sup> *RPCS*, ser. 1, vol. iii, p. 695.

<sup>29</sup> *Ibid.*, pp. 746-7.

<sup>30</sup> *RPCS*, ser. 1, vol. iv, pp. 7-8.

hearing Catholic Mass. The list concluded with a call for the execution of justice upon ‘the wicked and counterfute theveis and lymmaris [rogues] calling thame selffs Egiptianis’.<sup>31</sup> Vagrancy, however, was not among the ‘offenssis’ listed. Though a high court sitting in the king’s presence was never held, circuit courts were reinstated the following year, and tasked with prosecuting Gypsies along with the other crimes outlined for trial by the high court.<sup>32</sup>

More broadly, James VI consolidated crown authority over many aspects of governance in 1587, not least in criminal justice.<sup>33</sup> Crimes relating to bloodfeud were targeted, and a five-year moratorium was placed on remissions and respites for those accused of feuding-related crimes. Feuding, defined by Mark Godfrey as a means of dispute resolution involving ‘ritualised violence, supported by kin’, had been displaced by civil litigation and centralised criminal justice throughout much of Europe by the late sixteenth century.<sup>34</sup> Feuding continued to exist in tandem with other forms of justice in both rural and urban areas throughout Scotland, and was practised by individuals from across the social spectrum.<sup>35</sup> Nevertheless, James VI and his privy councillors increasingly saw it as the ‘unnatural and barbarous custom’ of Highlanders and Borderers, who were described as ‘disorderit subjectis’ whose culture and way of life was antithetical to peace, justice, and good order.<sup>36</sup> The 1580s was just the beginning of extensive and intense crown action against Highlanders and Borderers. The perception that Gypsies were similarly ‘disorderit’ suggests that their prosecution reflected the crown’s growing appetite to suppress subversive elements of society.

### ***Executive experimentation: the 1590s***

---

<sup>31</sup> *Ibid.*, p. 218; pp. 238-9.

<sup>32</sup> William K Boyd ed., *Calendar of State Papers relating to Scotland and Mary, Queen of Scots, 1586-88* vol. ix (Glasgow: James Hedderwick and Sons, 1915), p. 632.

<sup>33</sup> See Goodare, *State and Society*, p. 73.

<sup>34</sup> A. Mark Godfrey, ‘Rethinking the Justice of the Feud in Sixteenth-Century Scotland’, in Stephen Boardman and Julian Goodare eds., *Kings, Lords, and Men in Scotland and Britain: Essays in Honour of Jenny Wormald* (Edinburgh: Edinburgh University Press, 2014), p. 154.

<sup>35</sup> See Keith M. Brown, ‘Burghs, Lords and Feuds in Jacobean Scotland’, in Michael Lynch ed., *The Early Modern Town in Scotland* (London: Routledge, 1987).

<sup>36</sup> See Keith M. Brown, *Bloodfeud in Scotland, 1573–1625: Violence, Justice and Politics in an Early Modern Society* (John Donald: Edinburgh, 1986), p. 7; Anna Groundwater, ‘The chasm between James VI and I’s vision of the orderly “Middle Shires” and the “wickit” Scottish Borderers between 1587 and 1625’, *Renaissance and Reformation / Renaissance et Réforme* 30 (2007), pp. 110-11, 122.

By the end of the 1580s, Gypsies were not just seen as a threat to civil order, but also to spiritual order. In 1591, the general assembly of the kirk of Scotland petitioned the king and privy council to take in hand ‘the colourit and vagabound Egyptians, quhilk [who] defyles the countrey with all maner of abominatioun’.<sup>37</sup> Gypsies had already been condemned in ways that reflected the Reformed Kirk’s agenda: the privy council proclamation issued in 1576 had held Gypsies to be practitioners of ‘sorcery and devinatioun’, while the poor law in 1579 described Gypsies and other vagrants as living in sin, ‘without mariage or baptizing’.<sup>38</sup> Increasingly, civil and ecclesiastical authorities saw the removal of Gypsies as a joint priority, to be achieved through extensive cooperation. This was formalised in two acts passed by the parliament of 1592, the first of which outlined the duties of sheriffs, lords of regality and equivalent civil authorities ‘in inquiring, serching and apprehending’ of vagrants, including ‘Egiptianis’.<sup>39</sup> The second act reiterated the poor laws of the 1570s, including a provision ‘for the bettir tryall of commoun sornaris, vagabundis and maisterfull beggaris, feinzeit fuillis and counterfute Egiptianis’, to be achieved by empowering sheriffs and lords of regality to appoint ‘honest and zelous men of best credite and power’ to assist in apprehending vagrants and administering poor relief within their jurisdictions. Should local civil magistrates prove negligent, the act created a degree of oversight by giving kirk sessions the ability to appoint one to three men ‘of the best habilitie, zeale and discretioun’ as commissioners with ‘full power, charge and auctoritie to execute the said act of parliament’.<sup>40</sup> This measure sought to achieve more compliance than the earlier poor laws, and effectively recognised the kirk sessions as the primary authority over poor relief and the prevention of vagrancy at parish-level. The acts marked the start of a period of cooperation between the crown and the Kirk in the prosecution of Gypsies and other vagrants, explored at length in the following chapter.

The legislation enacted in 1592 quickly proved a disappointment to central authorities. The convention of estates that met in 1593 heard complaints from ‘noblemen and utheris’ that the number of ‘thevis, lymmaris and sornaris’ had so multiplied that they wandered throughout the realm unchecked, whether in heavily armed companies, disguised ‘with fals bairdis or in lynning claitthis or in fuillis garmentis’, or else posing as pilgrims to chapels and holy wells. They begged

---

<sup>37</sup> Duncan Shaw ed., *Acts and Proceedings of the General Assemblies of the Church of Scotland, 1583-1619* (Edinburgh: The Scottish Record Society, 2004), p. 922.

<sup>38</sup> *RPCS*, ser. 1, vol. ii, 555-56; *RPS*, 1579/10/27.

<sup>39</sup> *RPS*, 1592/4/46.

<sup>40</sup> *RPS*, A1593/9/14.

not only for 'meit, drink and victuallis' but money as well. If refused alms, it was believed that these vagrants resorted to robbery under cover of night, compelling landowners to keep their property under constant surveillance. Among them were 'the counterfute idill lymmaris and harrlottis falslie calling thame selffis Egiptianis, being nathing ellis bot thevis, witcheis and abusaris of the people'. These lurid accounts of vagrants forming roving gangs and practising impostures were taken as evidence that the 'large commissioun' against vagrants of the previous year had been ineffectual, leading the convention of estates to pass a further measure – the 'act anent beggars' or Beggars Act – to remedy the problem. Sheriffs, lords of regality and other judges ordinary were directed to 'minister justice upoun' Gypsies, vagrants and 'thair ressettaris'. The act proposed that judges could use capital punishment against convicted vagrants, though they could also impose lesser punishments at their 'gude discretioun', in line with earlier legislation.<sup>41</sup> Given that the convention of estates lacked the authority to pass permanent legislation, the Beggars Act did not establish vagrancy as a capital offence, but nevertheless encouraged much harsher sentencing for convicted Gypsies and vagrants than had previously been proposed.

The frustration of central authorities in trying to suppress vagrancy remained apparent in 1595, when the privy council granted ministers in 'landwart' parishes (i.e. outside burghs) the power to appoint commissioners in order to enforce laws against vagrants and other spiritual misdemeanours, such as fornication, cursing, and working on the Sabbath.<sup>42</sup> Another privy council act of 1597 reiterated existing measures against 'beggaris, vagaboundis and Egiptianis', while shifting the power to enforce the poor law in 'landwart' parishes from kirk session-appointed commissioners to the sessions themselves. This simplified enforcement by entrusting administration of the poor laws to an institution already embedded throughout lowland Scotland with the necessary social authority and financial muscle to carry out enforcement.<sup>43</sup> Following a privy council proclamation of 1600, presbyteries were also tasked with assisting kirk sessions in suppressing vagrancy if the need arose.<sup>44</sup> The act passed in 1597 also amended how vagrants should be punished by prescribing their employment 'in commoun workis' for life, though provided no detail as to how a system of

---

<sup>41</sup> *RPS*, A1593/9/14.

<sup>42</sup> *RPCS*, ser. 1, vol. v, p. 200.

<sup>43</sup> *RPS*, 1597/11/46.

<sup>44</sup> *RPCS*, ser. 1, vol. vi, pp. 98-9.

indentured servitude might be implemented.<sup>45</sup> By the early seventeenth century, then, Gypsies and other vagrants constituted a criminalised group who could be subjected to punishments that were ‘nether capitall nor pecuniall’, as John Skene noted in 1609, consisting of banishment, corporal punishment, public humiliation, forced labour, and social ostracisation.<sup>46</sup>

The 1590s was a decade of executive experimentation regarding the prosecution of vagrants. While the measures enacted during the decade treated Gypsies as a subset of vagrant, Gypsies were nevertheless seen as distinct from other vagrants, not least because of their perceived ‘counterfute’ identity and use of magic. The acts and proclamations passed between 1592 and 1597 sought to make civil magistrates take action against vagrants, and gave greater power to church courts to act as overseers and enforcers of the poor laws. The measures included an array of harsh proposals for the punishment of Gypsies and vagrants, ranging from the death penalty to indefinite servitude ‘in commoun workis’. The majority of these measures opened with a preamble highlighting the urgency of the issue, and lamenting the failure of magistrates to enforce existing measures. Indeed, the quantity and repetition of anti-vagrancy measures over such a short time frame points to a sense of governmental failure amongst lawmakers. But the passing of these measures, as well as their serial failure, is illustrative of the ambition of central authorities during the period. A desire to reduce violent crime led to the passing of seven proclamations and two acts of parliament against the carrying of firearms between 1593 and 1600, and at least ten proclamations were made against feuding over the course of three years in the middle of the decade.<sup>47</sup> An impetus towards legal uniformity and codification is also apparent: the anti-vagrancy act passed in 1593 called for the relevant acts of parliament against Gypsies and other vagrants to be ‘neulie imprentit, giff neid be, to the effect that probablie the contentis thair of may cum to the knaulege of the hail subjectis, that nane have occassioun to pretend ignorance’.<sup>48</sup> The 1590s saw the renewal of crown-led efforts, begun under Mary I, to gather and publish all post-medieval statute law.<sup>49</sup> The privy council ordered

---

<sup>45</sup> *RPS*, 1597/11/46.

<sup>46</sup> John Skene, *Regiam majestatem. The auld lawves and constitutions of Scotland* (Edinburgh: Thomas Finlason, 1609), pp. 137, 140.

<sup>47</sup> Anna Groundwater, ‘The chasm between James VI and I’s vision of the orderly “Middle Shires” and the “wicket” Scottish Borderers’, p. 110; Brown, *Bloodfeud in Scotland*, pp. 247-49.

<sup>48</sup> *RPS*, A1593/9/14.

<sup>49</sup> Goodare, *State and Society*, p. 72; Pamela. E. Richie, ‘Mary de Guise and the Three Estates, 1554-1558’, in Keith M. Brown and Ronald J. Tanner eds., *Parliament and Politics in Scotland, 1235-1560* (Edinburgh: Edinburgh University Press, 2004), pp. 190-91.

the creation a law commission led by Sir John Skene in 1592, resulting in the publication of *The Lawes and Actes of Parliament* in 1597, and the regular printing of parliamentary statutes thereafter.<sup>50</sup> The measures taken against Gypsies in the 1590s are a microcosm of the wider ambitions of central authorities to create a uniform, ordered, and godly realm; one in which law was upheld and magistrates were diligent in carrying out their duties.

### ***The ‘Act anent the Egiptians’***

Despite the ambition with which they were conceived, the anti-vagrancy measures passed in the 1590s had little appreciable impact on Scottish society. Only the formalisation of the church courts’ role in dealing with vagrants proved enduring, as kirk sessions and presbyteries began taking measures to expel vagrants and punish their resettlers from the 1590s onwards.<sup>51</sup> But the desire of the central authorities to tackle vagrancy continued into the following decade and further harsh, and often impracticable, measures were proposed to tackle the issue. In 1605, legislation passed by the convention of estates granted anyone who detained and brought to trial ‘masterful beggars’ the right to ‘reteane thame as slaves’.<sup>52</sup> To incentivise the arrest of vagrants, in 1607 the privy council also granted a commission to the Master of Metals – a crown officer responsible for revenues related to mineral extraction – to force vagrants into indentured labour in coal mines, salt pans, ‘or ony uther publict workis’.<sup>53</sup> These eye-catching proposals have received little scholarly attention, and were most likely not implemented on any meaningful scale.<sup>54</sup> Unlike anti-vagrancy measures of the previous decade, in these two cases Gypsies were not explicitly named. But Gypsies remained on the agenda: in a proclamation issued in 1603, the privy council ordered the ‘perpetuall’ expulsion of the ‘vagaboundis, sornoris and commoun theiffis commounlie callit Egiptianis’, under pain of death

---

<sup>50</sup> John W. Cairns, ‘Historical Introduction’ in Reinhard Zimmermann and Kenneth Reid ed., *A History of Private Law in Scotland* (Oxford: Oxford University Press, 2000), pp. 95-97; John W. Cairns, *Law, Lawyers, and Humanism* (Edinburgh: Edinburgh University Press, 2015), pp. 153-54.

<sup>51</sup> Todd, ‘Fairies, Egyptians and Elders’, pp. 204-5; Mark C. Smith, *The Presbytery of St Andrews, 1586-1605: a study and annotated edition of the register of the minutes of the Presbytery of St Andrews, Volume 1* (unpublished PhD thesis, University of St Andrews, 1986), p. xxx.

<sup>52</sup> *RPCS*, ser. 1, vol. xii, pp. 56-57.

<sup>53</sup> Robert William Cochran-Patrick, *Early Records Relating to Mining in Scotland* (Edinburgh: David Douglas, 1878), pp. lxii-lxiii, p. 40; *RPCS*, ser. 1, vol. xii, p. 434.

<sup>54</sup> Morgan and Rushton, *Banishment in the Early Atlantic World*, pp. 30-31.

should they return. The proclamation, now lost, was temporary, and its existence only known because it was ratified and extended in 1609 via the ‘Act anent the Egiptians’, or Egyptians Act.<sup>55</sup>

Although the Egyptians Act was not the final act or proclamation against Gypsies, it nevertheless served as the touchstone for all subsequent attempts by central government to persecute Gypsies during the seventeenth century, and legally differentiated the crime of being a Gypsy from that of being a vagrant. Like the order of expulsion issued in 1541, the ‘charge upoun the Egiptianis’ enacted in 1573, and the lost proclamation of 1603, the act passed in 1609 again sought to banish Gypsies from Scotland, giving them five weeks to leave the realm or face further punishment. If, after 1 August 1609,

... ony of the saidis vagaboundis called Egiptians, alsweill wemen as men, shalbe foundin within this kingdome or ony pairt thairof, it shall be lesum [permissable] to all his majesteis subjectis, or ony ane of them, to cause tak, apprehend, imprisone and execute to death the saidis Egiptianis, aither men or wemen, as commoun, notorious and condemned theiffis, by ane assyse onlie, to be tryed that they ar callit, knawin, repute and haldin Egiptianis...<sup>56</sup>

Unlike earlier orders of expulsion, the Egyptians Act proscribed Gypsies by ruling that to be known as an ‘Egyptian’ was equivalent to being a thief, and sufficient evidence to bring about prosecution for theft. To be a ‘known Egyptian’ therefore became a crime of status, and did not require proof of specific criminal wrongdoing, such as a proven act of theft. Later seventeenth- and eighteenth-century jurists, including Sir George Mackenzie of Rosehaugh, Sir John Lauder of Fountainhall, and Baron Hume of Ninewells would comment on the irregularity of this provision, Hume calling it ‘so unusual and so dangerous a form of process’ that allowed a criminal charge to be brought ‘without any specification of particulars’.<sup>57</sup> It was a legal innovation based on the assumption that Gypsies were a coherent and easily identified group of people who were widely recognised as irredeemably criminal. Being identified as a Gypsy was thereby sufficient proof in and of itself to justify a criminal conviction.

---

<sup>55</sup> *RPS*, 1609/4/32.

<sup>56</sup> *RPS*, 1609/4/32.

<sup>57</sup> David Hume, *Commentaries on the law of Scotland, Respecting the Description and Punishment of Crimes*, vol. ii (Edinburgh, 1797), p. 348; John Lauder, *Historical Notices of Scottish Affairs* vol. i, (Edinburgh, 1848), p. 188; Mackenzie, *Observations*, pp. 333-34.

The Egyptians Act confirmed that Gypsies should not be supported or tolerated by any law-abiding subject. Under the legislation, all subjects were empowered to act as complainants against Gypsies and to act as their pursuers, on the grounds that all Scots were ‘oppressed’ by the continued presence of Gypsies in the kingdom, regardless of whether they were actually victims of any specific crimes committed by Gypsies. If a Gypsy was brought to an assize, the act sought to make their conviction all but inevitable: assize members who acquitted Gypsies would themselves be pursued for ‘wilfull error’ – the crime of knowingly returning an incorrect verdict. In a similar vein, the Act made it an offence to ‘resett, receive, supplie or intertein’ Gypsies; offenders would have their property confiscated and be imprisoned for an unspecified length of time. Any magistrates who failed to execute the act risked privy council censure and punishment for ‘negligence’. Any ‘lettres, protectionis and warrandis’ held by Gypsies were also to be treated ‘as surreptitiouslie and deceatfullie obtained’.<sup>58</sup> In its concern that magistrates might be giving Gypsies protection, inadvertently or otherwise, the act echoed a proclamation that had been issued in 1576, calling on all local civil magistrates to apprehend Gypsies, ‘nochtwithstanding ony licence or privilege that thay can pretend’, and threatening to censure negligent magistrates ‘as favouraris and sustenaris of thevis and murtheraris’.<sup>59</sup> But the act passed in 1609 was innovative in that it made the act of harbouring Gypsies an offence, akin to harbouring Jesuits or rebels. During the late 1610s and 1620s, the privy council repeatedly stressed the role of civil magistrates in enforcing this aspect of the act, and created commissions of justiciary to apprehend and try harbourers of Gypsies in areas of the kingdom where it was believed Gypsies had found sanctuary. Every provision made in the 1609 act sought to ease the process of prosecution and remove any ambiguity regarding the legal status of Gypsies in Scotland.

By 1 August 1609, Gypsies may have been the most proscribed people in Scotland. The acts and proclamations passed between 1573 and 1597 meant that Gypsies could be prosecuted as vagrants in sheriff courts and other local criminal jurisdictions, facing penalties that ranged from banishment from the locality to death or enslavement. Kirk sessions and presbyteries could apprehend Gypsies and punish anyone who offered them support or charity. The Egyptians Act went to even greater lengths to facilitate the prosecution of Gypsies and ensure high rates of conviction. In practice, however, this was not to be the case. Over the following decade, the privy council came to recognise that although the law had initially pushed Gypsies to Scotland’s social and geographical

---

<sup>58</sup> *RPS*, 1609/4/32.

<sup>59</sup> *RPCS*, ser. 1, vol. ii, 555-56.

margins, it was not being effectively enforced, and had certainly not resulted in Gypsies' extirpation. Following the passage of the Act, Gypsies had 'dispersit thame selfis in certane derne [hidden] and obscure placeis in the countrey', as the privy council put it in 1616, and had stopped the practice of travelling 'in troupis and companies to thair accustomed maner'. Thereafter, however, they had regrouped 'in infamous companies and societies under commanderis' and were committing the same crimes of which they had long been accused: theft, robbery, fortune-telling, charming, and conjuring. The council also identified that many of the king's subjects continued to reset Gypsies and offered them patronage without suffering any penalties.<sup>60</sup>

### ***Enforcing the Act, 1609-1625***

While the Egyptians Act appears to have had an immediate impact on Gypsies, it is difficult to gain a picture of the frequency of prosecutions, or which civil magistrates bore the greatest responsibility for bringing about prosecution. The act empowered 'all his majesteis subjectis, or ony one of them' to pursue Gypsies and have them tried by an assize, meaning Gypsies could be prosecuted in inferior jurisdictions such as sheriff courts as well as by judiciary courts. In the late seventeenth century, Mackenzie of Rosehaugh noted that 'immediatly after this Act [of 1609,] Sheriffs and others did Hang very many [Gypsies], by warrand thereof'.<sup>61</sup> Alongside trials in inferior criminal jurisdictions, between 1609 and 1625 there were also at least three major Gypsy trials before the court of the justice-general, four commissions of justiciary issued against Gypsies, and two commissions to improve the punishment of Gypsy resetters. Yet, as the fifth chapter of this thesis explores in more detail, the governing authorities were inconsistent in applying the law, on numerous occasions displaying leniency to Gypsies and their resetters. Furthermore, people from across the social scale continued to tolerate Gypsies and actively support them, with evidence indicating that the enforcement of anti-Gypsy legislation also attracted hostility and open opposition.

The strongest indication that the Egyptians Act was not going to be observed to the letter came just six months after it was enacted, from no less an authority than the privy council. In November 1609 a Gypsy, Moses Faw, applied to the council for a licence exempting him and his family from the

---

<sup>60</sup> *RPCS*, ser. 1, vol. x, pp. 655-57.

<sup>61</sup> Mackenzie, *Observations*, p. 333.

act. In his petition, Faw praised the act as ‘lauchfullie and worthelie set down’ against the ‘infamous thevis’ who, ‘undir the counterfute name of Egiptianis’, had committed ‘sa mony villanyis in the cuntrey’. Faw suggested that the act was not intended to be used ‘aganis honnest, lauchfull, and trew personis’ such as himself, whose ‘birth, educatioun, and residence’ had been in Scotland, and who had withdrawn from the ‘infamous societie’ of Gypsies and disdained their ‘thevishe forme of doing’. Rather, Faw declared his wish to ‘spend the rest of his dayis’ in Scotland as ‘a quiet, modest, trew, and humble subject’.<sup>62</sup> The council assented to his request, and granted licence exempting Moses Faw and his family from the act. Conditions were imposed: namely, Faw was to obey the law, appear before the privy council when summoned and have no dealings of any kind with other Gypsies. By granting a licence to Moses Faw, the privy council directly undermined the Egyptians Act, which had criminalised anyone ‘callit, knawin, repute and haldin Egiptianis’ and annulled ‘all lettres, protectionis and warrandis quhatsoever purchased by the saidis Egiptianes’.<sup>63</sup> While the privy councillors would come to regret their lenience in dealing with Moses Faw, their instinctive discretion and flexibility was indicative of future institutional approaches.

Some of the earliest criminal cases involving Gypsies after 1609 made no recourse to the new legislation. In 1610, for example, Elizabeth Warrock was indicted by the justice general’s court at Edinburgh for being ‘ane cowmone Vagabund and follower of the Gipseis’ who had for ten years been ‘taking pairt with tham’ in various criminal activities. The indictment made a vague reference to such activities being ‘contrair the Actis of Parliament’, but did not cite the recently enacted legislation against Gypsies. Warrock was convicted of being a thief and vagabond and sentenced to be scourged and banished from Edinburgh. She may have been seen as ‘a follower’ of Gypsies, rather than one of them, but Warrock avoided prosecution under the Egyptians Act. In 1612, five Gypsies were tried on charges of slaughter, incest, adultery, theft, and sorcery before a justiciary court held in Shetland. Like Warrock, the defendants were not indicted under the Egyptians Act, with only one convicted: Katherine Faw for the slaughter of her husband. The other defendants were acquitted, despite being recognised as ‘Egyptians’ and having been indicted for crimes commonly associated with Gypsies.<sup>64</sup> Acting as justice in the case was James Law, the recently installed bishop of Orkney who was also sheriff, commissioner of the peace, and held a commission

---

<sup>62</sup> *RPCS*, ser. 1, vol. viii, p. 372.

<sup>63</sup> *RPS*, 1609/4/32.

<sup>64</sup> *Miscellany of the Maitland Club*, vol. ii (Edinburgh, 1840), pp. 164-66

of justiciary. Law had been tasked with bringing greater civil order to the Isles of Orkney and Shetland and fully implementing Scots law in the archipelagos, although such diligence evidently did not extend to prosecuting Gypsies.<sup>65</sup> Under the terms of the Egyptians Act, the fact that the defendants in both cases were known to be Gypsies, or were associated with them, should have served as an adequate basis for conviction and execution. It is not clear whether Law's failure to try the defendants in accordance with the Egyptians Act was a product of ignorance or negligence, though all parliamentary statutes enacted between 1597 and 1609 had been made accessible via a short addendum to Skene's *Lawes and Acts of Parliament* published in 1611.<sup>66</sup>

The first justiciary case in which the pannels were convicted under the Egyptians Act was that of Moses Faw and three kinsmen in 1611 – the very same Moses Faw who had received exemption from the act two years earlier. Faw had been pursued by the lord advocate from April 1611 onwards, and by late June, the privy council issued a commission of justiciary against him and his associates, all described as 'counterfoote lymmaris callit the Egiptianis'.<sup>67</sup> The council believed that Faw and others had found shelter in the border county of Selkirkshire due to the negligence, and possibly active protection, of local magistrates. Moses, David, Robert, and John Faw were arrested in July, and Moses Faw again petitioned the privy council, reminding them of the licence granted to him in 1609.<sup>68</sup> During his trial, Moses Faw was found to have failed to keep the terms of the licence, with one witness testifying to him 'being in companie and societie with the Egiptianis' and involved in 'dyuerse Thiftis'. By a unanimous decision, the assize declared that the four men — Moses, David, Robert, and John Faw — were 'notoriouslie knawin to be egiptianis', and were found guilty in accordance with the act of 1609.<sup>69</sup> They were the first individuals to be prosecuted under the legislation by a justiciary court and were convicted on the basis of no specific criminal act beyond being Gypsies who had remained in Scotland after 1609. All four were sentenced to death by hanging.

---

<sup>65</sup> See introduction to Robert S. Barclay ed., *The Court Books of Orkney and Shetland, 1614-1615* (Edinburgh: Scottish History Society, 1967).

<sup>66</sup> Sir John Skene, *The Lawes and Acts of Parliament... since His Maiesties XV. Parliament, the XIX Day of December, 1597* (Edinburgh: Thomas Finlason).

<sup>67</sup> *RPCS*, ser. 1, vol. ix, p. 171, p. 205; vol. xiv, p. 652.

<sup>68</sup> *RPCS*, ser. 1, vol. xic, p. 562.

<sup>69</sup> *Criminal Trials*, vol. ii, p. 201.

The prosecution and conviction of Moses Faw had been brought about through the concerted effort of the lord advocate and privy council, and the troubling inertia of Selkirkshire magistrates in the matter may have catalysed attempts to improve enforcement of the Egyptians Act. In a royal proclamation issued in July 1611, the privy council outlined the judicial competence of justices of the peace (JPs), which included putting all anti-vagrancy laws ‘to dew and full executioun’ and the punishment of reseters of vagrants. Constables were also to be appointed to assist JPs in the maintenance of order and apprehension of offenders; among their duties was to ‘stay and arreist all vagabundis, sturdie beggaris, and Egiptianis’ and present them for trial. The privy councillors were keen to make clear that it was the duty of local civil authorities, not the country’s highest executive body, to coordinate the arrest of Gypsies.<sup>70</sup> Justices of the peace had been first introduced into Scotland by the same parliament that passed the Egyptians Act, and comprised a new magistracy, modelled on the English namesake. They were initially responsible ‘for keiping his majesteis peace’ outside burghs, and were supported by constables acting to assist them in preventing ‘deadlie feadis [feuds]’, punishing ‘foolishe wordis or drunken discordis’, and suppressing similar forms of public disorder.<sup>71</sup> Scottish JPs were never as powerful as their English counterparts, and did not become fully entrenched during James VI’s reign; according to Jenny Wormald, over three-quarters of sheriffdoms remained without sitting JPs by 1625.<sup>72</sup> Nevertheless, those who were successfully appointed tended to be leading landowners within their respective sheriffdoms who could rely on the support of the privy council, so creating an extra link between central government and the maintenance of civil order at a local level.<sup>73</sup>

Two months after the conviction of Moses Faw, the privy council issued another commission of justiciary against a group of Gypsies led by ‘Captain’ Harry Faw; the relation between the two men is unclear. The council noted that the date by which Gypsies were expected to have left Scotland had long expired, and that Harry Faw and his company remained in the realm, ‘falslie calling thameselffis Egiptianis’, committing ‘reifs’ [plunder] and other ‘insolencyis’, and ‘abusing the simple ones with telling of dreames and fortounis, and utheris foleyis nawyse sufferable in a

---

<sup>70</sup> *Ibid.*, p. 221-26.

<sup>71</sup> *RPS*, 1609/4/26.

<sup>72</sup> J. Irvine Smith, ‘The Transition to the Modern Law, 1532-1660’ in *An Introduction to Scottish Legal History*, pp. 40-41; Jenny Wormald, *Court, Kirk, and Community: Scotland, 1470-1625* (Edinburgh: Edinburgh University Press, 1981), p. 192.

<sup>73</sup> See Johan Findlay, *All Manner of People: The History of the Justices of the Peace in Scotland* (Edinburgh: The Saltire Society, 2000), pp. 29, 36-37; Goodare, *The Government of Scotland*, p. 203.

Christeane commounwele'. The council granted the judicial commission to Sir James Erskine, who was expected to apprehend Faw and his kin and put them to an assize.<sup>74</sup> In 1613, a similar commission was issued to the provost and bailies of Stirling for the trial of Elspeth Maxwell and her sons, James and Alexander Faw.<sup>75</sup> The former commission suggests that, at least in this particular instance, the privy council remained dissatisfied with the unwillingness of local magistrates to apprehend and try Gypsies, while the latter evinced the council's desire to delegate judicial authority for the implementation of the Egyptians Act. No evidence has come to light demonstrating whether or not the commissions were carried out. A complaint made by the lord advocate Sir William Oliphant in 1620 shows that Gypsies had remained in Scotland throughout the 1610s, and that some had avoided prosecution by retreating to Highland Perthshire, where they had found protection under Sir Alexander Menzies of Weem, chief of clan Menzies.<sup>76</sup> Accordingly, despite privy council expectations that Gypsies would be pursued vigorously throughout Scotland, local magistrates often fell short.

In the first half of 1616, justices of the peace in Angus apprehended an unknown number of Gypsies who were detained in the tolbooth at Dundee. Lacking authority to bring the Gypsies to an assize, the JPs passed the prisoners to the sheriff of Forfar, Andrew Gray, seventh Lord Gray, for trial. However, Gray failed to try the prisoners, prompting the privy council to accuse him in July of delaying the Gypsies' trial with 'frivolous and impertinent resonis, pretextis, and excuisis', to the extent that Gray gave the Gypsies 'hoip [hope] of impunitie and favour'. The desire for a swift trial may also have come from the magistrates of Dundee, who had complained of the burden of keeping the Gypsies imprisoned. The council commissioned Gray to try the Gypsies for contravening the 1609 act; and if found guilty by an assize, to execute the four leading men and women and banish the rest. The council also threatened to declare Gray a rebel should he further delay proceedings.<sup>77</sup> For reasons that remain unclear, Gray did not try the Gypsies in Dundee, but transported them to Edinburgh where they were presented to the privy council which ordered that four Gypsies be put to an assize. While it was JPs who had been responsible for arresting Gypsies in Forfar, the previous year a JP for Perthshire, John Lindsay of Dowhill, had been harbouring Gypsies in the village of

---

<sup>74</sup> *RPCS*, ser. 1, vol. ix, p. 256.

<sup>75</sup> *Ibid.*, vol. x, p. 132. An almost identical commission was also given to the bailies of Dysart for the trial of Paul Faa in 1621. *Ibid.*, vol. xii, p. 472.

<sup>76</sup> *Ibid.*, vol. xii, pp. 243-44.

<sup>77</sup> *Ibid.*, vol. x, p. 556, 559.

Kinloch over an extended period, an offence for which he only faced trial following an intervention by the privy council in 1620.<sup>78</sup> While arresting Gypsies may have been one of the core responsibilities of JPs during the 1610s, it was clear that not all of those appointed to the role were assiduous in carrying it out.

The failure of certain local officials to prosecute Gypsies led to the privy council making sustained efforts to improve enforcement of the Egyptians Act between 1616 and 1624. At the same time, the council also sought to suppress Border feuding with renewed vigour, while beggars and vagrants were perceived to be increasing in numbers and disruptiveness, particularly during the famine of 1623.<sup>79</sup> The growth of vagrancy was not blamed on material want or lack of employment, but on the laziness of magistrates and ‘the preposterous pitie of the countrey people’ who supported vagrants ‘without reassoun or discretioun’.<sup>80</sup> Resettlers of Gypsies attracted particular alarm, since they included not only those the privy council deemed ‘simple and ignorant’, but also landowners, who were denounced as ‘patronis to theivis and lymmaris’ for resetting Gypsies on their estates, and threatened with censure and punishment as an example to others.<sup>81</sup> These concerns and the trial of the Angus Gypsies precipitated several innovations that aimed to streamline the prosecution of Gypsies and their resettlers. In 1617, the Scottish parliament ratified a privy council proclamation issued in 1611 that had outlined the duties of JPs and constables. The act made explicit the role of justices of the peace in enforcing the Egyptians Act, and reiterated the role of constables in arresting Gypsies.<sup>82</sup> Constables were also directed to take an oath in which they promised to ‘staye and arreist all vagaboundis, sturdye beggeris and Egiptianis and carye thame before the next commissioneris of peace’.<sup>83</sup>

A new attempt to incentivise the punishment of resettlers of Gypsies was adopted in 1619, when James VI received a petition from three minor Scottish courtiers offering to apprehend and try resettlers of Gypsies on condition that they would receive half the value of all fines levied from offenders. The king referred the petitioners to the council, which granted them a commission ‘for

---

<sup>78</sup> *Ibid.*, vol. xii, pp. 243-4.

<sup>79</sup> *Ibid.*, vol.x, pp. 470-71; vol. xi, pp. 33-34, p. 443; vol. xii, pp. 2-5, pp. 92-3, pp. 149-50; vol. xiii, p. 257, pp. 288-90.

<sup>80</sup> *Ibid.*, vol.xii, p. 2.

<sup>81</sup> *Ibid.*, vol. x, pp. 655-57; *RPS*, 1609/4/32.

<sup>82</sup> *Ibid.*, 1617/5/22.

<sup>83</sup> *RPS*, 1617/5/22, Act xiii.

trying Gypsies'.<sup>84</sup> The commissioners yielded results, and in 1620 one of their number, Alexander Forbes, was granted a commission-in-chief and sent to the sheriffdom of Moray, where reset was 'maist frequent and commoun'. With assistance from the powerful local landowner, John Grant of Freuchie, Forbes was evidently successful in levying fines, albeit less willing to surrender to the crown its proportion of the revenue.<sup>85</sup> Forbes oversaw the appointment of commissioners across north and northeast Scotland from Sutherland to Aberdeenshire, while the lord advocate pursued at least nineteen named individuals in Highland Perthshire and Inverness-shire for reset of Gypsies.<sup>86</sup> In the same year, the privy council also adopted a new approach to vagrancy, offering any 'strong and sturdie beggaris, vagaboundis, idill and maisterles men' the chance to avoid the death penalty under anti-vagrancy laws if they chose to enlist as soldiers in Colonel Gray's regiment to fight for Frederick V in the Bohemian Revolt. The same offer was also made to 'incorrigible' Borderers. Some vagrants were also forcibly transported to military service overseas, which proved a useful and enduringly effective way for Scottish authorities to remove Gypsies and other vagrants.<sup>87</sup>

Despite the obvious desire of central authorities to see Gypsies and their resetters prosecuted between 1609 and 1625, the crown and privy council could also show remarkable lenience and clemency on occasion. Although Gypsies were never again granted licences of exemption after the Moses Faw debacle, the council sometimes appeared reluctant to carry out the Egyptians Act to the letter. After Lord Gray had brought the four Gypsies before the privy council in 1616, for example, they were tried before the court of the justice-general under the 1609 act but were not 'apprehendit for ony Thift, Soirning, or Oppressioun'. The case passed to an assize which found that the pannels were 'repute and haldin to be Egiptianis' and convicted 'of contravening the tennour of the said Act of Parliament'. But the justice-general did not deliver a sentence immediately, and on the advice of the privy council warded the four Gypsies in Edinburgh's tolbooth. Five days later, the justice sentenced all four prisoners to death, but the sentence was stayed by the privy council which sought James's advice of the king since 'no vther cryme was layed to thair charge' beyond that of being Gypsies. In a letter to the council, the king ordered that the prisoners be banished, thereby

---

<sup>84</sup> *RPCS*, ser. 1, vol. x, pp. 151-52, p. 320.

<sup>85</sup> William Fraser, *The Chiefs of Grant* vol. iii (Edinburgh: [s.n.], 1883), p. 216-17; *RPCS*, ser. 1, vol. xii, p. 433.

<sup>86</sup> *Ibid.*, vol. x, p. 243, p. 292, pp. 312-14.

<sup>87</sup> *Ibid.*, vol. x, p. 260.

overturning the earlier sentence.<sup>88</sup> A similar degree of clemency was shown in 1624, following two trials under the Egyptians Act before the court of the justice-general.<sup>89</sup> Twelve women were sentenced to death by drowning following their conviction as ‘Egyptians’, but the privy council issued a warrant staying their execution, and again wrote to James VI seeking further direction.<sup>90</sup> Although the women had also been sentenced to death, the councillors explained that it had been found that some were pregnant, and others were breastfeeding or had children under the age of ten. Three women were described as ‘young damosellis’ less than sixteen years old, who had probably ‘not bene grite offendaris’.<sup>91</sup> In response, James remarked that the women and children had already been imprisoned for so long that ‘[w]e can not bot inclyne to pittie and compassion of them’. Moved by their plight, the king commuted their sentence to banishment, under pain of death should they return.<sup>92</sup>

On 8 January 1624, less than a month before James VI’s commutation of the Gypsy women, the privy council had passed what proved to be the last general proclamation made against Gypsies in Scotland. The proclamation opened with the objection that, notwithstanding the many acts and proclamations issued against Gypsies, and despite ‘the examplair punishment alreddy execute upoun some of the principall ringleadaris’, the country still had a Gypsy problem. ‘Divers companyis’ of Gypsies who had formerly ‘left the cuntrey upoun feare’ of the Egyptians Act had evidently returned, ‘as yf the lawis maid aganis thame wer become voyde and deade’. They continued to wander throughout Scotland ‘ta thair pleasour’, carrying firearms and other weapons, committing acts of robbery and violence, and ‘abuseing the simple and ignorant’ with conjuring tricks and acts of deception. Moreover, they were emboldened in their actions by the negligence of civil magistrates, ‘and pairtlie by the preposterous pitie of otheris his Majesteis subjectis’. The privy council proclamation paints a vivid portrait of governmental failure. The council ordained that sheriffs throughout the Lowlands and Borders apprehend, try, and execute all Gypsies within their jurisdiction, with armed support if necessary.<sup>93</sup> Yet taken together with the clemency shown towards Gypsies by James VI and his privy councillors that same month, this proclamation encapsulates the

---

<sup>88</sup> *Criminal Trials*, vol. iii, pp. 397-99; NRS, PC9/1, fo. 14v, fo. 15r.

<sup>89</sup> *Criminal Trials*, vol. iii, pp. 560-61.

<sup>90</sup> The context of this trial is discussed further in chapter five. See ch. 5, pp. 132-33.

<sup>91</sup> *RPCS*, ser. 1, vol. xiii, pp. 415.

<sup>92</sup> NRS, JC2/6, fos. 140r-141v.

<sup>93</sup> *RPCS*, ser. 1, vol. xiii, pp. 392-3.

paradox of anti-Gypsy policy in Scotland. Like previous acts and proclamations, the proclamation adopted a hyperbolic view of the threat posed by Gypsies, and proposed ambitious measures to suppress them. Yet as with other initiatives attempted against Gypsies after 1609, the Egyptians Act remained the touchstone for anti-Gypsy action, with the Act's partial failure again blamed on neglectful magistrates and soft-hearted subjects. But the unwillingness of the privy council to countenance the execution of Gypsy women simply for being Gypsies later in the month reveals the gap between rhetoric and implementation. Although the Egyptians Act stated in no uncertain terms that all Gypsies should be either banished or executed, the central authorities repeatedly used their discretion in meting out justice on the few individuals that faced trial in Edinburgh.

\*

Legislative rigour, ambition, and experimentation, coupled with practical flexibility and lenience were the hallmarks of anti-Gypsy policy during the reign of James VI. Moreover, the active creation and reformulation of anti-Gypsy policy did not end with the king's death in 1625. The early part of Charles I's reign saw further attempts by the privy council to press Gypsies and other vagrants into foreign military service, and in 1628 the revived circuit courts were charged with prosecuting 'sorners, vagabounds... and counterfoote Egyptians'.<sup>94</sup> Sheriffs were once again enjoined to enforce the Egyptians Act in 1630, particularly in northern Scotland, and a trickle of cases involving suspected Gypsies continued to reach the privy council during the 1630s.<sup>95</sup> But authorities also continued to show a degree of uncertainty regarding the prosecution of Gypsies and an unwillingness to enforce the Egyptians Act to the letter. One case saw a number of Gypsies arrested by the sheriff of Haddington on suspicion of fire-raising in 1626, only for it to transpire that the suspected Gypsies had actually been helping to control the blaze. Charles I intervened in the case, writing that 'althoght... they be punisheable for onlie caryeing the name and profession of Egyptianis', the imprisoned Gypsies had not been found to have committed any criminal acts. He ordered the sheriff to banish them from the realm, under pain of death should they return.<sup>96</sup> Between 1635 and 1637, the privy council made similar interventions in cases involving Gypsies.<sup>97</sup> After the

---

<sup>94</sup> *RPCS*, ser. 2, vol. ii, pp. 437-39.

<sup>95</sup> See NRS, GD25/9/2/16; *RPCS*, ser. 2, vol. iii, p. 533; vol. vi, pp. 15-16, 333-34, 528.

<sup>96</sup> *RPCS*, ser. 2, vol. i, pp. 217-18.

<sup>97</sup> *RPCS*, ser. 2, vol. vi, pp. 15-16, 333-34, 528, 648.

1630s, central civil authorities no longer took an active interest in pursuing Gypsies or in tweaking anti-Gypsy policy, but the legislative framework for prosecuting Gypsies forged under James VI remained in place well into the eighteenth century.

## Chapter 4

# *The Kirk*

In 1591, the delegates of the Scottish Kirk's general assembly believed their Church was under siege. In a series of petitions to King James VI and the privy council, the assembly called on the crown to enforce the extant acts of parliament against Jesuits and the subjects who sheltered them, and to punish the excommunicants, Catholics, idolators, Sabbath-breakers, and the 'murderers and blood shedders' who 'overflow the land'. The assembly's delegates also asked that the civil authorities 'take ordour with the colourit and vagabound Egyptians, quihilk defyles the countrey with all maner of abominatioun'.<sup>1</sup> This was the first of three short pronouncements concerning Gypsies made by the general assembly, the latter two of which were made five decades later, as 'overtures' to the covenanter parliaments of 1641 and 1646. These overtures called on parliament to find 'some solide and effectuall course' for the restraint or removal of Gypsies and 'sturdie beggars', lamenting the failure of existing legislation, and describing Gypsies as lewd, impious vagrants who committed 'horrible villanies'. These requests to parliament were part of a broader effort by the general assembly to make civil authorities take firmer action against threats to the spiritual and social welfare of the realm, ranging from religious deviance to charming, abortion, robbery, and sexual offences.<sup>2</sup>

The three pronouncements against Gypsies were drafted at points in the history of the Scottish Kirk when the general assembly's authority was waxing, and advocates of presbyterianism and further social reformation were at the height of their influence. Addressing the general assembly in 1590, James VI thanked God that 'he was borne in suche a tyme... [and] suche a place as to be king in suche a kirk, the sincerest kirk in the world', more purely Calvinist than the Calvin's Geneva, and unadulterated by the celebration of Easter, Yule, or 'evill' Mass like 'our neighbour Kirk in

---

<sup>1</sup> Duncan Shaw ed., *Acts and Proceedings of the General Assemblies of the Church of Scotland, 1583-1619* (Edinburgh: The Scottish Record Society, 2004), p. 922. For a Scots transcription, see *Acts and Proceedings of the General Assemblies of the Kirk of Scotland, 1560-1618*, (Edinburgh: The Bannatyne Club, 1839), p. 779.

<sup>2</sup> RPS, A1641/8/6; Alexander F. Mitchell and James Christie eds., *The Records of the Commissions of the General Assemblies of the Church of Scotland Holden in Edinburgh in the Years 1646 and 1647* (Edinburgh: R. and A. Constable, 1892), pp. 122-23.

England'.<sup>3</sup> Although James's profession of support may not have been entirely in earnest, it was nevertheless a period of accord between crown and Kirk. Two years later, the legitimacy and independence of the general assembly was ratified by parliament in the so-called 'Golden Act' of 1592, a piece of legislation that also recognised the authority of lower church courts, the presbyteries and kirk sessions, and condoned their role in improving the day-to-day moral welfare and spiritual wellbeing of Scotland. For a time in the 1590s, civil and ecclesiastical authorities appeared to be in relative harmony, cooperating to achieve shared goals – not least of which was the suppression of Gypsies. By 1597, this accord had fallen apart. James VI adopted a new approach to the Kirk establishment, working to restore episcopacy and introduce liturgical innovations broadly in line with the practices of the Church of England.<sup>4</sup> These policies were pursued further and with greater clumsiness by his son, Charles I, hastening a confrontation between the crown and covenanting Scots and, in 1638, the establishment of a fully presbyterian church, free from royal supremacy and cleansed of 'corruptions' such as bishops, prayer books, and 'popish' liturgy.

It was during the period of radical presbyterian dominance and conflict with the monarch that the general assembly met and passed 'overtures' against Gypsies in 1641 and 1646, and worked with civil authorities to suppress vagrancy, witchcraft, and feuding. The few occasions that the general assembly concerned itself with Gypsies were during periods when the body was most ambitious in its aims to transform Scotland socially and spiritually, and when civil administration proved receptive. But looking beyond the general assembly, the Kirk's role in marginalising Gypsies was more consistent and enduring. As the second chapter showed, elite perceptions of Gypsies were profoundly affected by the Reformation's culture and values: Protestant zeal shaped a series of stereotypes that amounted to the demonisation of Gypsies in Scotland. This chapter will show that, from the general assembly to the lowliest kirk session, the institutions of the Reformed Kirk had a significant role in the prosecution and marginalisation of Gypsies. Between the 1590s and the 1640s, the lowest church courts, the presbyteries and the kirk sessions, became embedded in lowland Scottish society and their role in enforcing spiritual discipline widely accepted, even as the nature of the Kirk's structure and its liturgy was fiercely contested by central authorities. While the first half of the 1590s was marked by a high degree of cooperation between these authorities with

---

<sup>3</sup> David Calderwood, *The History of the Kirk of Scotland*, ed. Thomas Thomson, vol. v (Edinburgh: Wodrow Society, 1844), p. 106.

<sup>4</sup> See Alan R. MacDonald, 'Church and State in Scotland from the Reformation to the Covenanting Revolution', in William Ian P. Hazlett ed., *A Companion to the Reformation in Scotland, c.1525-1638: Frameworks of Change and Development* (Leiden: Brill, 2021).

regard to suppressing Gypsies, the crown's attempts to centralise authority and undermine the Kirk's presbyterian settlement were demonstrated by its efforts to change and 'improve' the enforcement of anti-Gypsy measures from 1597 onwards. However, even as the power of civil authorities was bolstered at the expense of presbyteries and kirk sessions, the latter continued to play an indispensable role in excluding Gypsies from the godly community, primarily by investigating, censuring, and punishing those who harboured and supported them. At a local level, church court action against Gypsies and other vagrants often required the co-operation and assistance of local civil authorities such as sheriffs and bailies, so the records of these negotiations provide an insight into the dynamics between these institutions and their respective priorities. When church courts and civil magistrates did manage to cooperate, their attempts at enforcement often encountered apathy and even resistance to anti-Gypsy measures from the governed. More often than not, efforts to tackle Gypsies were hampered not by competition between Kirk and crown interests, but rather the divide between zealous magistrates, and a broad coalition of subjects who had little appetite for enforcement of anti-Gypsy laws.

### ***Kirk, crown, and the limits of discipline, 1592-1650***

This chapter reframes two central and intertwined questions in the historiography of the Scottish Reformation by considering them through the prism of the Reformed Kirk's interaction with Gypsies. The first question concerns what might be crudely characterised as disputes between crown and Kirk, episcopalian and presbyterian, during the reigns of James VI and Charles I, and the extent to which these disputes affected relations between civil and ecclesiastical magistrates at all levels. In *The Scottish Reformation* (1960), Gordon Donaldson proposed an influential account of the binary struggle over church governance between presbyterian reformers such as Andrew Melville and episcopalian 'moderates' such as James VI, that unfolded in the last decades of the sixteenth century.<sup>5</sup> More recently, however, scholarly approaches have complicated this narrative, redefining the Protestant Reformation as a long-term process that unfolded over at least a century, involving both the restructuring of ecclesiastical and political institutions and a wholesale cultural transformation that affected every aspect of Scottish life. Alan MacDonald, for instance, has demonstrated that the generations of reformers prior to 1597 were not so rigidly and bitterly divided

---

<sup>5</sup> See Gordon Donaldson, *The Scottish Reformation* (Cambridge: Cambridge University Press, 1960); and James Kirk, *Patterns of Reform: Continuity and Change in the Reformation Kirk* (Edinburgh: Edinburgh University Press, 1989).

by their aspirations for a presbyterian or episcopal church structure as was once supposed. This has created opportunities for more a nuanced understanding of the shifting relations between civil and ecclesiastical authorities.<sup>6</sup> Since the authority and remit of the church courts lay at the heart of these changes, the role of these bodies in efforts to marginalise and exclude Gypsies, alongside those of civil magistrates, reflect the broader impact of these disputes over Kirk governance. This chapter therefore contributes to a body of scholarship that challenges the view that Protestant reformers were cleft into two opposing factions, filled with mutual animosity towards one another and possessing little common ground.

The second historiographical question asks to what extent Protestant reformers were able to enact a ‘disciplinary revolution’ in Scotland, shaping the polity according to a Calvinist vision of a well-ordered and godly kingdom, in which virtue was rewarded and sinfulness punished. The efforts to achieve this through a dense network of kirk sessions and presbyteries has been variously interpreted as early modern Europe’s most thoroughgoing and successful ‘reformation of manners’, or, alternatively, as a ‘pathetic’ effort to reform the populace which spectacularly failed to ‘make Scotland godly’.<sup>7</sup> This has been explored by Margo Todd, John McCallum, and others in growing body of scholarship that recasts the Protestant Reformation not as a short series of dramatic political events, but a longer term social and cultural process: a ‘long Reformation’ in which popular faith and culture adapted to, modified, and resisted the spiritual ideals of Protestant reformers.<sup>8</sup> The efforts of the lower church courts to deal with Gypsies was a part of this process that has hitherto been largely overlooked. Gypsies were cast as spiritually and socially unsound: they were either violent, godless, and foreign witches, or idle and dissembling vagrants subsisting on theft and extortion. From the 1590s onwards, the lower church courts were tasked with their exclusion and marginalisation, primarily by investigating and punishing parishioners who supported Gypsies, whether by harbouring them on their lands or in their houses, giving Gypsies food, drink, and alms, or trading and consulting with them. Such misdemeanours, known collectively as ‘reset’, were

---

<sup>6</sup> See MacDonald, *The Jacobean Kirk*; and ‘Church and State’, in Hazlett ed., *A Companion to the Reformation*; John McCallum ed., *Scotland’s Long Reformation: New Perspectives on Scottish Religion, c. 1500-c.1660* (Leiden: Brill, 2016) esp. the introduction.

<sup>7</sup> For these two poles of opinion baldly stated, see Margo Todd, ‘The Church and Religion’ in Bob Harris and Alan R. Macdonald eds., *Scotland: The Making and Unmaking of the Nation c.1100-1707. Volume 2: Early Modern Scotland: c. 1500-1707* (Dundee: Dundee University Press, 2007), p. 116; and Jenny Wormald, ‘Reformed and Godly Scotland?’ in T. M. Devine and Jenny Wormald eds., *The Oxford Handbook of Modern Scottish History* (Oxford: Oxford University Press, 2012).

<sup>8</sup> See Graham, *The Uses of Reform*; Todd, *The Culture of Protestantism*; McCallum, *Reforming the Scottish Parish*; Stewart, ‘Power and Faith’, pp. 25-37; McCallum, *Poor Relief and the Church in Scotland*.

punished sporadically by church courts across Scotland. Studying records of these cases shows how lower church courts operated in excluding Gypsies, the barriers they faced in doing so, and the compromises made establish to degree of success, thereby also contributing to the scope of Scotland's 'disciplinary revolution' that has received scant attention in the extant historiography.

### ***The creation of an exclusionary Kirk, c. 1590-1609***

As seen in the previous two chapters, the stigmatisation and persecution of Gypsies did not begin in the 1590s. While the identification of Gypsies with certain qualities such as theft, foreignness, and magic was set in train during James V's reign if not earlier, the reinterpretation of Gypsies' culture and way of life as immoral and subversive was a post-Reformation phenomenon. Acts of parliament ratified during the 1570s connected Gypsies with 'vagabonds' and 'idle beggars', categorising them as members of the 'undeserving' poor. The distinction between the 'deserving' and 'undeserving' poor, and the need to give succour to the former and to shun the latter, had been central to Scotland's Reformation from the outset. In 1560, the foundational text of the Reformed Scottish Kirk, *The First Book of Discipline*, declared that every parish church 'must provide for the poore... so earnestly commended to our care', but should not support 'stubborn and idle beggars who, running from place to place make a craft of their begging whom the Civil Magistrate ought to punish'.<sup>9</sup> Furthermore, it stated that discrimination between the deserving and undeserving poor properly belonged to ecclesiastical authorities, even if responsibility for the punishment of vagrants should lie with their civil counterparts. While the earliest anti-Gypsy laws and proclamations framed Gypsies as vagrants whose criminal activities were 'to the greit offence of God' as well as an affront to crown authority, the measures provided no explicit role for the Kirk and its newly established courts.<sup>10</sup> Proclamations against Gypsies of 1573 and 1576 granted responsibility to civil magistrates for the arrest and trial of Gypsies, while poor laws enacted during the same decade also tasked civil magistrates with excluding unlicensed beggars from relief and preventing reset of vagrants, ambiguously stating that it lay with the 'heid court' of each jurisdiction to try resetters and fine them up to five pounds.<sup>11</sup> 'Heid court' is likely to have referred to the patchwork of civil jurisdictions responsible for addressing criminal matters in the localities, including sheriff, regality

---

<sup>9</sup> James K. Cameron ed., *The First Book of Discipline* (Edinburgh: The Saint Andrew Press, 1972), p. 112-13.

<sup>10</sup> *RPCS*, vol. ii, pp. 555-56.

<sup>11</sup> *RPS*, A1575/3/5; 1579/10/27.

and burgh courts. The few known instances of Gypsies being apprehended and tried during the 1570s suggest that it was civil magistrates who took the lead on the matter, though cases were few.<sup>12</sup>

While anti-Gypsy measures were inspired by Reformation ideals, responsibility for the apprehension, prosecution, and removal of Gypsies and other vagrants remained the responsibility of civil magistrates. The earliest Protestant church courts nevertheless took an interest in tackling vagrancy. In May 1575, for example, the kirk session of Edinburgh sent representatives to the burgh council imploring that the civil magistrates banish ‘vagabundis and ydill personis’ and implement the poor law passed the previous year.<sup>13</sup> At this time, the Edinburgh kirk session administered its own system of poor relief that excluded those deemed unworthy of charity.<sup>14</sup> In St Andrews too, the local session had established a system of poor relief prior to the first poor law, and ordained that only those who attended church, baptised their children, and could demonstrate their commitment to the new faith were eligible.<sup>15</sup> Edinburgh and St Andrews were ‘model’ kirk sessions, and though few other sessions would have instituted similar measures in the 1570s, a precedent had been set for providing lower consistories with a role in poor relief and excluding vagrants.<sup>16</sup> While no instances of Gypsies being prosecuted by kirk sessions have been identified prior to the 1590s, there is little reason to doubt that ecclesiastical authorities would have grouped Gypsies together with ‘vagabundis and ydill personis’ in the same way as poor law legislation.

Many more kirk sessions and presbyteries were established throughout Scotland during the 1580s and 1590s, assuming greater responsibility in poor relief and in demarcating the boundary between the ‘deserving’ and ‘undeserving’ poor.<sup>17</sup> In this context, it seems likely that the practical administrative experiences of church courts during the 1580s contributed to the general assembly’s various petitions to parliament on issues of social discipline in 1591. Among the disciplinary

---

<sup>12</sup> See the previous chapter for a further discussion of earlier prosecution and J. D Mawick ed., *Extracts from the records of the Burgh of Glasgow*, p. 75.

<sup>13</sup> NRS, CH2/450/1, p. 115.

<sup>14</sup> McCallum, *Poor Relief*, pp. 59-61.

<sup>15</sup> David Hay Fleming ed., *Register of the Minister, Elders and Deacons of the Christian Congregation of St. Andrews*, vol. i (Edinburgh: T and A. Constable, 1889), pp. 340-1.

<sup>16</sup> See, for instance, John Parker Lawson ed., *The Book of Perth: An Illustration of the Moral and Ecclesiastical State of Scotland Before and After the Reformation* (Edinburgh: Thomas G. Stevenson, 1847), pp. 183-4, 199.

<sup>17</sup> See McCallum, *Poor Relief*, ch. 2.

problems that the general assembly begged civil authorities to address were idolatry, apostasy, ‘papistical’ practices, the profaning of the Sabbath with markets and Robin Hood plays, and of course the ‘the colourit and vagabound Egyptians’.<sup>18</sup> Lower church courts had already taken on responsibility for tackling many of these problems, and in 1592 parliament legally recognised the authority and jurisdiction of the kirk sessions and presbyteries, also granting them powers of oversight in relation to the enforcement of anti-vagrancy measures by civil authorities. This gave kirk sessions and presbyteries the ability to elect up to three commissioners to enforce the poor laws, including measures against ‘counterfute Egyptianis’, in localities where civil magistrates proved negligent.<sup>19</sup> As discussed in the previous chapter, those commissioners were never appointed, and the act was deemed ‘ineffectuall’ by a convention of estates held the following year, while further attempts to improve the enforcement of anti-vagrancy measures were made throughout the rest of the decade.<sup>20</sup> The legal recognition of the jurisdiction of presbyteries and kirk sessions in 1592 did not fundamentally change the role of these institutions, but it remained symbolically important and may have allowed them to take on a more muscular role in removing Gypsies and other vagrants and punishing reseters.

In 1593, the actions of the presbytery of Glasgow suggest that the message from central authorities regarding Gypsies was being heeded. In May, the brethren of the presbytery wrote to the bailies of Rutherglen, requesting that they ‘tak ordour w[i]t[h] the egyptianis’ in the town, echoing the language of the General Assembly’s ordinance of 1591. The presbytery threatened further Kirk censure if Rutherglen’s bailies continued to neglect the anti-vagrancy acts by failing to arrest Gypsies.<sup>21</sup> The letter was an assertion of the presbytery’s authority and testifies to the removal of Gypsies as an issue of significance to the Kirk, denoting as much a spiritual and moral problem as a social one. But the events leading to the presbytery’s letter, and what transpired afterwards, also reveal ambiguities inherent in the body’s assertion of authority. The letter had been instigated by a complaint made before the presbytery by James Wodrop, a burgess of Rutherglen. Wodrop told the brethren of an occasion when, while shovelling manure, he had heard people inside his locked barn.

---

<sup>18</sup> Shaw ed., *Acts and Proceedings of the General Assemblies*, pp. 922-23.

<sup>19</sup> *RPS*, 1592/4/91. This act was amended by a privy council proclamation passed three days later outlining the role of the commissioners, which handed over their appointment to the general assembly. See *RPCS*, ser. 1, vol. vi, p. 753.

<sup>20</sup> *RPS*, A1593/9/14.

<sup>21</sup> *NRS*, CH2/171/31, pp. 42-43.

Shocked to find a group of Gypsies had broken into his barn, he had hit one of the intruders. This assault on the Gypsy had angered a local laird, James Crawford of Ferme, who had threatened Wodrop, saying that if Wodrop ‘tuichit the said egyptianis’ again, he would ‘repent it’. Two other witnesses from Rutherglen appeared before the presbytery, one of whom (described as an ‘officiar’ – likely a local civil magistrate or official) attested that Ferme had lodged a Gypsy woman and her husband, a ‘scottisman’.<sup>22</sup> The presbytery summoned Ferme to appear at their next meeting a fortnight later, but he failed to do so. Instead, another two witnesses appeared and testified to Ferme’s reset of Gypsies, prompting the presbytery to summon the local minister, Alexander Rowat, to explain the disturbances in his parish. Three months later, Ferme had still not responded to the presbytery’s charges, leading the presbytery to order that Rowat refuse baptism to Ferme’s newborn child until the charges were answered. A visitation to Rutherglen parish was also organised to inspect the maintenance of discipline.<sup>23</sup> Although the presbytery continued to pursue Ferme for another month, there are no records of Ferme appearing before the brethren, and by October 1593 the presbytery ceased to press the issue.<sup>24</sup>

In attempting to try Ferme for resetting Gypsies, the presbytery encountered complex social dynamics representative of a wider problem faced by ecclesiastical authorities trying to enforce discipline. As a laird, James Crawford of Ferme was a major local landowner and lived in Ferme (or Farne) Castle, a tower house just outside of Rutherglen.<sup>25</sup> Ferme was also well-connected politically: his daughter married the eldest son of Sir Matthew Stewart of Minto, who served four terms as lord provost of Glasgow.<sup>26</sup> Ferme also appears to have held local office, as he was approached by the presbytery to banish excommunicants from Rutherglen less than a month after the body had abandoned its charges against him, and was later asked to pursue a ‘fugitive fra discipline’, and to assist the bailies of Rutherglen in preventing a ‘profane playe’ taking place on a Sunday.<sup>27</sup> In the latter instance, however, Ferme himself may have been partially responsible for the ‘profane playe’, as he was later charged by the presbytery in 1603 with supporting such

---

<sup>22</sup> *Ibid.*, pp. 44-45.

<sup>23</sup> *Ibid.*, p. 60.

<sup>24</sup> *Ibid.*, pp. 62, 66.

<sup>25</sup> *NSAS*, vol. vi (1845), p. 876.

<sup>26</sup> NRS, RH15/67/16.

<sup>27</sup> NRS, CH2/171/31, pp. 68, 80, 262. It may be that Ferme himself was one of the Rutherglen bailies: the meaning is unclear.

performances.<sup>28</sup> In 1593, he had also been implicated in a case of pipe-playing on the Sabbath.<sup>29</sup> From the presbytery's perspective, Ferme was at once an intractable sinner who resisted punishment, and a necessary ally whose support was required for the maintenance of discipline in Rutherglen. Composed of clerics and with a jurisdiction covering twenty-four parishes, Glasgow presbytery was both more independent of, and less attuned to, parochial politics than local kirk sessions.<sup>30</sup> Ferme's relationship with the presbytery fits a wider pattern of noblemen and landowners who were reluctant to sit as elders and rarely submitted to ecclesiastical discipline, but with whom the church courts nevertheless had to cooperate and compromise.<sup>31</sup> Meanwhile, although the parliament had recognised the role of lower church courts in enforcing moral discipline in 1592, authority still lay with civil magistrates to arrest and try Gypsies according 'to the tenour of the actis of parliament'.<sup>32</sup>

While presbyteries may have been frustrated in their goals by local elites, their very separation from parochial affairs could also allow them to circumvent local political interests. In 1608, for example, when the presbytery of Aberdeen charged Alexander Anderson with resetting Gypsies, he protested that he had done so with the 'warrant and commandement of the Larde and Ladie of Drum', that is, Sir Alexander Irvine, 9th Laird of Drum and his wife, Marion Douglas. A significant local landowner, Irvine had sufficient wealth and connections to lend James VI a sum of 10,000 pounds, and to remodel and extend his tower-house, Drum Castle, between 1612 and 1619.<sup>33</sup> In 1608, the presbytery demanded that Anderson produce a writ from Irvine at its next meeting. When Anderson failed to do so, the presbytery fined him two merks and ordered that he repent on his knees before the pulpit in his parish church the following Sunday, or face further censure. During the same session, the presbytery accused four other individuals of resetting Gypsies who, like Anderson, also came from rural Aberdeenshire, and do not appear to have been landowners. Two of those named,

---

<sup>28</sup> NRS, CH2/171/34, pp. 247-48.

<sup>29</sup> NRS, CH2/171/31, p. 45.

<sup>30</sup> *Acts and Proceedings of the General Assemblies of the Kirk of Scotland*, vol. ii (Edinburgh, 1839-45), p. 482, pp. 484-5.

<sup>31</sup> Keith M. Brown, 'In Search of the Godly Magistrate in Reformation Scotland', *Journal of Ecclesiastical History*, 40/4 (1989); and Ian. B. Cowan, 'Church and Society in Post-Reformation Scotland', *Records of the Scottish Church History Society* xvii (1971), p. 187

<sup>32</sup> *RPS*, 1592/4/91.

<sup>33</sup> Jonathan Forbes Leslie, *The Irvines of Drum with Collateral Branches* (Aberdeen: The Office of the Abbotsford Daily Journal, 1909), p. 10; Douglas Wimberley, *A Short Account of the Irvines of Drum* (Inverness: The Office of the Morning Chronicle, 1893), p. 9-13.

David Grey and Alexander Aberdeen, appeared before the session and confessed to receiving Gypsies in their houses and giving them food and drink in exchange for money.<sup>34</sup> At the same session, the presbytery extracted confessions from four other individuals that they had repeatedly reset Gypsies. All of those found guilty were fined two merks and ordered to repent, with further sanctions threatened for a repeat offence.<sup>35</sup> The Irvines, however, were neither charged nor punished by the presbytery, suggesting that wealth and social status influenced the practicalities of pursuing, convicting, and punishing individual suspects.<sup>36</sup>

Without cooperation from civil magistrates, church courts had few tools at their disposal when dealing with elite offenders, as the arrival of Gypsies in Rutherglen and Aberdeenshire suggested. But church courts had nonetheless come to play a central role in excluding vagrants, including Gypsies, from their jurisdictions in the 1590s and 1600s. Various schemes to empower specific crown-appointed officials deal with vagrancy failed, but kirk sessions and presbyteries became key points of authority in the relatively effective administration of poor relief and maintenance of ecclesiastical discipline to largely consenting populations. These developments were recognised in a 1597 amendment to the poor law, which restated earlier measures passed against ‘idle beggaris, vagaboundis and Egiptianis’ while formally giving kirk sessions authority to execute these measures in ‘landwart’ (that is, non-burgh) parishes. ‘Landwart’ kirk sessions were formally tasked with investigating the reset of vagrants and issuing offenders with fines of up to five pounds.<sup>37</sup> A privy council proclamation of 1600 thereafter clarified presbyteries’ role in overseeing and supporting kirk sessions in execution of the poor law.<sup>38</sup> These were pragmatic amendments to the poor law: in burghs (such as Rutherglen) the authority of provosts and bailies was long-established, and the amendment approved in 1597 simply acknowledged their role in regulating poor relief. By contrast, kirk sessions (comprising the minister and local lay elders) remained the most powerful tool of governance in many of Scotland’s large and sparsely populated ‘landwart’ parishes. Walter Makey has interpreted these developments as an attempt to convert kirk session elders into ‘the antennae of

---

<sup>34</sup> NRS, CH2/1/1, p. 436.

<sup>35</sup> NRS, CH2/1/1, p. 436-37.

<sup>36</sup> John McCallum, *Reforming the Scottish Parish: The Reformation in Fife, 1560-1640* (Farnham: Ashgate, 2010), p. 217.

<sup>37</sup> *RPS*, 1597/11/46.

<sup>38</sup> *RPCS*, ser. 1, vol. vi, pp. 98-99.

the monarchy', part of a wider effort to insinuate civil power into kirk institutions.<sup>39</sup> But recognising presbyteries as overseers of the poor law suggests otherwise. While the proclamation issued in 1600 made presbyteries answerable to the privy council in enforcing the poor law, presbyteries were hardly ideal instruments for exercising crown authority, being composed of ministers, many of whom were wedded to a 'two kingdoms' vision of Kirk governance. While the two measures may have attempted to increase the role of the crown in supervising the enactment of the poor law, they were ultimately a pragmatic recognition of the existing authority and actions of the lower church courts.

By the late 1590s, the kirk sessions and presbyteries had already taken on the responsibility for collecting and administering alms in Scotland's leading burghs as well as much of the rural lowlands, and the privy council proclamations of 1597 and 1600 did little to change the existing state of affairs.<sup>40</sup> The lower church courts also acted to exclude vagrants before they were mandated to do so in 1600, as the actions of Glasgow presbytery once again demonstrate. As well as James Crawford of Ferme's case in 1593, Glasgow presbytery ordered two landowners, John Blair and John Maxwell, to banish 'the gipseis' from their respective estates in March 1597. The two men were not, however, summoned before the presbytery or threatened with punishment.<sup>41</sup> Even prior to the measures of 1597 and 1600, the members of the Glasgow presbytery envisioned their role as encompassing the expulsion of Gypsies. Other church courts followed. In 1602, for instance, the kirk session of Burntisland produced a list of ordinances defining its responsibilities, among which were three orders relating to vagrants. The first laid out the punishment for giving alms, lodging or giving support of any kind to 'vagabonds strang and ydle beggeris': a fine of twenty shillings in the first instance, culminating in public repentance if found to be at fault on three occasions.<sup>42</sup> The second order outlined the kirk session's duties in upholding the poor law, stating that anyone who impeded the burgh's elders, deacons, and bailies in its execution risked eight days' imprisonment and a fine of five pounds, the proceeds of which would be put towards poor relief in the parish. Much of the language of the kirk session's order directly paraphrased the poor law of 1579, including the act's definition of vagabonds that included 'all egyptians' and anyone feigning

---

<sup>39</sup> Walter Makey, *The Church of the Covenant, 1637-1651* (Edinburgh: John Donald, 1979), p. 11.

<sup>40</sup> See McCallum, *Poor Relief*, ch. 2.

<sup>41</sup> NRS, CH2/171/32, p. 128.

<sup>42</sup> NRS, CH2/523/1, p. 2. The punishment for being found at fault a second time is unclear.

‘knowledge of charming prophecie and other abusit science’.<sup>43</sup> The third order emphasised the need to punish those who refused to work with corporal punishment and banishment.

While it was usual for kirk sessions to issue pecuniary punishments to parishioners for committing a range of misdemeanours, only civil authorities were able to imprison, scourge, and banish vagrants. The ordinances issued in Burntisland therefore assumed complete co-operation between the kirk session and civil authorities: vagrancy was a shared problem for all magistrates to address. But in some cases, it was kirk sessions, not civil magistrates, that had both the means and resources to take the initiative. Less than a year after the drafting of its ordinances, the Burntisland kirk session paid for an ‘officiar for banishing the sturdie beggaris af the town’.<sup>44</sup> Also in 1602, the kirk session of Dundonald investigated the origins of a strange beggar in the parish to assess whether he was deserving of charitable relief. Identified by the elders as ‘John Burg, Yrland man’, the beggar was deemed unworthy of support.<sup>45</sup> Lower church courts were regularly concerned with the correct administration of poor relief and exclusion of the undeserving: in 1603, the kirk session of the Aberdeen parish of St Nicholas complained of ‘the cauldnes of charitie and daylie increas of the puir’, and feared that poor relief was hampered by the presence of ‘stranger beggars’. The elders claimed that the influx of strangers was testing parishioners’ generosity, and consuming resources that should otherwise be diverted to the ‘deserving’ and parish-born poor.<sup>46</sup> But the example of Aberdeen St Nicholas also reveals that poor relief was indeed being distributed to the ‘strange beggars’, despite the elders’ misgivings. As John McCallum has pointed out, the boundary of who was deemed ‘deserving’ by ecclesiastical officials was sometimes generously interpreted.<sup>47</sup> Whether this official generosity ever extended to Gypsies is less clear, as no examples have yet come to light of church courts making charitable payments to Gypsies.

During the 1590s and 1600s, lower church courts throughout lowland Scotland established themselves as the primary administrators of the poor law and as vigorous enforcers of spiritual and social order. Gypsies had been explicitly excluded from poor relief both by the poor law of 1579

---

<sup>43</sup> *Ibid.*; cf. *RPS*, 1579/10/27.

<sup>44</sup> NRS, CH2/523/1, p. 21.

<sup>45</sup> Henry Paton, ed., *Dundonald Parish Records. The Session Book of Dundonald, 1602-1731* (Edinburgh: Morrison and Gibb Ltd., 1936), p. 16.

<sup>46</sup> NRS, CH2/448/2, p. 30

<sup>47</sup> McCallum, *Poor Relief*, pp. 190-3.

and subsequent amendments; while parliamentary legislation, privy council proclamations, and church court ordinances characterised Gypsies as antithetical to the ideals of the Reformation. Accordingly, kirk sessions and presbyteries assumed responsibility for excluding Gypsies from their jurisdictions, but often faced complacency or even active resistance from local political interests and civil authorities. While church courts always required assistance from civil magistrates to pursue Gypsies and their resettlers to conform to the letter of the law, the lower church courts took on a significant institutional role in the marginalisation of Gypsies, one they retained until the mid-century Interregnum, if not later. However, while local ordinances against Gypsies and other vagrants passed by church courts may have served as an implicit rebuke to civil authorities failing to enforce anti-vagrancy laws, the church courts did not refer miscreants to criminal courts. Like adultery, the resetting of Gypsies was treated as a disciplinary misdemeanour, and the lower church courts were obliged to punish offenders with fines and repentance, despite the harsher penalties attaching to such crimes in the statute book. Meanwhile, individual Gypsies do not appear at all in the church court records, suggesting that they were not, and could not, be summoned before kirk sessions or presbyteries. Gypsies, as peripatetic ‘strangers’ who did not conform to the social and moral expectations of the Kirk, could not be effectively threatened with excommunication or the withholding of baptism. As such, it was prosecuting the reset of Gypsies, especially reset by the poor, that became the focus of the Kirk’s anti-Gypsy efforts, as would remain the case for much of the seventeenth century.

### ***The lower church courts: ambition and compromise, c. 1609-1650***

In the decades of James VI’s reign following the Union of the Crowns, the king and privy council mounted a campaign to centralise justice that created tensions with the activities of church courts. The criminalisation of certain moral offences, from witchcraft to adultery, led to jurisdictional disputes as civil authorities sought to exert greater control over areas formerly within the orbit of church courts.<sup>48</sup> The prosecution of Gypsies was no different: parliamentary legislation and privy council action sought to shift responsibility for tackling resettlers of Gypsies from lower church courts to civil magistrates. The Egyptians Act passed in 1609 did not mention kirk sessions or presbyteries, but instead stated that resettlers would be ‘waired at the judges will’, and also called for the punishment of local civil magistrates who neglected the prosecution of Gypsies. The church

---

<sup>48</sup> Michael Wasser, ‘The Privy Council and the Witches: The Curtailment of Witchcraft Prosecutions in Scotland, 1597-1628’, *The Scottish Historical Review*, Vol. 82, No. 213, Part 1 (2003), p. 31.

courts' authority was also threatened by the establishment of an entirely new magistracy: justices of the peace. Introduced in 1609 and first appointed in 1610, JPs and their constables were given responsibility for tackling many of the same misdemeanours that had been dealt with by the lower church courts, including enforcing laws against Gypsies and their resettlers, resolving disputes between neighbours, punishing drunkenness and public disorder, and administering the poor law. Operating at shire level, the remit of JPs and constables overlapped considerably with that of presbyteries, both in terms of disciplinary function and geographical jurisdiction. Such overlap may have been a deliberate attempt to sideline presbyteries and to assert crown authority: legislation enacted in 1617 outlined the role of JPs and constables, describing the need for cooperation between sheriffs, JPs, burgh authorities, and kirk sessions to improve social order.<sup>49</sup> The act made no mention of presbyteries. These efforts were in vain: JPs never took on a central disciplinary role in seventeenth-century Scotland, and the lower church courts continued to issue punishments and administer poor relief much as before. But James VI's desire to transfer disciplinary authority from presbyteries to civil authorities was a likely motivation for his creation of JPs, as would be the case for the occupying English authorities who attempted to reintroduce JPs in the 1650s.<sup>50</sup> But despite such attempted encroachments on their authority, kirk sessions and presbyteries were never displaced by JPs or other civil officials, and continued to administer ecclesiastical discipline on a range of matters – not least against resettlers of Gypsies.

In the late 1610s and early 1620s, central civil authorities paid particular attention to the punishment of resettlers of Gypsies, as discussed in the last chapter. As with the creation of JPs, these measures may also have denoted an attempt not only to improve enforcement of anti-Gypsy measures, but also to expand royal authority by empowering existing civil magistrates and appointing commissioners who were directly responsible to the privy council. In 1619, James VI was personally involved in creating a syndicate for the punishment of resettlers of Gypsies in an executive innovation that undermined the ecclesiastical and civil authorities ordinarily responsible for punishing resettlers, and also diverted some of the revenue raised from fines away from the poor

---

<sup>49</sup> *RPS*, 1617/5/22.

<sup>50</sup> Charles A. Malcolm ed., *The Minutes of the Justices of the Peace for Lanarkshire, 1707-1723* (Edinburgh: Edinburgh University Press, 1931), p. xxi. See also William M. Abbott, 'Ruling Eldership in Civil War England, the Scottish Kirk, and Early New England: A Comparative Study of Secular and Spiritual Aspects', *Church History*, Vol. 75, No. 1 (2006).

box of local kirk sessions and into the crown's coffers.<sup>51</sup> In the same year, the privy council issued a proclamation intended to improve the enforcement of anti-vagrancy measures by entrusting bishops with responsibility for directing ministers and kirk sessions in the execution of the poor law, cutting out presbyteries entirely.<sup>52</sup> The most radical reform was what became known as the 'Five Articles of Perth' approved by the General Assembly in 1618: liturgical changes that ranged from the observance of major religious festivals to kneeling at communion. Another dimension to this programme was the reform of church courts whereby bishops became the permanent moderators of synods and presbyteries from 1606 onwards, with the independence of the church courts further curtailed by creation of two courts of high commission four years later. Established according to the Church of England's model, the courts of high commission had jurisdiction over all Kirk matters and were presided over by Scotland's two archbishops. In 1612, the Scottish parliament ratified creation of the courts of high commission and handed further powers, including that of excommunication, to bishops – previously the competence of presbyteries, synods, and the general assembly.<sup>53</sup> Although no move was made to abolish the presbyterian system of church courts, it was hoped that, as John Spottiswoode put it in 1610, that once stripped of their authority and left 'a bare name', presbyteries would simply vanish.<sup>54</sup>

Efforts to undermine church courts continued after James VI's death. In 1630, for example, the privy council issued another proclamation against vagrancy following concern about rising numbers of Irish beggars in the realm, and as part of an attempt to curb the numbers of vagrants in Edinburgh in preparation for Charles I's anticipated royal visit.<sup>55</sup> The proclamation explicitly reiterated provisions made against vagrants in 1619, adding that it remained the responsibility of parish constables to apprehend and ward vagrants at the direction of JPs and noted they had been 'verie remisse and negligent' in doing so. Suspecting that negligence arose on account of the cost of keeping prisoners, the council ordained that commissioners and JPs nominate 'honest and famous

---

<sup>51</sup> James Maidment ed., *Letters and State Papers during the reign of King James the Sixth* (Edinburgh: Abbotsford Club, 1838), p. 320; *RPCS*, ser. 1, vol. xii, p. 71; pp. 151-52.

<sup>52</sup> *RPCS*, ser. 1, vol. xii, pp. 2-5.

<sup>53</sup> *RPS*, 1612/10/8.

<sup>54</sup> David Laing ed., *Original Letters Relating to the Ecclesiastical Affairs of Scotland*, vol. i (Edinburgh: Bannatyne Club, 1851), p. 235. See also Julian Goodare, 'How Archbishop Spottiswoode Became an Episcopalian', *Renaissance and Reformation / Renaissance et Réforme* 30 (2007).

<sup>55</sup> Despite the preparations of the privy council from 1628 onwards, the royal visit and coronation did not take place until 1633. See Dougal Shaw, 'St. Giles' Church and Charles I's Coronation Visit to Scotland', *Historical Research* 77 (2004).

men in everie parish' to raise a 'stent', or local tax, to cover the imprisonment of vagrants.<sup>56</sup> As with previous attempts to introduce compulsory local taxes, this provision was never enacted.<sup>57</sup> Presumably to encourage uptake, the nominee had to receive the 'consent of the minister and speciall men of the parish', an ambiguous phrase that avoided handing veto power to the kirk session.<sup>58</sup> Whatever the council's ambitions to the contrary, in parishes such as Dundonald it was the kirk session that remained the primary local enforcer of anti-vagrancy measures.<sup>59</sup> The proclamation compelled commissioners and JPs, constables, and the leading men in each parish to cooperate in suppressing vagrancy and begging, with the participation of kirk sessions apparently an afterthought. Despite denoting another attempt to shift responsibility from the Kirk to the crown in dealing with vagrants, the proclamation made little practical difference to the day-to-day activities of the church courts, which continued to promote and enforce anti-vagrancy measures much as they had over the previous four decades.

Even if church courts remained active in their efforts to marginalise Gypsies, the drive to empower civil authorities at the expense of ecclesiastical authorities nonetheless shaped how kirk sessions and presbyteries dealt with Gypsies and their resettlers. Kirk sessions were increasingly inclined to refer difficult disciplinary matters to the local bishop, whereas formerly they would have consulted the presbytery. The kirk session of Aberdeen St Nicholas sought support from the bishop of Aberdeen when punishing a tailor, Patrick Bodie, for fraternising with Gypsies in 1619. Bodie had made inquiries with 'the Egiptianes' about 'a gentil womanis gowne' that had been stolen from his stall in a misdemeanour described by the kirk session and bishop as 'consultatioun of witches'.<sup>60</sup> Under the Witchcraft Act of 1563, witchcraft and consulting with witches were punishable by death, with witchcraft broadly defined as the practice of magic that included charmers – the healers, fortune-tellers, and diviners who were relatively common in early modern Scotland. In Bodie's case, it seems that since the Gypsies were understood to be charmers who might assist Bodie in finding his stolen gown, the kirk session and bishop reinterpreted the incident as a misdemeanour

---

<sup>56</sup> *RPCS*, ser. 2, vol. iii, pp. 411-15.

<sup>57</sup> On the repeated attempts to introduce a stent to cover the administration of the poor laws, see Rosalind Mitchison, *The Old Poor Law in Scotland: The Experience of Poverty, 1574-1845* (Edinburgh: Edinburgh University Press, 2000), esp. ch. 1; McCallum, *Poor Relief*, p. 69; and Langley, *Cultures of Care*, p. 4.

<sup>58</sup> *RPCS*, ser. 2, vol. iii, p. 413.

<sup>59</sup> Paton ed., *Dundonald Parish Records*, p. 313.

<sup>60</sup> NRS, CH2/448/3, pp. 313-14.

which, under the Witchcraft Act, potentially constituted a capital offence.<sup>61</sup> Elsewhere, in Dundonald, there were two cases in 1629 in which parishioners were found to have reset Gypsies with the express purpose of having their fortunes told and soliciting charms from them. Even so, the suspects were not handed over to civil authorities for criminal prosecution, but issued a relatively modest fine of twenty shillings.<sup>62</sup> Although anti-Gypsy legislation and proclamations drew strong connections between Gypsies and witches, when dealing with Gypsies and their resetters in practice, both ecclesiastical and civil authorities rarely invoked witchcraft charges. When witchcraft was considered by church courts, as in the Bodie's case, the reset of Gypsies was treated in a similar way to the consultation of charmers, without axiomatically inviting accusations of diabolism or *maleficium*.

Since their inception at the Reformation, the lower church courts had been involved with investigating cases of witchcraft and charming, sometimes pursuing such matters with less caution and greater enthusiasm than central authorities considered appropriate.<sup>63</sup> Cases involving charming and consultation, however, were rarely heard by the criminal courts, with church courts tacitly accepting a widespread perception that they constituted 'lesser' offences and punishing them accordingly. In 1619, Bodie's case confirmed this tendency: rather than being surrendered to the civil authorities, it was the bishop and kirk session that ordered Bodie to appear before the pulpit the following Sunday to request pardon from 'God and the congregatioun'.<sup>64</sup> Particularly zealous members of the Kirk hierarchy may have wished for more thorough enforcement of the Witchcraft Act, especially regarding charmers, but the personnel involved in church court discipline had to take account of both the relatively tolerant attitudes of the laity towards practitioners of magic, and the relatively sceptical attitudes of some civil magistrates regarding witchcraft accusations.<sup>65</sup> Bodie's case also serves as a reminder that lines of demarcation between presbyterians and episcopalians, or zealous churchmen and sceptical laymen, were not clear-cut. The bishop consulted by the kirk session in Bodie's case was Patrick Forbes of Corse, a man who had been appointed to the diocese

---

<sup>61</sup> RPS, A1563/6/1.

<sup>62</sup> Paton ed., *Dundonald Parish Records*, p. 280, p. 284.

<sup>63</sup> See Michael Wasser, 'The Privy Council and the Witches', p. 21.

<sup>64</sup> NRS, CH2/448/3, pp. 314.

<sup>65</sup> The general assembly of 1646, independent of crown control and dominated by 'godly' presbyterians, called for the criminal prosecution of charmers, suggesting that the sentiment had the support of many in the Kirk. See Goodare, 'The Scottish Witchcraft Act', p. 55.

of Aberdeen at James VI's insistence, yet whose theology inclined towards puritanism, and who was lukewarm about the episcopal ecclesiastical settlement. Forbes's views on witchcraft are not known, but he was not some pliant foot soldier for royal supremacy, ready to enact the king's will regardless of the theological implications.<sup>66</sup> Presbyteries and synods also continued to investigate and condemn witches and charmers. In 1629, for example, the presbytery of Ayr required the minister of Dundonald to declare from the pulpit that both charming and the consultation of charmers would 'be challengit criminallie' and 'persewit vnto death as for the crime of witchcraft', though this directive appears to have been intended more as a deterrent than a description of actual events.<sup>67</sup> By contrast, the following year the presbytery of Dalkeith acted on a report produced by the synod of Edinburgh 'concerning simple charmers & consulters', which resolved that charmers should be received by the presbytery for 'thair repentance'.<sup>68</sup> Witchcraft was one area where competition for control between Kirk and crown was hard-fought. Yet in practice, cooperation between ecclesiastical and civil magistrates remained common, and the lower church courts retained considerable scope for action. A similar dynamic affected the prosecution of Gypsies and their resettlers.

Before 1638, Kirk politics was characterised as much by tacit cooperation and compromise regarding discipline and ecclesiastical structure, as it was by public and voluble disagreement over the crown imposition of episcopacy. Churchmen such as Patrick Forbes were reconciled with episcopacy, presbyteries remained in place despite the creation of justices of the peace and empowerment of bishops, and kirk sessions continued to handle much the same kinds of disciplinary cases that they had in the 1590s. This was in no small part due to the fact that the lower church courts had become integral to the system of poor relief, particularly outside the leading burghs, and continued to wield the necessary authority to police the moral boundaries of the parish. Indeed, in some parishes, it was only the kirk session that had the ambition, reach, and fiscal clout to tackle vagrancy. For example, when the Dalkeith kirk session paid a man twelve shillings to remove vagrants from the town in 1617, it was taking on a role only recently allocated to JPs, but it

---

<sup>66</sup> See W. G. S. Snow, *The Times, Life and Thought of Patrick Forbes, Bishop of Aberdeen, 1618-1635* (London: S.P.C.K., 1952).

<sup>67</sup> Paton ed., *Dundonald Parish Records*, p. 289.

<sup>68</sup> NRS, CH2/424/2, 1r.

remains unclear whether a JP had even been appointed.<sup>69</sup> Elsewhere, the presence of unruly local elite who harboured Gypsies led Lasswade kirk session to pass a series of ordinances in 1615 that were expressly designed to guide the behaviour of the parish's freeholders and landowners. The jurisdiction of Lasswade kirk session extended to the lands of Roslin owned by Sir William Sinclair of Roslin who, as the holder of a feudal barony and, in 1622-1623, the offices of sheriff and JP, was a prominent civil magistrate in the locality. Sinclair was also a noted harbourer of Gypsies, and the elders presumably had him in mind when formulating an order stating that no landowner should receive 'harlats', 'vagabonds' or 'suspect personis', 'namlie such as ar called Egeptianes' on their estates. The ordinance also set a fine of forty shillings for each incident of reset and 'banishment of the person... kept and receat'.<sup>70</sup> Unsurprisingly, Catholic landowners tended to be less responsive to ecclesiastical discipline and, in this instance, it took the privy council's intervention ten years later to bring Sinclair into line. Nonetheless, as in the 1590s, it was kirk sessions that remained at the forefront of activities against Gypsies, leading the way when civil magistrates were found wanting.

Despite being formally sidelined in anti-vagrancy proclamations of 1619 and 1630, presbyteries were also central to the process of dealing with those who reset Gypsies and other vagrants. In Fife, for example, it was the presbyteries that responded to the proclamation of 1630 by passing measures 'for restraining uncany begers'. Following the lead of the neighbouring presbytery of Dunfermline, the Kirkcaldy presbytery convened representatives from the kirk sessions and civil magistrates within its jurisdiction to enforce legislation against vagrants. The presbytery also cited the general assembly's ordinances that ordered 'everie minister and paroch... to restraine the said strong vagabond and bold beggers and egyptians', describing how 'divers presbytries', when faced with the same problem, had 'taken order for restraining of them'. Kirkcaldy presbytery established that, from February 1632, anyone who gave food and drink, lodging, or alms to 'strong bold and vagabond beggers and Egiptians' would be punished by the bailies within burghs and by all civil officeholders in 'landwart' parishes outside the burghs. Anyone providing vagrants with lodging would be fined twenty shillings, and those who offered charity to vagrants at their front doors would be fined four shillings. The fines would contribute towards poor relief by the kirk session, and ministers were tasked with announcing the new policy from their pulpits so 'no person pretend ignorance thairof'.

---

<sup>69</sup> NRS, CH2/84/28, p. 142 (fo. 70r). By 1625, fewer than a quarter of JPs were in place in Scotland's shires. See Jenny Wormald, *Court, Kirk, and Community*, p. 192.

<sup>70</sup> NRS, CH2/471/1, fo. 3r.

Ministers were also expected to report any negligence in enforcement to the presbytery. No mention was made of either bishops or stenting, and the fines to be raised were much smaller than those proposed in the privy council's proclamation issued in 1630.<sup>71</sup> The response in Kirkcaldy supplied another instance of pragmatism and compromise: the presbyteries continued to police poor relief and discipline, relying on established mechanisms and authorities to suppress vagrancy.

Although the lower church courts were key actors in prosecuting Gypsy resettlers, it is difficult to gauge their consistency or thoroughness in doing so. There are few kirk session or presbytery ordinances against Gypsies and their resettlers, and such ordinances rarely coincided with appeals from central government for increased prosecution. Trials involving reset were sporadic and punishment invariably fell short of that stipulated in parliamentary legislation. At the Dundonald kirk session in 1628, the session's elders seemed aware of existing anti-Gypsy measures, but unfamiliar with their enactment. After hearing from two men accused of resetting Gypsies, punishment was postponed until the next session to enable the acts of the kirk session to be consulted. The acts of session was a list of ordinances outlined the session's jurisdiction and listing appropriate punishments for misdemeanours, and prescribed a fine of five pounds for reset of Gypsies. The elders' unfamiliarity with the offence is unsurprising given that there was not a single instance of the session hearing a case of reset over the previous three decades. Despite the punishment prescribed in the acts of session, on this occasion the elders ordered that the offenders pay a fine of twenty shillings and repent from their seats in church during service. The local minister was also ordered to inform the congregation that future offenders would pay a five pound penalty, 'according to the old actes heiranent'.<sup>72</sup> Thereafter, the Dundonald kirk session prosecuted resettlers of Gypsies more regularly than other kirk sessions, as ten individuals were summoned for reset between 1628 and 1642, with seven receiving punishment for their offences. The court remained, however, inconsistent in its treatment of the crime. Some individuals who were investigated went unpunished, others were fined twenty shillings, while on one occasion in 1633, two men were fined five pounds and ordered to repent 'frome the publict place in thair linning cloths'.<sup>73</sup>

---

<sup>71</sup> NRS, CH2/224/1, fo. 26r-v.

<sup>72</sup> Paton ed., *Dundonald Parish Records*, pp. 256-57, p. 259. The acts of session themselves do not survive.

<sup>73</sup> *Ibid.*, p. 261, p. 280, p. 363, pp. 510-11.

The poor law of 1579 and its later amendments established that reseters of vagrants should be fined up to five pounds, while the privy council's proclamation issued in 1619 against beggars set the punishment for reset at a flat five pounds, to be enforced by kirk sessions. Both the kirk session of Dundonald and those of other parishes took this sanction to apply to reseters of Gypsies. For instance, in 1641 the kirk session of Cullen in Banffshire passed an ordinance 'aganyst ye resetting of ye Egyptians' and set the penalty at five pounds.<sup>74</sup> But in most cases, a five pound fine appears an impractically high imposition. Church courts could impose punishments ranging from private rebuke by the kirk session to excommunication by the presbytery or bishop, with the former often imposed for minor cases of slander or drunkenness, and the latter imposed on unrepentant Catholics and other serious or serial offenders. Fines imposed also varied in accordance with the perceived severity of misdemeanours, as well as in relation to an offender's ability to pay. Orders to repent publicly might require an offender to do so multiple times, and often involved ritualised forms of humiliation such as wearing sackcloth.<sup>75</sup> In this context, reseters of Gypsies were punished lightly: in all the cases discussed in this chapter, the church courts imposed fines of between six shillings and five pounds for the offence, occasionally ordering offenders to perform a single act of public repentance.<sup>76</sup> The relative lenience of such punishments suggest the offence of resetting Gypsies was little distinguished from the reset of other kinds of vagrants and that the crime would not be punished to the letter of the law.

In common with adultery, the reset of Gypsies was a spiritual crime that invited harsh punishment according to statute, but which, in reality, was more often treated a minor misdemeanour to be dealt with by the lower church courts as they saw fit. Moreover, it is also likely that there were numerous occasions where ministers and elders simply turned a blind eye to those who reset Gypsies, whether due to apathy, the social status of the resetter, or even sympathy for Gypsies themselves. There is even one enigmatic example that may suggest church courts could have positive exchanges with Gypsies on occasion: in 1645, the kirk session of Newbattle paid sixteen shillings eight pence 'to the Egiptianis' for purchase of a mare. At that time, Newbattle kirk session often treated 'strangers' with generosity, in the same year awarding two pounds four shillings to an injured soldier, and six

---

<sup>74</sup> William Cramond ed., *The Church and Churchyard of Cullen*, p. 124. See also Henry Paton, ed., *Dundonald Parish Records. The Session Book of Dundonald, 1602-1731* (Edinburgh: Morrison and Gibb Ltd., 1936), p. 259.

<sup>75</sup> Davies, 'Law and Order', pp. 121-23.

<sup>76</sup> At the lower end of the scale were the fines imposed by the kirk session of Stow. See Margo Todd, 'Fairies, Egyptians and Elders', p. 205.

shillings ‘to ane Ireland man’.<sup>77</sup> Across England, numerous payments were made to groups of Gypsies by parish churchwardens during the 1630s and early 1640s.<sup>78</sup> But in Scotland, the Newbattle kirk session’s attitude to Gypsies appears to have been anomalous. Kirk sessions were far more likely to act in the way that the Dunfermline kirk session did in 1649, by rebuking a parishioner for the ‘offence’ of ‘resetting Egyptians and sturdie beggars’.<sup>79</sup> Private rebuke before the kirk session may have been a mild sanction, but it served to confirm the Kirk’s position. In many of the cases cited above, defendants produced a range of justifications for resetting Gypsies, often relating to compassion, ignorance, or fear. Nevertheless, the church courts felt fit to reprimand and punish offenders in the majority of cases, and publicly to confirm their displeasure with those who gave quarter to Gypsies.

\*

Drawing firm conclusions about the Kirk’s treatment of Gypsies and their resetters by the Kirk is not straightforward. Although church court records are voluminous, they were generated inconsistently, are haphazardly preserved, and references to Gypsies are few and far between. While Margo Todd claimed that ‘prosecutions of people “entertaining Egyptians” are *very* numerous’ across Scotland, this chapter suggests otherwise.<sup>80</sup> Certainly, scattered examples from individual church courts may illustrate the geographical and temporal breadth of Kirk action against Gypsies, the range of actions taken, and the courts’ relations with the policies of central authorities. But the instances cited above also suggest that prosecutions for reset were not sufficiently frequent for established procedures and punishments to emerge, despite the passage of numerous measures against Gypsies by central authorities. Accordingly, such prosecutions were far less common than those for other misdemeanours such as fornication, adultery, Sabbath-breach, and even charming and witchcraft.<sup>81</sup> To establish conclusively the veracity or otherwise of Todd’s claim would,

---

<sup>77</sup> NRS, CH2/276/2, p. 61; p. 88.

<sup>78</sup> Cressy, *Gypsies*, p. 103.

<sup>79</sup> Ebenezer Henderson ed., *Extracts from the Kirk-session Records of Dunfermline* (Edinburgh: Fullarton & MacNab, 1865), p. 32.

<sup>80</sup> Todd, ‘Fairies, Egyptians and Elders’, p. 205. Todd’s claim seems to rest primarily on the records of three kirk sessions over a period of four decades.

<sup>81</sup> The near absence of references to Gypsy reset in major scholarly studies of Kirk discipline likely attests to its relative rarity in the records. See *Reforming the Scottish Parish: The Reformation in Fife, 1560-1640* (Farnham: Ashgate, 2010).

however, require further study of church court records. A systematic approach with a narrow temporal or geographical focus would provide more conclusive answers, and might also establish whether there were particular patterns in punishments handed down, whether there were major changes in approach over the early modern period, and the impact of national ecclesiastical politics on local prosecutions.

Notwithstanding these questions, it is possible to draw some inferences about the Kirk's treatment of Gypsies and their resettlers, and consider the implications of anti-Gypsy policy on broader crown-Kirk relations and Scotland's disciplinary regime. The reigns of James VI and Charles I saw numerous measures to punish resettlers of Gypsies, but these never cohered into a uniform policy that was widely and consistently enforced by the authorities named in statutes and privy council proclamation. Between 1590 and 1650 Gypsies were vocally if sporadically denounced by Kirk authorities from the general assembly to kirk sessions, but the Kirk's role in excluding Gypsies was never established definitively. While the church courts were limited in what action they could independently take against Gypsies, they could still play a key role in excluding them by denouncing, investigating, and punishing their resettlers. Kirk sessions and presbyteries punished resettlers, regardless of whether crown authorities saw it as within the Kirk's jurisdiction, but punishments rarely followed the letter of the law. Instead, kirk sessions issued reprimands, imposed relatively small fines, and orders to repent, directed largely against poorer members of the community. Punishments were almost never issued against powerful vested interests. The consistent application of sanctions would have required the acquiescence of both civil and ecclesiastical magistrates combined with widespread respect for the Kirk's authority over the matter. As the following chapter will explore, individuals across the social spectrum all too often found reasons to support Gypsies and evade the pronouncements of both Kirk and crown. While Kirk authorities and civil lawmakers agreed, at least in theory, that Gypsies should be suppressed, broader national disputes between Kirk and crown undermined their joint efforts to marginalise Gypsies. Many of the measures seeking to 'improve' the prosecution of Gypsies and other vagrants after 1603 did so by empowering civil magistrates and bishops at the expense of church courts. Nevertheless the lower courts, embedded in their localities, remained the key administrators of the poor law of 1579 outside the major burghs, and retained their role in supporting the 'deserving' poor and excluding those deemed undeserving.

By the 1640s, the general assembly may have felt there was good reason to complain that little had been done about ‘sturdie beggars, Aegyptians and vagaboundis’, and that there was need for ‘a solid course be laid downe for removeing’ them for ‘all tyme comeing’.<sup>82</sup> The body’s frustration arose from high expectations: although church courts had been established throughout lowland Scotland, they had been unable to remove Gypsies from their communities and had been constrained both by the policies of erastian monarchs and a lack of popular support for removing Gypsies and punishing resettlers. But the 1640s would prove to be the last decade in which the Kirk could reasonably claim to both represent and regulate the whole community, ‘to execute Ecclesiastical discipline and punischment upone all transgressouris and proud contempnaris of guid ordour and policie of the kirk’, as *The Second Book of Discipline* put it.<sup>83</sup> Between 1592 and 1650, the Kirk of Scotland was a national Protestant Church that went almost unchallenged from without, despite the fear and pessimism of its leaders, who believed the Kirk faced constant threat from witches, Jesuits, Gypsies, and other diabolic forces. The Kirk’s courts were recognised in law, and claimed jurisdiction over the whole of Scottish society. The lowest church courts, the kirk sessions, also enjoyed a peak of authority between the 1590s and the 1640s, a period when they were at their most ambitious and best able to achieve their ambitions. Nevertheless, the universal reach claimed by the church courts was little more than a legal fiction. In this period as throughout the seventeenth century, many Scots ignored the church court rulings, or else felt little compulsion to appear before them, whether they were Catholic recusants, members of the nobility, Gaelic highlanders, vagrants, or Gypsies.<sup>84</sup>

The Covenanters’ military defeat by the English forces of Oliver Cromwell at the Battle of Dunbar in 1650 brought disestablishment and schism, effectively ending any universal claim for a single, monolithic Kirk. Competing church courts were set up by rival ecclesiastical factions, and the occupying English regime redoubled efforts to move responsibility for discipline from presbyteries to civil magistrates, particularly justices of the peace.<sup>85</sup> Nor did the Restoration turn back the clock: although a moderate episcopalian Kirk was re-established, the vigorous efforts to suppress

---

<sup>82</sup> RPS, A1641/8/6.

<sup>83</sup> James Kirk ed., *The Second Book of Discipline* (Edinburgh: The Saint Andrew Press, 1980), p. 198.

<sup>84</sup> On the relationships between Catholics and the church courts, see Ryan Burns, ‘Enforcing uniformity: kirk sessions and Catholics in early modern Scotland, 1560–1650’, *The Innes Review* 69/2 (2018). It would take much longer for church courts to become effective in Highland Scotland. See Fiona A. MacDonald, *Mission to the Gaels: Reformation and Counter-Reformation in Ulster and the Highlands and Islands of Scotland 1560–1760* (Edinburgh: John Donald, 2006), esp. ch. 1.

<sup>85</sup> See R. Scott Spurlock, *Cromwell and Scotland: Conquest and Religion 1650-1660* (Edinburgh: John Donald, 2007), esp. ch. 4.

dissenting Presbyterians further entrenched religious divisions. For many, submission (or otherwise) to Kirk discipline became a matter of conscience rather than social expectation.<sup>86</sup> The lower church courts continued to discipline congregations, administer poor relief, and punish beggars, and still viewed Gypsies with distaste.<sup>87</sup> As late as 1695, the presbytery of Biggar punished a woman called Margaret Shanklaw for having ‘fallen in adultery’, exacerbated by doing so with a man ‘Commonly designed Gypsie’.<sup>88</sup> In 1690, the kirk session of Alves made a public proclamation against ‘giving supply’ to ‘beggars, Egyptians and sorners’.<sup>89</sup> But cases of Gypsy reset all but disappear from the records of presbyteries and kirk sessions after 1650. The ties between the church courts and the communities they disciplined had irrevocably loosened; the Kirk could no longer act as the bulwark between Gypsies and the ‘godly’.

---

<sup>86</sup> See Elizabeth Hannan Hyman, ‘A Church Militant: Scotland, 1661-1690’, *The Sixteenth Century Journal* 26/1 (1995).

<sup>87</sup> See, for instance Henry Paton ed., *Wigtown Parish Records: The Session Book of Wigtown, 1701-1745* (Edinburgh: Morrison and Gibb Ltd., 1934), p. 481, p. 499, p. 501; Henry Paton ed., *Penninghame Parish Records: The Session Book of Penninghame, 1696-1724* (Edinburgh: Morrison and Gibb Ltd., 1933), p. 76, p. 96, p. 160, p. 195.

<sup>88</sup> NRS, CH2/35/4, p. 26.

<sup>89</sup> William Cramond ed. *The Church of Alves (Extracts 1612-1838)* (Elgin: Courant and Courier, 1900), p. 61.

## *Part II: Gypsy Lives*

## *Chapter 5*

### ***Social Ties***

In May 1629, a tenant farmer named Robert Fultoun appeared before the kirk session of Dundonald in Ayrshire charged with resetting Gypsies. In his testimony, Fultoun was defensive: he admitted to the gathered elders that seven Gypsies had stayed a night in his barn, but that they had done so ‘without his leaue’. He was an unknowing, or unwilling, accomplice. Fultoun was a tenant farmer who lived on the coastal road between Ayr and Irvine in a hamlet called Collennan, over two miles away from Dundonald’s parish church and its inquisitive elders. But the session did not let the matter drop, and the following Sunday Fultoun reappeared before them. This time, his story had changed. Fultoun confessed to having willingly ‘ludged some of the Egyptians’, but denied a rumour that magic had taken place, saying that ‘they had vsed no charme or means’ to heal the broken leg of his wife, Marion White. The session felt compelled to investigate further, and received testimony from several witnesses over the following month. One witness, Andrew Sten, claimed ‘he knew nothing of the Egyptians being in Robert Fultounes’, but had seen ‘one of them in the toune’, and had overheard from Hew McFraquhair that Gypsies had held Marion White’s leg above a ‘cokefull of water, and had cast some knottes of straves in the water’. Hew McFraquhair recounted that ‘he knew the Egyptians to haue bene lodged’ by Fultoun in his house, but ‘knew of no cure the[y] ministred to his wife’. Another witness, James Porter, said that he had not seen any Gypsies except for ‘one wife who came in his house’, whom he forced away, but he had heard of Gypsies performing a charm using water and knots of straw. Robert Dickie said he had heard a young woman and some cattle herds talk about Gypsy charming: ‘there was water vsed’, and bread was left ‘in the house dores’, whether as a charitable gift to the Gypsies or as another kind of charm was unclear. Dickie also claimed that he ‘he forebad Robert Fultoune to lodge the Egyptians’, both recognising that harbouring Gypsies was illegal and implying that it was something Fultoun might do. A final witness, Agnes Petticroe, said that she had overheard a Gypsy woman say that ‘it was not God bot some neighboures that had layde that trouble on Marioun White’; the ‘trouble’ being not only White’s broken leg, but also serial crop failures over the past three years. Evidently, maleficium was at work in Collennan. In the end, the kirk session erred on the side of caution and found Robert Fultoun alone guilty of reset and no other misdemeanour, ignoring the swirl of other

accusations and alleged interactions involving Gypsies. Fultoun was ordered to pay a fine of twenty shillings and repent from his own seat in church the following Sunday.<sup>1</sup>

Tangles of gossip and unreliable testimony, while difficult to navigate for kirk sessions, are gifts to historians of social relations. While it remains impossible to establish what actually took place between Robert Fultoun, Marion White, and the Gypsies, the accusations and depositions recorded in the session register show how Gypsies were at the centre of a web of associations in the hamlet of Collennan. Both the kirk session elders and several parishioners believed that Gypsies traded in healing and charms and knew more than most about the operation of magic, both white and black, in the community. Also in May 1629, in the nearby settlement of Carreath, Margaret Housoun had ‘baked bread and roasted [sic] flesh’ for an elderly Gypsy woman, while her son was reported to have asked the Gypsy for his fortune to be told.<sup>2</sup> As in Fultoun’s case, when Housoun and her son appeared before the kirk session, they both sought to deny and minimise their dealings with the Gypsies, but subsequently changed their confessions after incriminating statements were made by their neighbours. They admitted to harbouring Gypsies, having done so not out of fear, but rather in mutual benefit and exchange. The disapproval shown by authorities towards Gypsies was widely known in locality and may have been shared by many parishioners, yet such cases show that Gypsies were willingly given shelter and support by non-Gypsies from across the social spectrum. Despite the risk of grave legal repercussions, parishioners in Dundonald, and many others like them, created and maintained strong social and economic ties with Gypsies.

Events in Dundonald parish in 1629 were neither particularly remarkable nor representative. A rural lowland parish, Dundonald was distant from major political and economic centres of the country, with a largely illiterate population of fewer than a thousand.<sup>3</sup> Dundonald kirk session may have been more interested in excluding Gypsies and charmers than other sessions during the period, and John MacCallum has suggested that that the parish’s elders were more concerned with regulating and limiting poor relief than many other parish sessions.<sup>4</sup> The cases fit into the overall picture,

---

<sup>1</sup> Henry Paton, ed., *Dundonald Parish Records. The Session Book of Dundonald, 1602-1731* (Edinburgh: Morrison and Gibb Ltd., 1936), pp. 276-78.

<sup>2</sup> *Ibid.*, pp. 283-84.

<sup>3</sup> Of the 222 Dundonald parishioners who signed the Solemn League and Covenant in 1638, fewer than 20% were able to write their own name. See *NSAS*, vol. v, p. 674.

<sup>4</sup> McCallum, *Poor Relief*, pp. 192-93.

established in the last chapter, of Kirk authorities' desire to exclude Gypsies, while also being unable or unwilling to punish harbourers to the full letter of the law. But the records also offer an insight into the dynamics between Gypsies and magistrates, as well as relations between Gypsies and the people alongside whom they lived. The previous three chapters have shown that early modern authorities sought to define Gypsies as foreign, unsettled, ungodly, and disorderly – a series of stereotypes that served as the basis for Gypsies' criminalisation and underpinned the efforts of both civil and ecclesiastical authorities to exclude them from their communities. Such efforts could not be called successful. A gulf existed between the typology of Gypsies enshrined in law and popular perceptions. The enforcement of anti-Gypsy measures by civil magistrates invariably fell short of expectations, and ecclesiastical discipline designed to exclude Gypsies was relatively ineffective, undermined by an unsupportive crown and unruly congregations. Although various elites condoned and encouraged the exclusion of Gypsies from Scotland's law-abiding, godly, and settled communities, such a reality proved illusory. Rather, the seventeenth century was marked by the normalisation of relations between Gypsies and non-Gypsies. While marginal, Gypsies nevertheless became part of the communities in which they lived. Legally proscribed, stereotyped, and shunned by the 'godly', they nevertheless managed to build networks of support and mutual obligation throughout much of Scotland. At the same time, Gypsies remained culturally distinct, maintaining their own social hierarchies and economic niches throughout the seventeenth century. Although often regarded and treated with mistrust, suspicion, and prejudice by non-Gypsies, they were not the troublesome and subversive outsiders described in anti-Gypsy legislation.

This chapter considers a series of episodes between 1609 and 1678 that reflect different ways in which Gypsies found security in a realm where they were legally proscribed, and at a time that they were repeatedly condemned by crown and Kirk. Rather than considering the perceptions or stereotypes of Gypsies propagated by elites, this chapter examines specific Gypsy individuals and groups, uncovering their relationships with one another and the wider communities in which they lived. These relationships are examined in four sub-sections. The first sub-section considers the case of Moses Faw between 1609 and 1611 to show that, even in the immediate aftermath of the Egyptians Act, Gypsies could retain the necessary political connections to seek exemption from prosecution. The second considers the safety that Gypsies found at Roslin in the early 1620s to demonstrate the importance of sympathetic magistrates and landowners in affording Gypsies places of sanctuary that were relatively safe from the risk of prosecution. Building on the first two sub-sections, the third sub-section explores the ways in which Gypsies negotiated the political upheavals

of the mid-seventeenth century, including Covenanter rule and English occupation. The fourth considers the experiences of the extended Faw and Shaw family in the 1670s in order to demonstrate the extent to which Gypsies had become embedded in Scottish lowland life by the Restoration. The four sub-sections illustrate how Gypsies were able to build relationships with non-Gypsies that were akin to that of lord and men, chief and clan, leader and surname as well as the various services Gypsies rendered to non-Gypsies, whether as armed manpower, entertainers, magicians, fortune-tellers, or as simply traders in moveable goods.

Taken together, these instances also show ways in which Gypsies were estranged from wider communities, denoting a marginalisation that doubtless explains their remaining a culturally distinct and itinerant people. Landowners that supported Gypsies were themselves often marginalised, either because of their identity as Catholics, Highlanders, Borderers, or because of their continued involvement in local feuds at a time when the practice was being suppressed. Gypsies were persistently associated with feuding, and tended to be heavily armed, possibly militarised, throughout the period. They formed bands or ‘troops’ based on kindred, between and amongst whom there was often fierce infighting. While always at risk of prosecution simply for being Gypsies, it was often such infighting that precipitated the involvement of local magistrates, rather than individual complaints of theft, robbery, or violence against non-Gypsies. Perhaps surprisingly, Gypsies also sought to leverage the law against one another, with magistrates enabling their internecine struggles, intentionally or otherwise. The individuals that emerge from these case-studies were not passive victims of governmental persecution, but were the authors of their own survival and, occasionally, destruction.

### *Moses Faw and his patrons*

The continued presence of Gypsies in Scotland in the decades after the Egyptians Act was, according to central authorities, a failure of governance. As seen in the previous two chapters, the Scottish parliament, the privy council, and general assembly repeatedly complained about the failure of local magistrates to prosecute Gypsies and thereby to exclude them from local communities, and unsuccessfully tried to devise new ways of implementing anti-Gypsy measures more thoroughly. But accepting this official verdict risks obscuring the role of Gypsies themselves in ensuring their own survival: through networks of connections with wider communities, some Gypsies were able to circumvent the laws against them and maintain their former ways of life. The

case of Moses Faw is a remarkable demonstration of how a group of Gypsies was able to avoid prosecution, if only temporarily, in the wake of the Egyptians Act. Faw's petitions to the privy council were cited in the third chapter to illustrate the flexibility that could be shown by authorities, both in their understanding of Gypsy identity, and in the application of the Egyptians Act.<sup>5</sup> In October 1609, three months after the Act had been passed, Faw successfully petitioned the privy council for a licence exempting him and his family from prosecution, despite the Act's annulment of such licences in perpetuity. Faw's exemption was predicated on his being 'a quiet, modest, trew, and humble subject' who rejected the 'society' of Gypsies and their 'thevishe forme of doing', with two members of the powerful Lindsay family of Angus acting as security.<sup>6</sup> Less than two years later, Moses Faw was arrested and tried along with three other Faws under the 'Act anent the Egiptians' before the court of the justice-general in Edinburgh.<sup>7</sup>

Between receiving a licence and his subsequent arrest, Moses Faw disappeared from the official records, but it is possible to reconstruct aspects of his life in the intervening period. Faw and his kin were itinerant and did not settle in Angus as 'humble' subjects under the Lindsays' lordship. By 1611, it had come to the attention of the privy council that Faw and his kin had moved from Angus to Selkirkshire to commit 'reifs' and 'villanies' without fear of punishment, forming an armed band that the magistrates of that county had done little to curb.<sup>8</sup> By April 1611, the lord advocate registered a process against Moses Faw 'for ha[u]nting with the Egiptians', and it took the privy council's cajoling of Selkirkshire's justices of the peace to secure his arrest along with the three other Faws in July the same year.<sup>9</sup> The prisoners were transported to Edinburgh, where Moses Faw again petitioned the privy council. In this petition he admitted that he and his kin had not abandoned their itinerant way of life, but argued that, 'of all the Egiptianis', they were the only ones to have found caution, and had obtained the privy council's permission 'to travell in the cuntrie'. Moreover, he claimed that they were otherwise law-abiding subjects, and that their arrest had been instigated by another group of Gypsies 'that callis them selvis Bailzeis', or Baillies – a group he claimed were in 'naways ansuerable to the laws'.<sup>10</sup> Faw's was not an interpretation shared by Robert Foullis,

---

<sup>5</sup> See ch. 3, pp. 85-88.

<sup>6</sup> *RPCS*, ser. 1, vol. viii, pp. 372, 712.

<sup>7</sup> NRS, JC2/5, fo. 5v-6r; Pitcairn, *Criminal Trials*, vol. iii, pp. 201-2.

<sup>8</sup> *RPCS*, ser. 1, vol. ix, p. 205.

<sup>9</sup> *RPCS*, ser. 1, vol. ix, p. 171.

<sup>10</sup> *RPCS*, ser. 1, vol. xiv, p. 562.

acting as prosecutor on behalf of the lord advocate. Although Foullis accepted that Moses Faw had legitimately received a licence of protection in 1609, he argued that Faw and his family had not kept to the conditions of the licence, citing a witness who testified to ‘Moyses being in companie and societie with the Egiptianis’. Furthermore, Moses Faw had made a ‘band’ or contract with the witness ‘for redressing of dyuerse Thiftis’ – sure evidence, according to the prosecutor, that Faw had not abandoned his criminal ways.<sup>11</sup> To make matters worse for Faw, his cautioner had not paid the £1000 penalty for Faw’s breaking the terms of the licence.<sup>12</sup> Conviction was all but inevitable. Under the Egyptians Act, being ‘knawin to be Egyptians’ was sufficient evidence to secure a guilty verdict. The assize was made up of Edinburgh burgesses who very likely had no neighbourly connections with the defendants, and the assize itself risked indictment for ‘wilful error’ if it failed to convict. Moses Faw and the other Faw men were duly found guilty and sentenced to death.<sup>13</sup> They were to be hanged at the Burgh Muir, the site of a gibbet near the highway entering Edinburgh from the south, a place closely associated with the execution of thieves and sorners during James VI’s reign.<sup>14</sup>

Nevertheless, questions remain regarding how the Faws (and indeed other Gypsies) were able to avoid conviction between 1609 and 1611. Looking beyond the difficulties in enforcing central government legislation as well as persistent judicial lenience, it is clear that Moses Faw himself played a part in avoiding arrest, particularly through his connections with the Lindsay family. The licence granted to Faw by the privy council in 1609 was guaranteed by two Lindsays: David Lindsay of Quarrelhill acting as surety, and Sir David Lindsay, twelfth earl of Crawford, acting as surety-in-relief. The band, registered with an Edinburgh advocate in November 1609, provided security of £1000, with the assurance that Faw would not reset Gypsies and would appear before the privy council when requested. No evidence survives as to why the Lindsays wished to support Moses Faw. Bands of caution were usually provided by kindred, neighbours, or social superiors; in instances where a disparity in wealth and rank existed, they were commonly provided by lords to their men. As Keith Brown has shown, ‘noblemen maintained close links with the rural underworld of bandits, bandit-like groups and individuals’: criminal networks that ‘carried out the dirty work of

---

<sup>11</sup> Pitcairn, *Criminal Trials*, vol. iii, p. 201.

<sup>12</sup> *RPCS*, ser. 1, vol. ix, pp. 82, 110.

<sup>13</sup> *RPS*, 1609/4/32; *NRS*, JC2/5, fo. 6r.

<sup>14</sup> William Moir Bryce, ‘The Magistrates and their Jurisdiction’, in *The Book of the Old Edinburgh Club*, vol. x (T. and A. Constable, 1918), pp. 83-95.

their lords' in exchange for legal immunity and 'protection from their enemies'.<sup>15</sup> Considering the specific social position of the Lindsays of Angus in 1609, this is a plausible explanation for the Lindsays' protection of the Faws, and what the Faws may have offered in return.

In the early seventeenth century, the Lindsays of Angus became notorious for vigorously pursuing blood feuds at a time when the practice was declining across Scotland.<sup>16</sup> As well as being the leader of his surname, the earl of Crawford was a privy counsellor and senator of the court of session. David Lindsay of Quarrelhill was a minor laird who served as one of Crawford's retainers, and was an active participant in Crawford's long-running feud with Sir David Lindsay of Edzell.<sup>17</sup> Like Crawford, Lindsay of Edzell was also a senator of the college of justice and privy counsellor, and their feud had occasioned multiple interventions from the privy council between 1600 and 1616. As early as 1600, all three David Lindsays had been bound by the privy council to keep the peace amongst themselves, but their relations had required the mediation of other privy councillors on multiple occasions.<sup>18</sup> In 1608, Crawford even secured a commission of justiciary which he used as a legal cover to pursue his feud with the Lindsays of Edzell, besieging one of their dwellings.<sup>19</sup> By 1608 the feud, and the privy council's handling of it, had been condemned by James VI by letter, while the council expressed unease that one of their own members was resurrecting the 'monster of deadlie feid'. Crawford was stripped of his privy council commission, while the privy councillors also ordered Lindsay of Edzell to be tried before a justice for the crime of slaughter.<sup>20</sup>

Losing his position as a privy councillor was the beginning of the end for Crawford, and the following year saw a precipitous decline in his political and financial fortunes. He had already been put to the horn for much of 1607-8 for unpaid debts, though he had managed to retain his conciliar

---

<sup>15</sup> Brown, *Bloodfeud in Scotland*, pp. 19-20.

<sup>16</sup> See Anna Groundwater, 'The chasm between James VI and I's vision of the orderly "Middle Shires" and the "wickit" Scottish Borderers between 1587 and 1625', *Renaissance and Reformation / Renaissance et Réforme* 30.4 (2006), p. 107.

<sup>17</sup> *RPCS*, ser. 1, vol. vii, 430; vol. viii, pp. 383-4; vol. xiv, pp. 386, 392-3. Quarrelhill was in the barony of the Forest of Platane, in the parish of Finhaven, Angus. See NRS, GD243/12/4. Lindsay of Quarrelhill appears to have been wealthy in his own right. See *RPCS*, ser. 1, vol. vii, p. 132; vol. viii, p. 783.

<sup>18</sup> *RPCS*, ser. 1, vol. vii, pp. 144, 439; vol. viii, p. 59; vol. xiv, pp. 386. See also See Pitcairn, *Criminal Trials*, vol. ii, p. 530; vol. iii, pp. 61-64, 248. Keith M. Brown briefly discusses the context and implications of this feud. See Keith M. Brown, *Bloodfeud in Scotland*, pp. 74, 76, 218, 245.

<sup>19</sup> Brown, *Bloodfeud in Scotland*, p. 74.

<sup>20</sup> *RPCS*, ser. 1, vol. viii, p. 168.

place, attending privy council meetings through much of 1609. That November, he was again condemned by the king for ‘insolent procedingis’, this time for feuding with William Fullartoun, involving an ambush on Fullartoun’s wife in which she was injured and one of her servants killed.<sup>21</sup> The following month, Crawford was pursued by the lord advocate for yet another feud-related incident, in which Crawford, Lindsay of Quarrelhill, and others had pursued one Thomas Fotheringham in an armed chase through the streets of Dundee.<sup>22</sup> The prosecution against Crawford was dropped due to lack of evidence, but Crawford lost his place on the privy council, and in 1610 was subjected to a privy council proclamation requiring all citizens to avoid supporting him in any way, and preventing his transportation from the kingdom.<sup>23</sup> Crawford spent much of the 1610s facing criminal prosecution, and was in and out of debtors’ prisons until his death under ward in Edinburgh Castle in 1620. Following his involvement in the chase in Dundee in 1609, David Lindsay of Quarrelhill disappeared from the official records.

Although it is unlikely that the two Lindsays had the money, influence, or inclination to aid Moses Faw and his fellow Gypsies in 1611, it is plausible that an individual such as Crawford might seek ‘to have some muscular hangers-on who depended totally on him for their survival’, as Rosalind Mitchison has suggested.<sup>24</sup> Although this relationship did not save the Faws from conviction, it may, ironically, have been a factor that led to their arrest. In exchange for loyalty and partisanship, lords would assist their men in private disputes and protect them from prosecution. Moses Faw claimed that his arrest in 1611 by the laird of Lamington, one William Baillie, had been at the behest of ‘the Egiptianis that callis them selvis Bailzeis’.<sup>25</sup> Faw’s phrase is suggestive: the other band of Gypsies called themselves Baillies, after the Laird of Lamington, but were not genuine kindred of that surname. The (non-Gypsy) Baillies of Lamington were prone to feuding, accused by one victim of disturbing the ‘peace and quyetnes’ of the Scottish Borders and reviving ‘the old accustomed insolencies and disorders’ that had plagued the region before 1603.<sup>26</sup> William Baillie of Lamington was also one of Crawford’s creditors. Like their patrons, the Faw and Baillie Gypsies appear to have been locked in longstanding feud, with Moses Faw claiming that Baillies had ‘divers

---

<sup>21</sup> *RPCS*, ser. 1, vol. viii, pp. 609-10.

<sup>22</sup> *Ibid.*, pp. 383-84.

<sup>23</sup> *RPCS*, ser. 1, vol. ix, p. 80.

<sup>24</sup> Mitchison, *The Old Poor Law in Scotland*, p. 14.

<sup>25</sup> *RPCS*, ser. 1, vol. xiv, p. 562.

<sup>26</sup> *RPCS*, ser. 1, vol. viii, pp. 803-4.

tymes invadit me, my brether and servandis, for persuit of our lyf'.<sup>27</sup> The feud was presumably not as one-sided as Faw claimed, given the report that Faw and his kinsmen were armed with 'hagbutts and pistols'.<sup>28</sup>

Both the Faws and Baillies thus avoided prosecution under the terms of the Egyptians Act by retreating from centres of crown authority and becoming clients of feuding lords. As such, their position had clear parallels with Highland bandits and Border reivers who likewise occupied the attention of central authorities. In 1616, for example, the privy council issued a proclamation which complained that since the Egyptians Act, Gypsies had withdrawn to the realm's 'derne and obscure placeis' where they had found the protection of landowners, men who 'outwardlie pretendis to be famous and unspotted gentilmen'. Such protection had allowed Gypsies to regroup 'in infamous companies and societies under commanderis' in order to commit thefts, robberies, and 'abuse the simple and ignorant' with fortune-telling, charming, and other trickeries.<sup>29</sup> While these well-rehearsed accusations contained formulaic hyperbole, they are nevertheless revealing. The Faws and Baillies did find the protection of 'famous and unspotted gentilmen' in the Borders, much like other Gypsies who found safety in the Highlands during the same decade.<sup>30</sup> Meanwhile, recent scholarship has shown that the Borders in the early seventeenth century were not the lawless and violent place imagined by contemporary officials and nineteenth-century historians.<sup>31</sup> Rather, Anna Groundwater has suggested that the region was actually subject to 'over-government' relative to the rest of the kingdom, and that the archival prominence of Border violence is a result of governmental sensitivity, and not higher incidences of feuding or banditry.<sup>32</sup> The case of Moses Faw fits into this picture, if a little uneasily. Faw and his kin managed to avoid prosecution by gaining the backing of a powerful Angus family, and by using a licence granted by the privy council. Once pursued, they were arrested relatively efficiently by Selkirkshire's magistrates. Facing threat of prosecution,

---

<sup>27</sup> *RPCS*, ser. 1, vol. xiv, p. 562.

<sup>28</sup> *RPCS*, ser. 1, vol. ix, p. 205.

<sup>29</sup> *RPCS*, ser. 1, vol. x, pp. 655-57.

<sup>30</sup> See *RPCS*, ser. 1, vol. xii, pp. 243-44.

<sup>31</sup> See Maureen Meikle, *A British Frontier? Lairds and Gentlemen in the Eastern Borderlands* (East Linton, 2004); Groundwater, *The Scottish Middle March*; Jenna M. Shultz, *National Identity and the Anglo-Scottish Borderlands, 1552-1652* (Martlesham: The Boydell Press, 2019).

<sup>32</sup> Groundwater, *The Scottish Middle March*, p. 18.

however, the Faws and Baillies were nevertheless drawn to the Borders as a sparsely populated region at the edge of the crown's jurisdiction.

### ***The Gypsies of Roslin and East Lothian***

The example of the Faws and Baillies suggests that Gypsies were pushed to the social and geographical margins of Scotland in the wake of the Egyptians Act. While this may have been the case at first, it did not remain so for very long. By the early 1620s (and possibly earlier), Gypsies found safety at Roslin, only eight miles from Edinburgh. There they were shielded from prosecution by the Sinclairs of Roslin, a relationship briefly discussed in previous chapters. With its picturesque castle, glen, gothic chapel, and a long line of owners associated with Catholicism and freemasonry, Roslin has long attracted romantic myth-making, and tales of Roslin as a sanctuary for Gypsies have unsurprisingly been often repeated and embroidered.<sup>33</sup> Adopting a cautious approach to limited evidence, it is nevertheless possible to see past the legendary portrayals and get closer to a more prosaic, though still compelling, reality. Roslin was not the 'Patmos of the outlawed race', but one place amongst many where Gypsies were afforded a degree of protection by landlords and magistrates prepared to weather the condemnation of church courts and the privy council.<sup>34</sup>

Writing in 1700, Richard Augustine Hay described how in 1559, Sir William Sinclair, fourteenth baron of Roslin and 'lord justice-general' had 'delivered once ane Egyptian from the gibbet'. As a consequence, 'the whole body of gypsies were, of old, accustomed to gather in the stanks of Roslin every year, where they acted severall plays, dureing the moneth of May and June'.<sup>35</sup> Whilst at Roslin, the Gypsies took up residence in 'two towers... one called Robin Hood, the other Little John'.<sup>36</sup> Since Gypsies had been employed as performers in the reign of James IV and had been associated with the practice of 'guising' by post-Reformation kirk sessions, Hay's account is by no means far-fetched. But the anecdote is a poor evidentiary base on which to build conclusions about

---

<sup>33</sup> See Alexander Sinclair, *Sketch of the History of Roslin & its Possessors* (Irvine: M. Dick, 1856); William Chambers, *Domestic Annals of Scotland from Reformation to Revolution*, vol. i, second edition (Edinburgh: W. & R. Chambers, 1859), p. 540; MacRitchie, *Scottish Gypsies*, p. 56.

<sup>34</sup> Chambers, *Domestic Annals of Scotland*, vol. i, second edition, p. 540.

<sup>35</sup> The meaning of 'stanks' here is unclear. It maybe interpreted as 'marshes', 'moat', or 'river banks'.

<sup>36</sup> Richard Augustine Hay, *Genealogie of the Sainteclaires of Roslin* (Edinburgh: Thomas G. Stevenson, 1835), p. 136.

Gypsies or theatre in early modern Scotland, despite a number of attempts to do so.<sup>37</sup> A Catholic priest and genealogist, Hay drew on documentation from the (now lost) muniments of the Roslin charter-chest, transcribing some of its contents in his *Genealogie of the Sinclairs of Roslin*, written in c.1700 and published in 1835. Unfortunately, Hay's transcriptions were somewhat haphazard in accuracy and his historical claims often spurious. His insistence, for example, that Sinclair was lord justice-general in 1559 arose from a confusion of that position with a commission of justiciary, and there is no surviving evidence of a Gypsy being tried before the court of the justice-general in that year. But Hay's claim that Gypsies performed plays at Roslin cannot be instantly dismissed. As discussed in the second chapter, Gypsies had been employed as dancers in Scotland during the first half of the sixteenth century, just as they had been by royal courts and noble households elsewhere throughout Europe.<sup>38</sup> Following the Reformation, Scotland's church courts chastised individuals for 'guising' and 'dancing' with Gypsies, and implored the parliament to take action against those who profaned 'the Sabbath day be Robein Hoodes playis', while anti-vagrancy legislation bracketed Gypsies with 'juglaris' and those 'using subtilie, crafty and unlauchfull playis' – that is, conjurers and magicians.<sup>39</sup> It remains nevertheless a stretch to accept Mark Netzloff's claim that 'a group of gypsy players' resulted in a 'carnavalesque tradition of annual plays' at Roslin between 1559 to 1628.<sup>40</sup>

There is, however, firmer evidence of Gypsies' presence at Roslin during the 1620s. In the summer of 1623, the privy council denounced the continued presence of a number of Gypsies in and around Roslin, where they had found 'peceable ressett and aboade as yf thay were laughfull subjectis'; a base from which they could commit theft and robbery 'in all partis'.<sup>41</sup> The estate of Roslin was owned by Sir William Sinclair, sixteenth baron of Roslin, who had been appointed both sheriff and JP of the shire of Edinburgh in the previous two years, and therefore had a duty to apprehend and prosecute the Gypsies.<sup>42</sup> Sinclair was of a type much lamented and condemned in earlier anti-Gypsy

---

<sup>37</sup> See Bryce, 'The Magistrates', in *The Book of the Old Edinburgh Club*, vol. x, pp. 92-93; Mark Netzloff, "'Counterfeit Egyptians" and Imagined Borders'; Eila Williamson and John J. McGavin, 'Crossing the Border: The Provincial records of Southeast Scotland' in *REED in Review* (Toronto: University of Toronto Press, 2006).

<sup>38</sup> See ch. 2, p. 45-46.

<sup>39</sup> See *RPS*, A1575/3/5; 1579/10/27; *NRS*, CH2/338/1, 37v; *Acts and Proceedings of the General Assemblies of the Kirk of Scotland, 1560-1618*, (Edinburgh: The Bannatyne Club, 1839), pp. 784-85.

<sup>40</sup> Netzloff, "'Counterfeit Egyptians" and Imagined Borders', p. 776.

<sup>41</sup> *RPCS*, ser. 1, vol. xiii, pp. 295-96.

<sup>42</sup> *Ibid.*, p. 43.

proclamations. He was both a ‘negligent’ magistrate who failed to arrest Gypsies, to the chagrin of central authorities, and one of the superficially ‘famous and unspotted gentlemen’ who gave Gypsies open protection ‘upoun thair ground and landis’.<sup>43</sup> Over a decade earlier, Sinclair’s local kirk session of Lasswade had directed him and other landowners in the parish to avoid resetting Gypsies, but seemingly to little effect.<sup>44</sup> The council ordered Sinclair to arrest the Gypsies on his land, permitting him, if necessary, to ‘raise the inhabitantis... in armes’ to assist in the task. Sinclair was not granted a commission of justiciary or expected to convene a sheriff court, but rather was required to transport them to Edinburgh for trial.<sup>45</sup> The following month, Sinclair was stripped of his sheriffdom.<sup>46</sup>

By January 1624, at least twenty Gypsies were being held prisoner in Edinburgh tolbooth, and were tried collectively in two cases heard before Sir George Erskine of Innerteil. Erskine was serving as ‘chief justice’ in place of the justice-general, the latter office having become void due to the exile of its holder, Archibald Campbell, seventh earl of Argyll.<sup>47</sup> Just weeks before the trial, the privy council had ordered sheriffs throughout central Scotland and the Borders to apprehend all Gypsies within their jurisdictions and ‘execute thame to the deade’ in accordance with the Egyptians Act.<sup>48</sup> The Gypsies held in Edinburgh had been arrested in East Lothian, and although the justiciary records reveal nothing of their lives prior to being arrested, what happened after the trials was intriguing.<sup>49</sup> The prisoners were divided according to gender and tried separately. The eight males were tried first, their indictment describing them as being ‘callit, knawin, repute, and haldin egyptianes’, in contempt of the Egyptians Act. Although their dittay contained no other criminal charges, all eight were found guilty by an assize and were sentenced to death by hanging.<sup>50</sup> But the executions did not go to plan. As the prisoners were led to the gallows immediately following their conviction, the bailies received a privy council warrant to delay the hanging. There was an uproar of

---

<sup>43</sup> See, for instance, *RPCS*, ser. 1, vol. x, pp. 655-57; vol. xii, pp. 312-14.

<sup>44</sup> NRS, CH2/471/1.

<sup>45</sup> *RPCS*, ser. 1, vol. xiii, pp. 295-96.

<sup>46</sup> *Ibid.*, p. 333.

<sup>47</sup> See *RPCS*, ser. 1, vol. xiii, p. 404.

<sup>48</sup> *Ibid.*, pp. 392-93.

<sup>49</sup> David MacRitchie mistakenly asserted that they had been arrested by Sinclair at Roslin. See MacRitchie, *Scottish Gypsies*, p. 99.

<sup>50</sup> *Criminal Trials*, vol. iii, pp. 560-62.

support for the condemned prisoners from the gathered spectators, who attempted to free the prisoners and succeeded in unfettering one, Gavin Trotter, who was then ‘cunninglie and craftelie convoyed away’.<sup>51</sup> The other prisoners were recaptured, and the privy council decided by a plurality of votes to carry out their execution, given that the Gypsy men had been convicted, were ‘of aige’, and the sentence would ‘gif a terrour’ to other Gypsies in the realm.<sup>52</sup> The council also allowed the execution of the female prisoners to proceed, who had also been convicted under the Egyptians Act, and sentenced to death by drowning.<sup>53</sup> As discussed in the third chapter, the execution of these women was stayed following an intervention by James VI, and the privy council’s delaying of the execution of the men suggests that central authorities were hesitant to execute on the basis of Gypsy identity alone. While the motivations of the crowd that liberated Gavin Trotter remain unknown, their actions, alongside the hesitance of the privy council in condemning Gypsies simply for ‘being Egyptian’, suggests that in Edinburgh, as elsewhere in Scotland, Gypsies were not universally reviled or seen as irredeemably criminal.

Even after the proclamation, arrests and convictions in 1624, Gypsies continued to live in the vicinity of Edinburgh and found safety on the estates of gentry. In 1634, for instance, George Sydsarf, the minister of Cockburnspath, a Berwickshire village south-east of Dunbar, complained of being harassed by a group of Gypsies. In a submission to the privy council, Sydsarf claimed that two years previously, a group of Gypsies had broken into his house, destroyed his belongings, and chased him in armed pursuit. Sydsarf further claimed that Gypsies regularly found shelter in the lordship of Thornton and Dunglass, a nearby estate owned by James Home, third earl of Home, and managed by a bailie called George Home. According to Sydsarf, George Home had received a stolen horse from these Gypsies, and was in regular communication with them, disregarding both the law and his own duties as bailie of the lordship. To this end, Sydsarf claimed to have procured a commission at an earlier date requiring George Home and other landowners in the county to apprehend the Gypsies and transport them to Dunbar or Haddington for trial. Evidently this commission had been neglected, for Sydsarf complained that, in the past year, as many as fifty or sixty Gypsies had been ‘sorning in East Louthian togidder in troups’, harrying Sydsarf’s parishioners and forcing men and women ‘out of thair beds and lyne in the same thameselves’: the

---

<sup>51</sup> *RPCS*, ser. 1, vol. xiii, pp. 410-11.

<sup>52</sup> *Ibid.*, p. 415.

<sup>53</sup> *Criminal Trials*, vol. iii, pp. 560-61.

offence of sorning. Sydserf recounted sending George Home a copy of the commission against the Gypsies, and alleged that Home had ignored it and continued to harbour Gypsies ‘within his bounds all that night’.<sup>54</sup> In response to Sydserf’s complaint, the privy council registered a letter of horning against Home, although no arrests or trial appear to have ensued.<sup>55</sup> While it is unclear why Home would shelter Gypsies on his land, it is notable that the third earl of Home claimed the right to exact customs from St Boswell’s fair.<sup>56</sup> An annual event held every July, the fair had become closely associated with Scottish Gypsies and Travellers by the early nineteenth century.<sup>57</sup>

Not all Gypsies therefore retreated to the Highlands and Borders to live as bandits and reivers in the decades following the Egyptians Act. While evidence of Gypsies living in Roslin and East Lothian stems from efforts to eject or suppress them, it does not seem Gypsies were considered an alien intrusion or alarmingly unfamiliar to those living near to Scotland’s political and economic centre. Although Gypsies were repeatedly condemned by the privy council and, at a local level, by ministers like George Sydserf and members of the Lasswade kirk session, these condemnations were partly directed to fellow countrymen willing to harbour and protect Gypsies. While reconstructing the precise routes that Gypsies regularly travelled during this period remains impossible, Gypsies clearly spent days or weeks at a time in rural areas in central Scotland and could move around the nation and across the borders between kingdoms with relative ease. Itinerancy was doubtless a good way to avoid arrest and prosecution at a time of weak central authority and poor lines of communication, but Gypsies thereby also needed to maintain relations with a range of Scots, and not just those living at the country’s political, economic, and geographical margins.

### ***Communities in upheaval: the 1640s and 1650s***

Amid successive political and social crises in Scotland, the 1640s and 1650s were decades of disease, war, regime change, and economic turmoil that touched every aspect of society. What is not immediately clear, however, is how such upheavals affected ties between Gypsies and the wider

---

<sup>54</sup> *RPCS*, ser. 2, vol. v, p. 402.

<sup>55</sup> *Ibid.*

<sup>56</sup> See *RPCS*, ser. 2, vol. vi, pp. 262, 277, 589.

<sup>57</sup> See Simson, *A History of the Gypsies*, pp. 309-10.

communities in which they lived. The previous chapter showed that an emboldened general assembly encouraged the prosecution of Gypsies during the 1640s, twice petitioning the covenanting parliament about the matter, and that lower church courts continued to investigate and punish resettlers of Gypsies throughout the period. But the Covenanter regime passed no new laws or proclamations concerning Gypsies, and they were referred to only fleetingly in the administrative reforms enacted by the Cromwellian regime. In an English context, David Cressy has noted that ‘traces of Gypsies faded from view in the mid-seventeenth century, amid the drama of civil wars and revolution’ and only appeared ‘more frequently in the years of the Interregnum, when routine administrative order was to some extent restored.’<sup>58</sup> The same could be said of Scotland, although evidence is even more limited. Focusing on three examples, it is possible to tease out ways that which Gypsies were impacted by mid-century events: being coopted to fight in a Royalist uprising, identified as a disordered and subversive influence by occupying English forces, and prosecuted under the Egyptians Act by English magistrates. While these instances indicate that Gypsies were not unscathed by war and regime change, they also show that Gypsies’ marginal status and well-established survival strategies meant that they remained as much a part of Scottish life in 1660 as they had been in 1638.

One of the few surviving references to Gypsies’ military participation in the Wars of the Three Kingdoms relates to their participation in the lightning campaign against the Covenanters that was led by James Graham, first Marquess of Montrose, in 1644-45. Leading a small army, Montrose won a series of battles against overwhelming military odds that quickly assumed a legendary air.<sup>59</sup> Montrose’s military success left the Covenanters in disarray, and the Royalists potentially able to reassume control of Scotland. Although few lowland Scots joined his rising, Montrose was able to raise Gypsies to serve in his army in the weeks before his final major victory at Kilsyth in August 1645. Writing over two decades after the encounter, James Fraser recounted that ‘at this time very strick acts were made against Gypsies, being so numerous and uneasy to that kingdom’, which directly prompted ‘the prime of them [to] offer their service to Montross, who accepted them, being pretty men, Browns, Baliss, and Faas’.<sup>60</sup> In this context, ‘pretty’ presumably meant brave,

---

<sup>58</sup> Cressy, *Gypsies*, p. 104.

<sup>59</sup> See Charles Singleton, *Famous by My Sword: The Army of Montrose and the Military Revolution* (Warwick: Helion & Co., 2015).

<sup>60</sup> James Fraser, ‘Polichronicon seu policratia temporum (The True Genealogy of the Frasers, 1666)’, reprinted in William Mackay ed., *Chronicles of the Frasers* (Edinburgh: T. and A. Constable, 1905), p. 330.

courageous, or strong. Although Fraser held Montrose's enterprise in reverence, extensively lauding his personal qualities and exaggerating his military successes, his account of Gypsies' enlistment is plausible. Browns, Baillies, and Faws were prominent seventeenth-century Gypsy surnames and many had sought protection from the Egyptians Act by developing ties with powerful families. Since Gypsies had assisted their Highland patrons in pursuing feuds during the 1610s, it seems logical that Gypsies would likewise offer military service when necessary.<sup>61</sup> Fraser regarded the Gypsies' decision to join Montrose as a way to escape prosecution, and Gypsies may indeed have felt threatened by the ascendancy of religiously zealous, reform-minded Covenanters, even though the period witnessing no new anti-Gypsy measures or major Gypsy trials. Despite achieving significant military victories, Montrose failed to assume political control and remained reliant on personal loyalty, kinship ties, and adherence to the Royalist cause to raise troops. Accordingly, his army comprised those marginalised by the Covenanting regime: men who, following Charles I's eventual defeat in the mid-century civil wars, would be labelled 'moss-troopers': armed bandits much-maligned by the subsequent Cromwellian regime as progenitors of disorder and resistance in the Scottish Highlands and Borders.<sup>62</sup>

Gypsies were likely to have been affected by the Covenanters' widespread mobilisation and militarisation of Scotland during the late-1630s and 1640s. Since 1620, when the privy council first authorised criminal transportation for vagrants, Gypsies had been at risk of being pressed into military service abroad. Given that the core of the Covenanters' army in 1638-9 constituted veterans from foreign campaigns, some Gypsies may also have served in this capacity, although no evidence survives of such service. The majority of Covenanter soldiers were recruited through levies, with kirk sessions and local magistrates also encouraging enlistment. Levies were an effective form of recruitment, but less likely to impact Gypsies, who were alienated from the institutions of local governance.<sup>63</sup> After the final defeat of the Covenanter regime by English Commonwealth forces, a report from the English army dated 1 January 1652 noted the presence of Gypsies in Scotland, describing their way of life in much the same terms as Scottish lawmakers had in the earlier part of

---

<sup>61</sup> See *RPCS*, ser. 1, vol. xii, pp. 243-44. It may be no coincidence that many of the patrons mentioned earlier in this chapter, such as the Sinclairs of Roslin and the Earls of Roslin, fought for the Royalist cause during the 1640s.

<sup>62</sup> See F. D. Dow, *Cromwellian Scotland, 1651-1660* (Edinburgh: John Donald, 1979), pp. 144, 188.

<sup>63</sup> See Edward M. Furgol, 'Scotland Turned Sweden: The Scottish National Covenant and the Military Revolution, 1638-1651', in John Morrill ed., *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1989), pp. 138-40.

the decade. Entitled 'A News-Letter from Dundee', the report described the mopping-up operation by Commonwealth troops in north-east Scotland following the fall of Dundee and Charles II's defeat at Worcester. The report's anonymous author was primarily interested in the potential for resistance and disorder in northern Scotland, describing the dispersal of Covenanter regiments and the whereabouts of two prominent moss-troopers, Patrick Gordon (called 'Steelhand the Mosser') and Captain Augustine Hoffmann. The account then added:

There are about an hundred people of severall nations, call'd heere by the name of Egyptians, which doe att this day ramble uppe and downe the North Highlands, the cheifest of which are one Hause and Browne: they are of the same nature with the English Gypsies, and doe after the same manner cheate and cosen the country.<sup>64</sup>

As well as drawing a notable comparison between English Gypsies and Scottish 'Egyptians', the English commentator's remark suggested that Scottish Gypsies continued to form itinerant 'bands' or 'troops', divided into surname groups. But inclusion of Gypsies in the 'News-letter' had another implication: Gypsies were clearly bracketed with the disordered and subversive elements of Scottish society that the Cromwellian regime would work hard to suppress.

The English military occupation of Scotland during the 1650s transformed the personnel, institutions, and priorities of the country's government. Much of the day-to-day administration was undertaken by English army officers. The court of session and office of lord-justice general were abolished, replaced by a body of English and Scottish judges known as the 'Commission for the Administration of Justice'. Only English judges could oversee criminal trials, and were expected to undertake annual circuits, reviving an ancient Scottish practice that, it was hoped, would improve law and order.<sup>65</sup> All existing sheriffs were dismissed, and in the first half of the 1650s, the role was divided between English military officers and civilian Scots loyal to the regime, while heritable jurisdictions were abolished. The office of justice of the peace was re-established in 1655. Under the Protectorate, JPs were accorded enhanced and significant responsibility in many criminal matters, as well as responsibility for administering poor relief and prosecuting moral offences, tasks

---

<sup>64</sup> C. H. Firth ed., *Scotland and the Commonwealth: Letters and papers relating to the military government of Scotland, from August 1651 to December, 1653* (Edinburgh: Edinburgh University Press, 1895), pp. 28-29.

<sup>65</sup> Dow, *Cromwellian Scotland*, pp. 176-77.

formerly undertaken by the church courts and other local magistrates.<sup>66</sup> JPs were overseen by commissions of the peace, whose membership included prominent English officers of each district, as well as General George Monck, acting as *de facto* governor of Scotland between 1654 and 1659.<sup>67</sup> Such changes were designed to reduce the power of Scottish magnates, church courts, and any others hostile to the Protectorate, and were apparently successful, at least in the short-term. Much else remained unchanged. The new judges and magistrates enforced Scots law, and appealed to Scottish statutes in their proclamations. The Protectorate's officers required the support of local landowners, heads of surname, and clan chiefs to secure their interests and establish order in the localities. Kirk sessions and presbyteries continued to function. The English military commanders-in-chief, Robert Lilburne followed by George Monck, remained concerned about the social and political threat posed by vagrants, instituting innovative new policies to tackle the problem, much as their civilian predecessors had during the reigns of James VI and Charles I.<sup>68</sup>

Measures tackling vagrancy undertaken by the Cromwellian regime would have undoubtedly affected Gypsies. The commissioners for the administration of justice made a proclamation in July 1653 to all officers and civilian magistrates, ordering them to enforce existing legislation against 'Vagabounds, masterfull Beggars, Strong and idle persons', in particular the poor law of 1579.<sup>69</sup> This proclamation was reinforced less than three months later by Colonel Robert Lilburne, then commander-in-chief of the armed forces in Scotland. Lilburne, alarmed by continued reports of murder, thefts, and robberies in the realm, demanded that all suspect persons be arrested by magistrates and turned over to the army, to be disposed of at the direction of civil judges or Lilburne himself.<sup>70</sup> Some communities were permitted to maintain an armed guard to defend themselves against moss-troopers and other bandits in a policy continued under General Monck, for whom distinctions between vagrants and political dissidents were unimportant. Building on measures taken by Lilburne, in 1654 Monck granted commissions to loyal Scots prepared to apprehend 'moss-troopers, thieves or idle persons' in exchange for one pound sterling for each person handed

---

<sup>66</sup> *Ibid.*, p. 179.

<sup>67</sup> C. H. Firth ed., *Scotland and the Protectorate: Letters and Papers relating to the Military Government of Scotland from January, 1654 to June, 1659* (Edinburgh: T. and A. Constable, 1899), pp. 308-318.

<sup>68</sup> Dow, *Cromwellian Scotland*, pp. 107-8.

<sup>69</sup> Firth ed., *Scotland and the Commonwealth* pp. 155-56.

<sup>70</sup> *Ibid.*, pp. 229-30.

over to the English troops.<sup>71</sup> New justices of the peace created in 1655 were ordered to execute the laws ‘against willful Beggars and Vagabonds, idle men and women... and those persons commonly called Egyptians’.<sup>72</sup> Although Monck had envisioned that these magistrates would have much the same duties as their English counterparts, their responsibilities directly mirrored those established in Scottish legislation enacted in 1610 and 1617. The Protectorate continued the earlier practice of pressing vagrants and other criminals into service in foreign wars, with evidence surviving of at least one Gypsy fighting as a mercenary in the Swedish Wars of 1655-7.<sup>73</sup> Moreover, travel restrictions culminated in a proclamation in 1654 forbidding anyone to travel more than five miles from their residence without a pass from the army.<sup>74</sup>

A trial involving a Gypsy held in 1657 illuminates relations between Gypsies and the Cromwellian regime. In February 1657, John Faw was tried in Edinburgh before two of the English judges on the Commission for the Administration of Justice, Edward Moseley and Goodyear. Faw had been arrested and interrogated by Major Abraham Holmes, as justice of the peace for Edinburghshire, with two colleagues from the commission of the peace for the county who were also English military officers.<sup>75</sup> Among Faw’s alleged offences were theft of a horse, vagabondage, and slaughter, which were all crimes that General Monck was intent on suppressing and which he strongly associated with political dissent. Although Faw’s was a trial undertaken by colonial administrators carrying out the priorities of an occupying military regime, in other respects it was similar to previous trials involving Gypsies. Faw was tried under the Egyptians Act, having ‘wandered vp & doun the cuntry’ with his wife and children ‘vnder the Name of Egyptians’.<sup>76</sup> He was also accused of stealing several items of clothing and a horse from the Baillies, another Gypsy family, from whom he had also extorted three hundred merks, and was also accused of playing a part in the slaughter of one William Baillie. The deceased’s son, Edward Baillie, was one of the pursuers (prosecutors) in the trial, along with the solicitor-general.<sup>77</sup>

---

<sup>71</sup> See Dow, *Cromwellian Scotland*, pp. 143-44.

<sup>72</sup> Firth ed., *Scotland and the Protectorate*, pp. 403-4.

<sup>73</sup> NRS, GD6/996, the deposition of Robert Shaw.

<sup>74</sup> Firth ed., *Scotland and the Protectorate*, p. 76.

<sup>75</sup> Firth ed., *Scotland and the Protectorate*, p. 311.

<sup>76</sup> NRS, JC6/5, 133r.

<sup>77</sup> From 1655 to 1658 if not later, the solicitor-general acted as public prosecutor in place of the lord advocate. See Omond, *The Lord Advocates of Scotland*, vol. i, pp. 167-8.

The identity of the Baillies, and the role of Edward Baillie in the prosecution, added further complexity. Witnesses attested to both the Faws and Baillies being Gypsies while, according to the testimony of his wife and children almost twenty years later, John Faw was known as ‘captain’ John Faw, implying that he led a company of Gypsies.<sup>78</sup> John Faw’s indictment outlined how he and his associates had extorted £300 from the Baillies by capturing James, John, Edward, and William Baillie; and that he ‘hade gevin the samen money to ye Lord generall monck for ye baillies ther libertie’. One witness, another William Baillie who was likely to have been related to the pursuer, confirmed that some money had changed hands. Another witness claimed that the Faws ‘fell vpoune the bailleis’ at night and murdered a number of them. Two individuals speaking in favour of John Faw alleged that William Baillie’s murder had been undertaken in self-defence, while a third claimed that, because Baillie was a Gypsy, his slaughter had been legal under the terms of the Egyptians Act. The judges rejected both lines of argument. No witness could say with certainty that John Faw had killed William Baillie.<sup>79</sup> These conflicting testimonies nevertheless indicate that the Faws and Baillies were feuding Gypsy kinship groups, and that the Faws had ambushed the Baillies and killed William Baillie. As had been seen in cases involving the Faws and Baillies in the 1610s, both groups were prepared to leverage the provisions of the Egyptians Act against one another. Despite risk of prosecution as an ‘Egyptian’, Edward Baillie personally pursued Faw through the court. Faw’s indictment posited that he had confessed to paying £300 to the Cromwellian regime in order to secure the freedom of the Baillies on an earlier occasion, while implying that he may have secured their arrest in order to extort money from them. An assize found John Faw guilty of being ‘airt & p[ar]t of the slaucher of W[illia]m bailzie, egyptian’ and he was sentenced to death.<sup>80</sup> His verdict made no reference to his being a Gypsy or being convicted under the terms of the Egyptians Act, and there was no move to prosecute the Baillies for being Gypsies themselves.

While the verdict hints at how the Egyptians Act was interpreted by the English judges, the trial is more significant in terms of locating Gypsies in Interregnum Scottish society. Gypsies proved able to circumvent, use, and abuse the authority of English magistrates, just as they had their Scottish predecessors. This instance also supports arguments that the Cromwellian regime was less

---

<sup>78</sup> See NRS, GD6/995, particularly the depositions of Alexander Faw and Agnes Shaw.

<sup>79</sup>NRS, JC6/5, fos. 134v-r.

<sup>80</sup> *Ibid.* fo. 135v.

successful in bringing order to Scotland and eliminating vagrancy than once supposed.<sup>81</sup> The periods of Covenanter rule and English occupation undoubtedly impacted Gypsy lives: they were affected by the military mobilisation, continued to be proscribed, and found security at the geographical margins. But in many ways, the period was remarkable for how little Gypsy lives changed during this period of national upheaval. Gypsies continued to travel through Scotland in companies, feuded amongst themselves, faced occasional prosecution and sought protection from non-Gypsies, in a pattern that continued in the decades after the Restoration.

### ***The Faws and Shaws in the 1670s***

In November 1675, the bailies of Dunbar complained to the privy council that armed companies of Gypsies, numbering at least sixty in total, had been roaming the coastal road near the town, stealing from farms and committing highway robbery under cover of night. Again, the bailies' complaint broadly echoed accusations levelled against Gypsies in earlier legislation and proclamations, while its particulars closely resembled the petition submitted to the privy council forty years earlier by George Sydserf, minister of nearby Cockburnspath. In 1675, the bailies claimed that at least twenty armed Gypsies had entered Dunbar on the night before the annual burgh fair, and the following day 'many of the persons whoe frequented the mercat found ther goods and moneyes rufled and pyked from them... but could not discover the doers therof'. That evening, two 'companyes' of Gypsies, the Faws and Shaws, had met at an inn and become involved in a violent and drunken dispute, injuring a number of bystanders. The brawl had attracted the local magistrates' attention, who sought to end 'the tumult by comanding them to his Majesties peace', but were themselves 'threatned and abused and some of their serjands wounded'. It was only with the assistance of some townspeople that the magistrates managed to arrest eleven of those involved, and incarcerate them in the town's tolbooth. After 'severall examinations', the bailies concluded that 'they appear to be Egiptians of no imployment or residence' who could not account for their presence in Dunbar. Accordingly, the bailies asked the privy council to transport the prisoners 'to ane surer prisone' and bring them to justice, 'for the security of the said brugh and contrey'.<sup>82</sup>

---

<sup>81</sup> See Patrick Little, 'A Fraudster in Cromwellian Scotland', *Scottish Historical Review* 91 (2012), pp. 344-45.

<sup>82</sup> *RPCS*, ser. 3, vol. iv, pp. 659-60.

The privy council obliged the bailies of Dunbar, ordering the transportation of the eleven suspects to Edinburgh tolbooth, where they were investigated by lord advocate, Sir John Nisbet of Dirleton.<sup>83</sup> The depositions of the suspects survive, along with those of several witnesses whose accounts supply a very different account of events on the evening of Dunbar fair, as well as preceding days. The Gypsies described in the depositions, the Faws and Shaws, were an extended family whose quarrel at Dunbar was part of a long-running feud that lasted for much of the 1670s. Their arrest in 1675 was not their first, or last, encounter with the law: many of the Faw and Shaw men had previously been detained in Edinburgh and were arrested again in 1678, resulting in a trial held before the high court of justiciary that led to their conviction under the Egyptians Act, and their execution. Most of the Faws and Shaws involved were closely related: the younger men executed in 1678 were cousins, and the Faw men investigated in 1675 and tried in 1678 were all children of ‘Captain’ John Faw — the very same man who was hanged by the English judges in 1657 (see fig. 2). But evidence from across the decade suggests that they were not the ‘outsiders’ reported by the bailies of Dunbar. Rather, they lived as semi-settled people in the Scottish Borders. Residing for part of the year in Dunfriesshire, Selkirkshire, and Roxburghshire, the Faws and Shaws were well-known to their neighbours, and periodically travelled to markets and fairs across southern Scotland. Their presence was fairly unremarkable, and though suspected of petty criminality on several occasions, specific violent incidents all appear to have been connected to their intra-familial feud. Moreover, like earlier generations of Gypsies, the Faws and Shaws were also able to leverage magistrates and anti-vagrancy laws in pursuit of their feud.

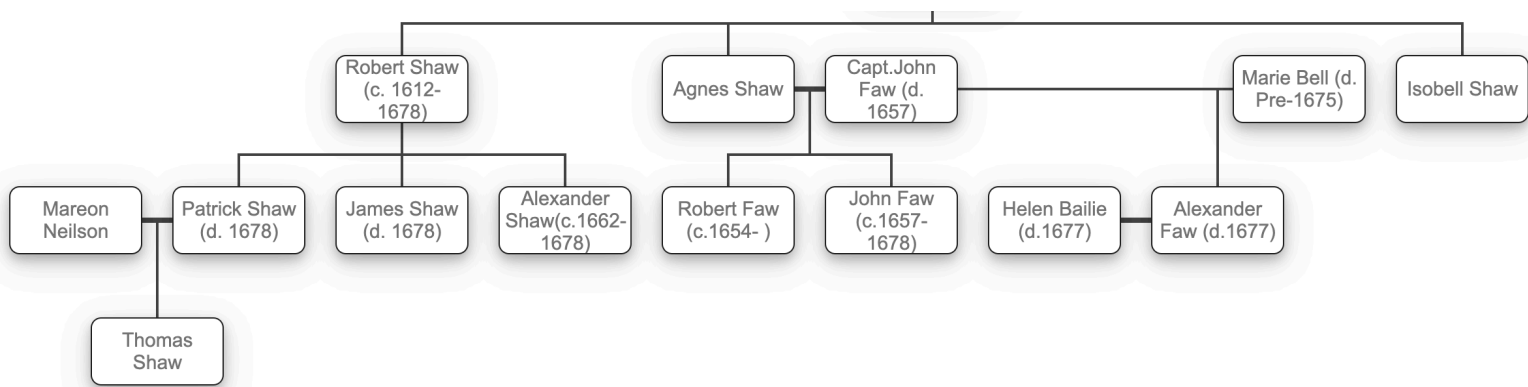


Fig. 2. Family tree of members of the Faw and Shaw families arrested at Dunbar in 1675 and tried before the high court of justiciary in 1678. Based on NRS, GD6/996 (the depositions of William Dumbar, Alexander Faw, Robert Faw, and Agnes Shaw), and JC26/49 (document dated 5 November 1677 and the petition of Agnes Shaw).

<sup>83</sup>*Ibid.*, p. 490. NRS, GD6/996.

Evidence of the dispute between the Faws and Shaws first surfaces in 1671, when Patrick and James Shaw applied to the privy council for a commission to arrest Border vagrants and transport them out of Scotland. The Shaw brothers complained that they and their neighbours in Annandale had long suffered from the depredations of vagrants who travelled through the region committing assaults, theft, and robbery. The petition named fifteen men, including six members of the Faw family, who were ‘notourly known to be idle vagabonds’.<sup>84</sup> The commission that the Shaws sought was much more common following the Restoration: a licence granting private individuals the power to transport criminals to the English colonies. Such individuals actively sought out merchants and ships’ captains looking to profit from selling the prisoners into indentured servitude. Like so many other private commissions in early modern Scotland, the commissions could also be used to settle old scores. Perhaps unsurprisingly given their own identity, the Shaws’ petition made no mention of Gypsies or the Egyptians Act, and instead took advantage of contemporary governmental concern with vagrancy and criminality in the Borders. The privy council granted Shaws the commission for a year, so long as those they arrested were declared to be criminals by a competent magistrate.<sup>85</sup>

The ability on the part of the Shaws to receive such a licence suggests that, for a time at least, they were able to win the confidence of the relevant authorities and act as law enforcers in their own right. But they were also acquainted with the authorities in other ways. For reasons unclear, Patrick and James Shaw along with their father Robert Shaw were arrested in 1673, and imprisoned in Edinburgh thieves’ hole, only to be bailed out to the sum of thirteen pounds sterling by their paternal aunt, Agnes Shaw. Agnes had been given the bail money by her sons, Robert and John Faw. This would later prove significant: during the interrogations following the tumult at Dunbar in 1675 since, after their arrest, Robert and John Faw pleaded that they had only been in Dunbar to recoup the thirteen pounds from the Shaws. The Faw brothers claimed that they had made a ‘band’, or contract, for the advance, and when the Shaws failed to repay them, they had registered letters of horning against the Shaws. The Faws used this as a pretext to pursue the Shaws, first by attempting to employ their local messenger-at-arms, George Kirkup, to deliver letters of horning to the Shaws at Haddington Fair in August 1675. After this proved unsuccessful, they tried to do the same at Dunbar, winning the support of the burgh messenger-at-arms, George Purves. Like the Shaws, the

---

<sup>84</sup> *RPCS*, ser. 3, vol. iii, pp. 427-8.

<sup>85</sup> *RPCS*, ser. 3, vol. iii, p. 428.

Faws had also spent time detained in Edinburgh: in February 1675, Robert Faw had been arrested by order of Edinburgh's magistrates for being 'a giptee & idle person who had idle women following him', while his brother John, mother Agnes Shaw, and her sister Isobel Shaw were also arrested. Robert Faw and his fellow inmates were only freed because it was their first arrest, and on the provision that they never returned to the burgh, under pain of forty dollars 'and further punishment'.<sup>86</sup> A witness in 1675 had also heard that the Faws and Shaws had been arrested for fighting one another at Haddington fair the same year, but had quickly been released, 'it being a trowble to keep them'.<sup>87</sup> Although not pursued simply for being 'Egyptians', the many family members of the Faws and Shaws had at one time or another faced the displeasure of civil magistrates.

The Faws and Shaws were well-known to the communities in which they resided for much of the year. They were often looked on with suspicion and occasionally harassed by local worthies, but were in other ways much like other members of the rural poor. When interrogated, all of the Faws and Shaws denied being Gypsies, and could make credible claims to being poor cottars living in the Scottish Borders. Robert Faw claimed to live in Hyndhope, Selkirkshire with his brother John, and made a living trading horses, fishing, and hunting. Their half-brother Alexander Faw lived a few miles down the glen towards Selkirk, and also described himself as a 'cottar'. A shepherd neighbour was able to attest to their places of residence; and the messenger-at-arms George Kirkup stated that Robert Faw 'had no visible way of living bot being a cottar', and repeated gossip he had heard from his wife and other 'honest women' that 'if there were a good leg of mutton, or other peice of good meat in the mercat', Robert Faw 'did buy it'. He also said that those who lived near Robert's house said that he lived 'as weil as any honest man' in Galashiels, 'tho it wes not known how he Gott money'. Kirkup also claimed that the Faw brothers, as well as 'the shaws' and others 'that hanted with them' were 'commonly repute Gipties and louse men'. They never attended Church, were 'thought to be so prophan as to exchange wyves' and had been condemned for their 'wikednes' by the minister of Galashiels, Hew Scott.<sup>88</sup> Like ministers earlier in the seventeenth century, Scott spoke against Gypsies from the pulpit, and implored the local landowners to eject Robert Faw from their estate. Robert and John Faw's mother, Agnes Shaw, described how she rented a cottage from

---

<sup>86</sup> The dollar coin issued under Charles II was valued at four merks, or 53s. 4d., until 1681, so forty dollars was equivalent to 120 merks or 80 pounds.

<sup>87</sup> NRS, GD6/996. Deposition of George Kirkup.

<sup>88</sup> NRS, GD6/996. Deposition of Patrick Scott, deposition of George Kirkup.

the laird of Philiphaugh and relied on her sons financially, supplementing her income by spinning wool. Agnes's brother, Robert Shaw, claimed to be a tenant of the earl of Annandale, and had 'no way of lyving but his gun and his fishing wand'.<sup>89</sup>

The depositions of various witnesses make clear that the Faws and Shaws were indeed residents of Tweeddale and Annandale, but they were by no means sedentary cottars, confined to the valleys of the Borders. Every member of the family appears to have been highly mobile, travelling for much of the year to fairs throughout lowland Scotland, including Dunbar, Dundee, Galashiels, Haddington, Melrose, Peebles, and Stirling.<sup>90</sup> Rather than staying in barns, kilns, and outbuildings, as Gypsies had in the beginning of the century, the Faws and Shaws slept at inns or the houses of friends and relatives. They were well acquainted with many non-Gypsies, often the socially and economically marginal: their depositions suggest the Faws and Shaws spent time with cottars, widows, a keelman, a brasier, and the runaway servant of an innkeeper. When the Shaws were accused of sorning in 1677, their defence counsel 'absolutlie denied that the defenders did take meat or drink from the people without present payment or taking upon trust'.<sup>91</sup> No witness attested otherwise. Although illiterate, they were well able to employ a writer to draw up a band of debt witnessed by an officer in Edinburgh, as well as messengers-at-arms to register letters of horning. Much like their relationship with the law, the social position of the Faws and Shaws was curiously ambiguous.

These ambiguities were laid bare for the last time in 1677, following a brawl at Romanno Bridge in Tweeddale. According to a contemporary commentator and justice, Sir John Lauder of Fountainhall, the Faws and Shaws had come together 'to unite their forces against the clans of the Brouns and Bailzies', but had fallen out 'in a drunken squabble'. Many of the same individuals who had been arrested at Dunbar were present at Romanno Bridge; Alexander Faw and his wife Helen Baillie were killed. Alexander's brothers, John and Robert Faw, asked John Murray of Romanno, a local landowner who had witnessed the fight, to 'bring them in to Ed[inburgh] wher they might get justice' against the Shaws. But the Faw brothers got more than they bargained for: they along with eleven other members of the extended Faw and Shaw families were arrested and tried before the

---

<sup>89</sup> NRS, GD6/996. Deposition of Robert Shaw.

<sup>90</sup> See NRS, GD6/996; JC2/14, fos. 397v-401r.

<sup>91</sup> JC2/14, fo. 399r.

high court of justiciary. Four of the Shaws – Robert and his sons Patrick, James, and Alexander – were found guilty of slaughtering Alexander Faw and Helen Baillie, and sentenced to death. John Faw was tried and executed for an entirely different case of murder, and the other imprisoned Faws and Shaws were permanently banished from Scotland for the crime of ‘being Egyptians’.<sup>92</sup>

\*

The cases presented in this chapter do not lend themselves well to reconstructing Gypsies’ wider relations with the society in which they lived. They show people living *in extremis*, under real threats of execution, banishment, and impressment; condemned by parliament and privy council and pursued by civil and ecclesiastical magistrates. Other Gypsies able to avoid the authorities have left no paper trail, and remain all but invisible in the archive. But even the Gypsies who were condemned and prosecuted did, for a time at least, manage to build a viable existence at the margins of Scottish communities in the face of legal proscription. From the passage of the Egyptians Act to the 1670s, Gypsies were never complete outsiders, but were repeatedly supplied with shelter and protection by non-Gypsies from across the social spectrum. Despite the risk of prosecution, Gypsies did not just lay low and keep quiet in the seven decades following the passage of the Egyptians Act. They waged bitter, often violent, feuds amongst themselves, and were at times able to manipulate the law and magistrates against their opponents. Furthermore, while many regarded Gypsies with suspicion and disapproval, they were nevertheless a familiar, even unremarkable, presence in much of rural Scotland, and not the desperate and dangerous outlaws described by lawmakers and magistrates.

---

<sup>92</sup> NRS, JC2/14, fos. 402r-403v, 406r.

## *Empire and Race*

Almost six decades after the execution of Moses Faw and his kin in 1611, a company of Gypsies from the Borders was transported to Edinburgh and tried before Scotland's highest criminal court. Once again, the prisoners faced conviction under the Egyptians Act, and with it the looming threat of a capital sentence if convicted. Much like Moses Faw, these Gypsies had avoided the authorities in previous years by relying on the negligence of local magistrates and their own network of connections. As had been the case for Gypsies tried in the reign of James VI, the Faws and Shaws tried in 1678 were found to be 'called knowen repute and holden Egyptians'; of those convicted, the men were sentenced to hanging, and the women to banishment. But what it meant to be banished had changed since the days of Moses Faw. Two of the same Shaw men convicted in 1678 had been pressed into military service in France three years earlier, by order of the privy council. Agnes Shaw was freed from the Edinburgh tolbooth through the surety of a merchant, William Forbes. Whereas in earlier decades, this may have suggested that she had friends in high places, such an action in the 1670s raised the possibility that Agnes Shaw would be transported by Forbes to England's colonial plantations and sold into indentured servitude.

The arrest, prosecution, and punishment of the Faws and Shaws following the Restoration differed markedly from authorities' treatment of Gypsies in the early seventeenth century. Although members of the Faw and Shaw family had been arrested numerous times and their activities drew bitter complaints from local magistrates, they were not met with swift condemnation by the privy council, nor were they the targets of new legislation. When Gypsies were arrested, it was local authorities who appealed for their transportation to Edinburgh for trial, without the top-down pressure for prosecution that had characterised James VI's reign. When investigated and prosecuted by the lord advocate, great emphasis was placed on finding proof that the suspects were indeed 'Egyptians'. The Egyptians Act of 1609 was seen as too vague by Restoration lawyers, given that it did not require proof of a criminal act, but rather recognised Gypsies as embodying a 'criminal identity'. The advocate John Lauder of Fountainhall, writing just after the 1678 trials, noted that one

defendant had been ‘hang’d tho the probation was very slender... yet it was thought sufficient against such cattle, for the being knowen Aegyptian is death by our Acts of Parliament’.<sup>1</sup>

Lauder’s dehumanisation of those convicted – ‘such cattle’ – speaks to a wider shift in the ways that Gypsies were perceived in the late seventeenth century. When the Faws and Shaws were interrogated, they were asked at length about their places of residence, means of livelihood, language, familial connections, and possibly even their skin pigmentation: all in order to establish whether they were ‘such as call themselves Aegyptians’. Witnesses were also asked whether the suspects bore the traits that would form the legal definition of those ‘commonly reputed to be Aegyptians’: people who went ‘up and down the Countrey, bleaking their Faces, telling Fortunes, and speaking the Gebrish’.<sup>2</sup> This passage, from Sir George Mackenzie of Rosehaugh’s *Observations on the Acts of Parliament* (1686), was directly cited in justiciary prosecutions under the Egyptians Act in 1698 and 1699. In Restoration England, anti-Gypsy laws were ‘not animated by due Execution’ and had become ‘a dead letter’, according to a contemporary writer.<sup>3</sup> In Scotland, by contrast, anti-Gypsy legislation had been revived by Mackenzie and his contemporaries, resulting in its continued enforcement until the 1770s, and the execution, transportation, and banishment of dozens more Gypsies under the Act’s authority.

### ***Gypsies, race, and the imperial Atlantic, 1660-c.1700***

This chapter considers the perception and treatment of Gypsies by Scottish authorities from Charles II’s Restoration in 1660 until the end of the seventeenth century. It focuses on two developments, both of which may have origins predating the Restoration, but assumed much greater significance during the second half of the seventeenth century. The first was the use of penal transportation against Gypsies and other vagrants. Penal transportation was conceived as an affordable and relatively merciful way to remove, and even reform, a section of the population deemed incorrigibly criminal. Its introduction in Scotland had little, however, to do with central government policy, but reflected pressure from merchants and local magistrates and was facilitated by Continental

---

<sup>1</sup> John Lauder, *Historical Notices of Scottish Affairs* vol. i, 1661-1683 (Edinburgh: Bannatyne Club, 1848), p. 188.

<sup>2</sup> Mackenzie, *Observations*, p. 334.

<sup>3</sup> *Strange and Certain News from Warwick* (London: Edward Crowch, 1673). Reprinted in William E. A. Axon ed., ‘A Gypsy Tract from the Seventeenth Century’, *Journal of the Gypsy Lore Society* 1(1908), p. 70.

European wars and the economic expansion of English colonies. The second development was the emergence of the ‘Egyptian’ as a nascent racial category. Not only was the Egyptians Act of 1609 revived during the Restoration, but Gypsies were also defined in terms that differed strikingly from their categorisation on the basis of behaviour, foreignness, and itinerancy under James VI. Specifically, the use of language, skin colour, and lineage to identify and prosecute Gypsies appears to have had no precedent in Scotland before the Restoration, and this chapter will explore each in turn.

While the place of Scotland in the imperial Atlantic prior to the Acts of Union has received some scholarly attention, extant research has focused on Scotland’s failed colonial ventures, and less work has been undertaken on the role of Scots in English colonies.<sup>4</sup> As Stephen Mullen has noted, the relationship between Scotland and chattel slavery is only just beginning to be ‘centred’ within eighteenth-century historiography and a great deal ‘more remains to be understood’ about the subject prior to 1707.<sup>5</sup> In the relatively rich historiography of early modern Scots abroad, Gypsies appear rarely, despite evidence of their service in Continental European armies and their transportation to America.<sup>6</sup> While the work of Gwenda Morgan and Peter Rushton has recognised the ‘distinctive nature of Scottish banishment’, and characterised the transportation of Scottish Gypsies and other vagrants as “‘ethnic cleansing’ before the name’, their scholarship is heavily reliant on nineteenth-century accounts of Gypsies, and fails fully to contextualise the transportation of Gypsies within their longer term treatment by Scottish authorities.<sup>7</sup> As we shall see, by tracing use of penal transportation as a punishment for Gypsies, it is possible to demonstrate one way in which Scottish society and government policy was affected by mercantile imperialism.

---

<sup>4</sup> For a discussion of the extant historiography up to 2011, see John M. Mackenzie and T.M Devine eds., *Scotland and the British Empire* (Oxford: Oxford University Press, 2011), pp. 6-9. Subsequent work on the subject includes Julie Orr, *Scotland, Darien and the Atlantic World, 1698-1700* (Edinburgh: Edinburgh University Press, 2018); Joseph Wagner, ‘The Scottish East India Company of 1617: Patronage, Commercial Rivalry, and the Union of the Crowns’, *The Journal of British Studies* 25 (2020); Peter Moore, *Carolina’s Lost Colony: Stuarts Town and the Struggle for Survival in Early South Carolina* (Columbia, South Carolina: The University of South Carolina Press, 2022); Gabriel Glickman, *Making the Imperial Nation: Colonization, Politics, and English Identity, 1660-1700* (New Haven: Yale University Press, 2023), pp. 281-97.

<sup>5</sup> See Stephen Mullen, ‘Centring transatlantic slavery in Scottish historiography’, *History Compass* 20 (2022).

<sup>6</sup> See David Dobson, ‘Seventeenth-Century Scottish Communities in the Americas’ in Alexia Grosjean and Steve Murdoch eds., *Scottish Communities Abroad in the Early Modern Period* (Leiden: Brill, 2005); T. M. Devine, *Scotland’s Empire, 1600-1815* (London: Allen Lane, 2003), esp. chapter 2.

<sup>7</sup> See Morgan and Rushton, *Banishment in the Early Atlantic World*, esp. ch. 2.

Taking a broader view, much has been written about the Atlantic trade in people and its impact on the development of racial categories in the late seventeenth century. It was during this period that a formal system of racialised chattel slavery emerged in the English colonies of Barbados, Jamaica, and the Carolinas, replacing what Simon Newman has called a ‘class-based system of labour’.<sup>8</sup> Ideas about the origins of human difference were hotly contested amongst intellectuals in the imperial metropolises, particularly in relation to skin pigmentation. As Craig Koslofsky has written, during this period ‘skin color was becoming an important practical and legal category in colonial societies and a fascinating question for scholars, theologians, and natural philosophers in imperial centers such as Madrid, London, and Paris’.<sup>9</sup> The way that racial categories specifically affected Gypsies in the English and French colonies has been explored by Ann Ostendorf, while Bill Donovan and Martin Fotta have considered how Gypsies were racialised in Portugal and its early modern colonies.<sup>10</sup> Nicholas Saul and Leonardo Piasere have shown how mid seventeenth-century German writers sought to define the *Zigeuner*, or Gypsy, in terms of their perceived ethnic and linguistic origins.<sup>11</sup> Collectively, this research points to various ways in which Gypsies in Europe were racialised during the seventeenth and eighteenth centuries, but also shows how Gypsies’ racial status carried greater ambiguity in colonial societies, sometimes to their advantage.

Scotland was marginal in the formation of racial categories in the late seventeenth century, both historically and historiographically, and the question of whether Gypsies were racialised during the period has attracted no scholarly attention at all. The notion of Gypsies being categorised in terms

---

<sup>8</sup> Simon P. Newman, “‘In Great Slavery and Bondage’: White Labor and the Development of Plantation Slavery in British America” in Ignacio Gallup-Diaz, Andrew Shankman and David J. Silverman eds., *Anglicizing America: Empire, Revolution, Republic* (Philadelphia, PA: University of Pennsylvania, 2015), p. 81. See also Eric Williams, *Capitalism and Slavery* (Chapel Hill & London: University of North Carolina Press, 1994 [1944]), p. 7; Abbott Emerson Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Chapel Hill: University of North Carolina Press, 1947); Hilary Beckles, *White Servitude and Black Slavery in Barbados, 1627-1715* (Knoxville: University of Tennessee Press, 1989).

<sup>9</sup> Craig Koslofsky, ‘Superficial Blackness?: Johann Nicolas Pechlin’s *De Habitu et Colore Aethiopum Qui Vulgo Nigritae* (1677)’ in *Journal for Early Modern Cultural Studies*, 18, (2018), p. 141. See also See Joyce E. Chaplin, ‘Race’, in David Armitage and Michael J. Braddick eds., *The British Atlantic World, 1500-1800*, 2nd ed., (Palgrave Macmillan: Basingstoke, 2009), p. 173; Cristina Malcolmson, *Studies of Skin Color in the Early Royal Society: Boyle, Cavendish, Swift* (Farnham and Burlington, VT: Ashgate, 2013), p. 5.

<sup>10</sup> See Ann Ostendorf, ‘An Egyptian and noe Xtian Woman’; and ‘Racializing American ‘Egyptians’; and ‘Louisiana Bohemians: Community, Race, and Empire’; Bill Donovan, ‘Changing Perceptions of Social Deviance: Gypsies in Early Modern Portugal and Brazil’, *Journal of Social History*, 26:1 (1992); Martin Fotta, ‘The Figure of the Gypsy (*Cigano*) as a Signpost for Crises of the Social Hierarchy (Bahia, 1590s–1900s)’, *International Review of Social History* 65 (2020).

<sup>11</sup> Nicholas Saul, *Gypsies and Orientalism in German Literature and Anthropology of the Long Nineteenth Century* (London: Modern Humanities Research Association and Maney Publishing, 2007), pp. 2-3; Leonardo Piasere, ‘Pour une histoire des auto-dénominations romanès’, *ANUAC* vol. 8 (2019).

of race has traditionally been dated to the late eighteenth and early nineteenth centuries, when the work of Heinrich Grellmann popularised the idea that Gypsies were an ‘Oriental’ race, differentiated from white Europeans on the basis of their language, skin colour, and other ‘innate’ characteristics.<sup>12</sup> This chapter shows, however, that elite Scots began to define Gypsies in terms of language, skin pigmentation, and lineage in the late seventeenth century, in parallel with emerging racial discourses throughout the Atlantic world. This shift in perception, together with the simultaneous embrace of penal transportation, demonstrates how the dynamics of Atlantic imperialism and racialisation were at work in Scotland, just as in London, Paris, Barbados, or Virginia.

### ***Transportation***

When he came to the English throne in 1603, James VI brought with him the same vigorous desire to quash vagrancy that he had shown in Scotland since the 1580s. Within months of his arrival in England, he penned a proclamation lamenting the failure of English magistrates to enforce an Act of 1597 against ‘Rogues’, ‘Vagabons’, ‘sturdie Beggers’, and ‘counterfeiting Egyptians’, and ordered the privy council of his new realm to find ‘places and parts beyond the Seas, unto which such incorrigible or dangerous Rogues should... be banished and conveyed’. The privy council obliged, listing the places where ‘incorrigible or dangerous Rogues’ should be transported: ‘The New-found Land, the East and West Indies, France, Germanie, Spaine, and the Low-countries, or any of them.’<sup>13</sup> In 1603, English colonial plantation in the Americas was a fantasy, and the banishment of the country’s criminals to Continental Europe largely untested. But over the following two centuries, penal transportation would become foundational to England’s colonial project, and banishment – whether to the Americas or elsewhere – an integral part of English criminal justice.<sup>14</sup>

In Scotland, banishment had been employed by authorities to remove those deemed unruly or unwanted long before the Union of the Crowns. As seen in the third chapter, Gypsies had been

---

<sup>12</sup> See Willems, *In Search of the True Gypsy*, p. 293; Taylor, *Another Darkness, Another Dawn*, pp. 98-101; Houghton-Walker, *Representations of the Gypsy*, p. 2.

<sup>13</sup> James F. Larkin and Paul L. Hughes eds., *Stuart Royal Proclamations, Vol. 1: Royal Proclamations of King James I 1603–1625* (Oxford: Oxford University Press, 1973), pp. 51-52.

<sup>14</sup> David Hitchcock, “‘Punishment Is All the Charity that the Law Affordeth Them’: Penal Transportation, Vagrancy, and the Charitable Impulse in the British Atlantic, c.1600-1750”, *Global Studies* 12 (2018), pp. 200-1.

banished from the realm during James V's reign, and many measures aimed at suppressing Gypsies and other vagrants following the Protestant Reformation had made use of banishment as a cheaper and more attractive option for authorities than imprisonment, trial, and execution.<sup>15</sup> At a local level, bailies, sheriffs, and kirk sessions continued to banish Gypsies and vagrants from their jurisdictions throughout the seventeenth century. But orders of expulsion, whether from a parish or from the kingdom, repeatedly proved ineffective, while enforcement of the Egyptians Act remained haphazard at best. In 1617, the English Star Chamber encouraged the Scottish privy council to adopt penal transportation, which was just beginning to take root in his southern kingdom.<sup>16</sup> At James's behest, in 1618 the Scottish privy council ordered a survey of 'all idill personnes and vagaboundis' in the Borders, describing them as people who 'cannot be reformed or reclaimed from thair leude forme of leiving bot by seveir punischment'. The names of these vagrants and criminals were to be reported back to the council, who would find a way to transport them 'to some remote pairtes to serve in the waires or in coloneis'.<sup>17</sup> As with many such schemes, the survey was never implemented.<sup>18</sup> Nevertheless, the notion that criminals might be transported to serve in foreign wars or to labour in English colonies soon became attractive and practical for Scottish lawmakers, mercenaries, and merchants.

In 1618, the onset of the Thirty Years' War generated enormous demand for Scottish troops, particularly following the crown's decision to supply soldiers to Sweden and Denmark in 1625.<sup>19</sup> This demand was met, at least in part, through transportation of those deemed criminals, convicted or otherwise, to fight in the conflict. In 1620, the Scottish privy council began granting commissions to transport 'strong and sturdie beggaris, vagaboundis, idill and maisterles men wanting a laughfull trade or meanis of interteynment' to fight for James VI's daughter Elizabeth and her husband, King Frederick I of Bohemia. The commissions were aimed particularly at the Borders, and while Gypsies were not explicitly mentioned, they were undoubtedly included

---

<sup>15</sup> See ch. 3, pp. 70-73.

<sup>16</sup> *Acts of the Privy Council of England, 1616-1617*, vol. xxxv (London: H. M. Stationery Office, 1927), p. 381.

<sup>17</sup> *RPCS*, ser. 1, vol. xi, p. 443.

<sup>18</sup> Groundwater, 'The Chasm', pp. 121-22.

<sup>19</sup> See Steve Murdoch, 'Introduction', in Steve Murdoch ed., *Scotland and the Thirty Years War* (Leiden: Brill, 2001); Jason White, 'State Power, Local Autonomy, and War in Scotland, 1625-9', *Journal of Scottish Historical Studies*, Vol. 36 (2016).

amongst those whom the policy was designed to suppress.<sup>20</sup> In March 1627, Alexander Lindsay, second Lord Spynie, was given charge of a regiment of 3,000 men and granted a commission to apprehend ‘all suche counterfoote lymmars callit Egyptians’ and other vagrants and transport them, without trial, to serve Charles I’s ‘darrest uncle’, Christian IV of Denmark.<sup>21</sup> The threat that this policy posed was such that, according to the privy council, some Gypsies and vagrants had escaped Scotland and taken ‘thameselves towards Ireland, with purpose to lurke and ly thair till the said regiments be imbarke’d’.<sup>22</sup> Gypsies had been singled out as particularly well-suited to transportation, but such was the demand for troops that the privy council wrote to Charles I proposing the transportation of debtors put to the horn, and commissioned justices of the peace to survey ‘all ydle and maisterlesse men’ in their jurisdictions and assess their fitness for service.<sup>23</sup> While the pressure to levy troops through impressment probably peaked in 1627, Scottish authorities had established a new and effective way to deal with ‘maisterles men’ and the ‘undeserving’ poor.<sup>24</sup>

The economic expansion of England’s colonies in the Americas created further scope for the use of transportation by Scottish authorities. In the first half of the seventeenth century, Scottish involvement in these colonies had been limited. As few as 200 Scots emigrated to English colonies in North America before 1640, and Scottish merchant-adventurers also tried to establish a rival colony in Nova Scotia between 1625 and 1631.<sup>25</sup> England began transporting felons to its New World colonies from 1615 onwards, and in 1619 the Archbishop of St Andrews, John Spottiswoode, threatened dissident ministers ‘with banishment to the New Found Lands’.<sup>26</sup> But the use of forcible transportation to the New World only gained significant traction in both nations during the Interregnum. From 1652, English justices of the peace were given the power to transport felons to the English plantations, and on his appointment as commander-in-chief of the Commonwealth’s

---

<sup>20</sup> *RPCS*, ser. 1, vol. xii, p. 260.

<sup>21</sup> *RPCS*, ser. 1, vol. i, pp. 542-43.

<sup>22</sup> *RPCS*, ser. 2, vol. i, p. 565.

<sup>23</sup> *RPCS*, ser. 2, vol. i, pp. 589, 608.

<sup>24</sup> See Jason White, ‘State Power’, pp. 152-53; Morgan and Rushton, *Banishment in the Early Atlantic World*, esp. chapter 2.

<sup>25</sup> See David Armitage, ‘Making the Empire British: Scotland and the Atlantic World 1542-1707’, *Past and Present* 155 (1997); David Dobson, *Scottish Emigration to Colonial America, 1607-1785* (Athens, GA: The University of Georgia Press, 2004), esp. chapter 1.

<sup>26</sup> Hamish Maxwell-Stewart, ‘Transportation from Britain and Ireland, 1615-1875’ in Clare Anderson ed., *A Global History of Convicts and Penal Colonies* (London: Bloomsbury, 2018), p. 170; David Calderwood, *The History of the Kirk of Scotland*, vol. vii (Edinburgh: Wodrow Society, 1845), p. 364.

armed forces in Scotland, George Monck was instructed to ‘transport... to any Forreigne English Plantacion any Ennemyes now in Armes in the Highlands’.<sup>27</sup> While this did not lead to a consistent policy of transportation, Scottish criminals were increasingly sent to the English colonies during the 1650s, a practice that continued following the Restoration.<sup>28</sup> In the early 1660s, Scottish sheriffs, JPs and burgh authorities transported criminals and the socially deviant without explicit direction from the privy council or parliament.<sup>29</sup> The Navigation Act of 1660, passed by the English parliament with the intent of restructuring colonial trade to England, failed to prevent penal transportation from Scotland.<sup>30</sup> Merchants found ways to evade the Act, playing middle men between Scottish magistrates and the Caribbean and North American colonies. They did so because of the significant profits that could be reaped from selling prisoners into indentured servitude, to the extent that by the mid-1660s, merchants were petitioning the privy council for more prisoners to transport.<sup>31</sup> While merchants benefitted financially from the arrangements, for local authorities it was a cheap way to remove nuisance individuals permanently from their jurisdictions and, from the perspective of the privy council, a lasting solution to one contributory aspect of the kingdom’s social and political ills.

In a 1665 petition to the privy council, the Edinburgh merchant George Hutcheson neatly summarised the benefits that transportation offered to Scottish authorities. It would ‘promote the Scottish and English plantations for the honour of their countrey’, and at the same time ‘frie the kingdom of the burden of many strong and idle beggars, Egiptians, common and notorious whores and theives’. But Hutcheson was seeking a warrant for him and his partners to transport not just those convicted of being ‘Egyptian’, of theft, or other capital offences, but also any ‘disolute and louse persons banished or stigmatized for grosse crymes’. Since the implication was that anyone

---

<sup>27</sup> John Donoghue, ‘The Unfree Origins of English Empire-Building in the Seventeenth Century Atlantic’ in John Donoghue and Evelyn P. Jennings eds., *Building the Atlantic Empires: Unfree Labor and Imperial States in the Political Economy of Capitalism, ca. 1500-1914* (Leiden: Brill, 2016), p. 117; Firth ed., *Scotland and the Protectorate*, pp. 79-80.

<sup>28</sup> Morgan and Rushton, *Banishment in the Early Atlantic World*, p. 36.

<sup>29</sup> *RPCS*, ser. 3, vol. i, pp. 181, 384-85.

<sup>30</sup> See Hilary Beckles, *White Servitude and Black Slavery in Barbados, 1627-1715* (Knoxville: University of Tennessee Press, 1989), pp. 48–49; Simon P. Newman, “‘In Great Slavery and Bondage’”, pp. 72-73; Hamish Maxwell-Stewart, ‘Transportation from Britain and Ireland’, p. 189. Cf. Morgan and Rushton, *Banishment in the Early Atlantic World*, p. 37.

<sup>31</sup> See Anna Suranyi, ‘Indenture, Transportation, and Spiriting: Seventeenth Century English Penal Policy and ‘Superfluous’ Populations’ in John Donoghue and Evelyn P. Jennings eds., *Building the Atlantic Empires: Unfree Labor and Imperial States in the Political Economy of Capitalism, ca. 1500-1914* (Leiden: Brill, 2016).

with a reputation for criminality, or who had been put to the horn, might be transported, Hutcheson was seeking the privy council's support lest opposition to this wide remit should arise. In this instance, the privy council showed caution, and gave Hutcheson and his partners a warrant to transport prisoners entrusted to them by magistrates, and provided that they were either justly convicted 'or such vagabonds' that, according to the law, 'the countrey may be disburthened of them'.<sup>32</sup> A year later, however, the council perceived the benefit of such a scheme, and granted another merchant, George Grant, a warrant to apprehend and transport anyone who could give no account 'of their way of living and residence' to local magistrates, as well as 'Egiptians and vagabonds and such persons who are condemned for crymes deserving banishment'.<sup>33</sup> In a century when magistrates often failed to arrest poorer criminals due to the cost of imprisoning them, offers from private interests to arrest and transport Gypsies and vagrants appeared a more attractive proposition to the privy council.

The warrants granted to merchants and shipowners for transporting 'Egiptians' and vagrants appeared in a cluster during the mid-1660s, disappearing from privy council records later in the century.<sup>34</sup> Until 1666, colonial transportation was never part of formal sentencing, but an *ad hoc* means to remove prisoners from the realm.<sup>35</sup> Warrants such as that granted by the council to George Grant meant that Gypsies and vagrants could be transported without trial; as a result, those transported in this way have left few archival traces. On occasion, prisoners were also given the option of being transported rather than facing trial, or would petition judges to be transported prior to sentencing, thereby avoiding the risk of capital punishment.<sup>36</sup> From 1672, the newly created high court of justiciary was granted the power to hand down sentences of banishment, and began incorporating orders of transportation into its sentencing. In 1670, the Scottish parliament explicitly sanctioned the use of penal transportation against anyone who refused to disclose knowledge 'of any Conventicles or other unlawful Meetings', as part of a response to rising threats of political and

---

<sup>32</sup> *RPCS*, ser. 3, vol. ii, p. 101.

<sup>33</sup> *Ibid.*, p. 205

<sup>34</sup> Petitions to transport beggars continued, but after 1667 the privy council does not appear to have received any more in which Gypsies were specifically cited. See, for instance, *RPCS*, ser. 3, vol. vi, p. 537.

<sup>35</sup> Kennedy, 'State Formation', p. 50.

<sup>36</sup> *RPCS*, ser. 3, vol. ii, pp. 111, 358; Abbott Emerson Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Chapel Hill: University of North Carolina Press, 1947), p. 133.

religious dissent.<sup>37</sup> Nevertheless, the number of convicts sentenced to transportation remained relatively low throughout the late seventeenth century, except in the years following the Covenanter uprising of 1679, when at least 1,700 people faced transportation.<sup>38</sup> This increase was strongly associated with prosecution of Covenanters in the high court of justiciary, spearheaded by Mackenzie of Rosehaugh as lord advocate. Transportation continued to be used to punish political dissidents well into the eighteenth century, with the mass transportation of Jacobites following the unsuccessful Jacobite risings of 1715 and 1745.<sup>39</sup> Gypsies were also punished with transportation, but such punishment remained relatively irregular: in 1715, the authorities of Glasgow indicated that to keep a large group of Gypsies imprisoned prior to their transportation was an unprecedented burden, and drew bitter complaint about the cost of long-term imprisonment.<sup>40</sup>

Colonial transportation had slipped into the Scottish legal system via the back door, without legislative sanction or great encouragement from the privy council, and had done so largely because of its pragmatic appeal to authorities and the financial possibilities it offered to merchants. Nevertheless, moral and ideological justifications were also made for transportation. The fact that transportation was considered more ‘merciful’ than execution played a role in its use against political prisoners. As Mackenzie of Rosehaugh put it, ‘sending People to the Plantations... [and] turning Capital Punishment into Exile, was an Act of Clemency, not Cruelty’.<sup>41</sup> Clemency also justified the banishment of Gypsies who, on account of their age, sex, or lack of criminal activity, should, it was argued, be spared the gibbet.<sup>42</sup> Arguments concerning moral and economic ‘improvement’ were also used to justify the colonial transportation of Gypsies and vagrants.

---

<sup>37</sup> *Laws and acts past in the second session of the second Parliament, of our most high and dread sovereign, Charles the second, by the grace of God, King of Scotland, England, France, and Ireland, defender of the faith Holden at Edinburgh, from the 28. of July, to the 22. of August, 1670* (Edinburgh: Andrew Anderson, 1674), p. 5.

<sup>38</sup> David Dobson, *Dictionary of Scots banished to the American Plantations* (Baltimore: Genealogical Publishing Co., 1983), p. v. See also Kennedy, ‘State Formation’, p. 50.

<sup>39</sup> Ian B. Cowan, *The Scottish Covenanters, 1660-1688* (London: Victor Gollancz, 1976), p. 72; Clare Jackson, ‘Compassing Allegiance: Sir George Mackenzie and Restoration Scottish Royalism’ in Justin Champion, John Coffey, Tim Harris, and John Marshall eds., *Politics, Religion and Ideas in Seventeenth- and Eighteenth-Century Britain: Essays in Honour of Mark Goldie* (Martlesham: The Boydell Press, 2019), p. 124.

<sup>40</sup> J. D Mawick ed., *Extracts from the records of the Burgh of Glasgow*, pp. 529; NRS, JC12/2, pp. 119-20; NRS, GD18/5422, letter 12; David Hume, *Commentaries on the Law of Scotland, Respecting the Description and Punishment of Crimes* vol. ii (Bell & Bradfute, 1797), pp. 343-45.

<sup>41</sup> George Mackenzie, *A vindication of the government in Scotland during the reign of King Charles II* (London: I. Hindmarsh, 1691), p. 11.

<sup>42</sup> NRS, JC2/14, fo. 406r; *RPCS* ser. 3, vol. iv, p. 513; vol. vii, pp. 537-38.

Petitioning for a warrant to transport beggars to New England and elsewhere, the merchant William Johnstone claimed that vagrants sent to the colonies for nine or ten years became ‘very active and virtuous persones, their idleness and poverty having formerly corrupted them’. According to Johnstone, this moral transformation of Scottish vagrants in the colonies advantaged ‘not only the reputation but even the interest of the countrey’, and could compensate for Scotland’s lack of houses of correction. While such ideas did not translate into a coherent policy of convict transportation such as that which developed a century later, Johnstone did obtain his warrant, and was permitted to transport any vagrants delivered to him by civil magistrates, or who voluntarily chose to be transported.<sup>43</sup> Writing during the famine that afflicted Scotland during the 1690s, the political theorist Andrew Fletcher of Saltoun argued the country’s many thousands of vagrants were beyond redemption, and suggested ‘that it were better for the nation they were sold to the gallies or West-Indies, than they should continue any longer to be a burden and curse upon us.’<sup>44</sup>

‘Improvement’ in the colonies themselves was also cited as a justification for transportation. While Scotland’s failed plantations in Nova Scotia, East New Jersey, and Darien do not appear to have hosted indentured Gypsies, petitioners advocating transportation often stressed that the colonies were ‘his Majesties Plantationes’ rather than simply being English possessions. George Hutcheson encouraged the idea that the colonisation of Barbados and Jamaica were joint enterprises with England, and that transportation of Scottish Gypsies and vagrants from Scotland might serve to increase the kingdom’s role in the wider imperial project. Hutcheson’s optimistic assertions no doubt underplayed the reality of English economic, administrative, and political dominance in the colonies. Nevertheless, they captured Scotland’s uneasy relationship with the imperial Atlantic between the Restoration and the Acts of Union: Scottish merchants were already counting the benefits of colonisation, and lawmakers and intellectuals had begun to feel its effects, even if their colonial designs had not succeeded or been left untested. Scotland’s piecemeal programme of colonial transportation serves as a reminder that seventeenth-century colonisation was driven primarily by mercantile, not national, interests. But the justifications for colonial transportation, and the groups targeted for transport, were also part of the major intellectual sea-change being wrought by Atlantic imperialism.

---

<sup>43</sup> *RPCS* ser. 3, vol. vi, p. 537.

<sup>44</sup> Andrew Fletcher, *Political Works*, ed. by John Robertson (Cambridge: Cambridge University Press, 1997), p. 142.

## *Racialising Gypsies*

With the passage of the Egyptians Act in 1609, a distinction was created in Scots law between Gypsies, or persons ‘callit, knawin, repute and haldin Egiptianis’, and other kinds of vagrants.<sup>45</sup> But subsequent action against Gypsies had elided this distinction, not least the colonial transportation petitions of the 1660s that indiscriminately advocated the removal of ‘Egyptians’, ‘idle beggars’, ‘whores’, and ‘thieves’. This blurring of legal categories was made plain in a description of Scottish acts concerning ‘Beggars and Vagabonds’ by the jurist Mackenzie of Rosehaugh in 1678:

Our Law hath been so charitable, as to provide for Beggars, by special Statutes... But sturdy Beggars (our Law calls them Egyptians oftimes, as the French calls them Bohemians) and Vagabonds should be proceeded against by the Sheriffs, and other Judges, and they may exact caution of them, and if they find none, they should be denounced fugitives... and may be sent to publick Work-houses, or put in the Stocks... It appears by a Proclamation, emitted by the Council, in Anno 1603. These Egyptians were ordered to leave the Kingdom, upon pain of death, which is ratified by the 13. Act Parl. 20. Ja. 6. and upon that Act of Parliament, Moses shaw and other Egyptians, Sorners and Vagabonds, were hanged the last of Iuly, 1611.<sup>46</sup>

The passage, and indeed the work it is from, *The Laws and Customes of Scotland, in Matters Criminal*, was intended as a guide to Scots criminal law and its relationship with parliamentary statute; Mackenzie’s elision of Gypsies with other vagrants is a good indicator of how Mackenzie and contemporaries viewed Gypsies’ legal status. They were vagrants, and to be treated as such. The Egyptians Act was depicted as an order of expulsion against vagrants that Moses Faw (incorrectly called ‘shaw’) had failed to heed. Elsewhere in *Laws and Customes*, Mackenzie appeared aware of stereotypes associated with Gypsies specifically, describing how ‘Aegyptians’ were known to be child-snatchers and ‘Dustifoots’.<sup>47</sup> But even if he perceived Gypsies as culturally different from other vagrants, he evidently believed this to be of little legal consequence.

Mackenzie’s understanding of Gypsies’ legal position in *Laws and Customes*, however, stood in marked contrast to his position eight years later in *Observations on the Acts of Parliament* (1686), in which he provided glossary of interpretations of Scottish statute since the reign of James VI in order to indicate which laws remained in use, which had fallen into desuetude, and how to apply

---

<sup>45</sup> See ch. 3, pp. 82-85.

<sup>46</sup> Mackenzie, *Laws and Customes*, pp. 317-18.

<sup>47</sup> *Ibid.*, pp. 348-49; 360.

statute law in line with previous court decisions and contemporary practice.<sup>48</sup> In his *Observations*, Mackenzie discussed the Egyptians Act at greater length in order to indicate that it was not a ‘Temporary Act’ as ‘lately Debated’. The ‘Debate’ to which Mackenzie was referring was the Shaws’ trial in 1678, in which Mackenzie, as lord advocate, had been chief prosecutor.<sup>49</sup> In the *Observations*, Mackenzie also posited that the Jacobean legislation had not created an entirely new capital offence, but had extended the definition of the existing crime of theft to include all those called ‘Aegyptians’, and therefore ‘only such to be punishable by Death, as are known, holden and repute to be Aegyptians’. This, however, raised a new question concerning proof:

It may be doubted, what can prove that the Aegyptians pannel’d, are known, holden and repute to be such?... Our Law allows that such as call themselves Aegyptians, or go up and down the Countrey, bleaking their Faces, telling Fortunes, and speaking the Gebrish peculiar to those people, shall be punished as Aegyptians.<sup>50</sup>

If the law required any ‘Aegyptians’ to be executed, then clarity was needed as to how to prove that defendants were ‘known, holden and repute to be Aegyptians’. The proofs that Mackenzie proposed had little basis in the language of the Egyptians Act: an individual fell foul of the Act if they self-identified as an ‘Egyptian’, or if it could be proved that they were itinerant, had darkened skin, told fortunes, or spoke their own language. Mackenzie then connected Scotland’s Gypsies to a wider European diaspora with a shared way of life and lineage: ‘[t]hese who are call’d Aegyptians in Scotland, are call’d Zigeni, Tartari, Bohemij’ elsewhere in Europe. Wherever the ‘Egyptians’ had been over the previous two centuries, Mackenzie went on, they were ‘remarked as idle Beggars, going about oppressing the people, and cheating them by vain Superstitions, and Fortune tellings’, and ‘ordain’d to be banish’d’.<sup>51</sup> Mackenzie had redefined ‘Egyptians’, and had done so on the basis of his knowledge of wide reading and direct experience of prosecuting Gypsies as lord advocate.

Mackenzie’s clarification of the term ‘Egyptian’ was part of a broader attempt to establish the highest standards of proof in criminal trials, and his insistence on the supremacy of statute in

---

<sup>48</sup> Mackenzie, *Observations*. This work built on that built on Thomas Murray of Glendook’s efforts to codify Scottish legislation in 1681. See Sir Thomas Murray of Glendook, *The laws and acts of Parliament* (Edinburgh, 1681); John W. Cairns, *Selected Essays on the History of Scots Law, Vol 1: Law, Lawyers, and Humanism* (Edinburgh, 2015), pp. 154-55.

<sup>49</sup> NRS, JC2/401 fos. 398r-401r.

<sup>50</sup> Mackenzie, *Observations*, p. 334.

<sup>51</sup> *Observations*, p. 334.

Scottish criminal law. Mackenzie wished to familiarise his readers with the contents of earlier statutes, which he saw as one of ‘the chief pillars of our law’, more significant than juristic commentary or judicial precedent.<sup>52</sup> But Mackenzie’s juristic works also contributed to what Randolph Head has called the ‘science of proofs’, a burgeoning field of intellectual endeavour in late seventeenth-century Europe.<sup>53</sup> Proofs and testimony were a crucial point of intersection between jurisprudence and natural philosophy in the seventeenth century; a concern with establishing ‘matters of fact’ in legal practice profoundly influenced the development of systems of knowledge rooted in impartiality, observation, and credible testimony.<sup>54</sup> Mackenzie’s contribution to the field of proofs, and its wider impact beyond jurisprudence, is exemplified by his approach to witchcraft. In *Laws and Customes* Mackenzie claimed that ‘Divines cannot doubt’ the existence of witches due to their appearance in Scripture, adding, ‘nor Lawyers in *Scotland*, seing our Law ordains it to be punished with death.’ However, through his examination of alleged witches, whom he found to be ‘poor ignorant creatures’ who little understood the allegations made against them, he believed that ‘of all Crimes it requires the clearest relevancy, and most convincing probation’ if it was to be prosecuted.<sup>55</sup> Mackenzie’s position, by affirming the existence of witches and defending the supremacy of statute while also proposing much higher standards of proof, helped to precipitate a decline in Scottish witchcraft prosecution long before the repeal of the Witchcraft Act in 1736.<sup>56</sup> Mackenzie’s desire to establish proofs that suspects were ‘known Egyptians’ led him to systematise a taxonomy of Gypsies that combined popular stereotypes with representations from legal sources, printed texts, and his own observations. While it would be an exaggeration to say that Mackenzie ‘invented’ a taxonomy of Gypsies, his attempt to outline Gypsy identity in terms of legal ‘proofs’ exemplified, if not presaged, a shift in the way Gypsies were perceived in Scotland.

---

<sup>52</sup> Clare Jackson, ‘Compassing Allegiance: Sir George Mackenzie and Restoration Scottish Royalism’ in Justin Champion, John Coffey, Tim Harris and John Marshall eds., *Politics, Religion and Ideas in Seventeenth- and Eighteenth-Century Britain: Essays in Honour of Mark Goldie* (Martlesham: The Boydell Press, 2019), p. 125.

<sup>53</sup> Randolph C. Head, ‘Documents, Archives, and Proofs around 1700’, *The Historical Journal* 56 (2013), p. 915.

<sup>54</sup> See Barbara J. Shapiro, ‘Testimony in Seventeenth-Century English Natural Philosophy: Legal Origins and Early Development’, *Studies in History and Philosophy of Science* 33 (2002).

<sup>55</sup> Mackenzie, *Laws and Customes*, pp. 81, 85-7.

<sup>56</sup> See Brian P. Levack, *Witch-hunting in Scotland: Law, Politics, and religion* (London: Routledge, 2008), esp. ch. 8.

Many of the qualities ascribed to Gypsies by Mackenzie and his contemporaries had long been noted by Scottish lawmakers and magistrates. As was seen in the second chapter of this thesis, since the sixteenth century Gypsies had been perceived as the ‘people calland thame selffis Egiptianis’; foreigners adept at fortune-telling who ‘travell up and doun the cuntrie’.<sup>57</sup> Gypsies continued to be described in almost identical terms throughout the seventeenth century. But some of the qualities used by Mackenzie to define and identify Gypsies had no precedent in Scotland. In particular, Mackenzie’s interest in Gypsies’ language, skin pigmentation, and ethnic lineage reflected a shift in how Gypsies were understood following the Restoration. Each will be examined in turn. The observations about Gypsies’ language, skin, and lineage made by Scottish elites in the late-seventeenth century owed much to the circulation of English and continental European texts. So much is clear from the close resemblance between Mackenzie’s description of Gypsies in *Observations*, and that of an anonymous English pamphlet of 1673, which described Gypsies as:

A sort of Extravagants, that by discolouring their faces, wearing Antick Habits, using a Barbarous Language more confused than all the Dialects of Babel (which they call Canting) and especiall by pretending wonderful Skill in Fortune telling, pass amongst the poor Credulous Rabble for Natives of Ægypt.<sup>58</sup>

The following sections consider these wider influences. But developments in how Gypsies were perceived in Scotland diverged from other polities in the way that they were created and maintained in relation to the law. In late seventeenth-century Scotland, Gypsies were not only identified on the basis of their language, skin colour, and lineage, but they were also criminalised on that basis as well.

### ***Language***

In all three cases involving the Faws and Shaws over the 1670s, the question of language, and specifically whether the accused spoke a secret language, repeatedly arose. Both defendants and witnesses were asked whether the accused spoke their own language, variously described in court documents as ‘the giptee language’, ‘the Egyptian language’, ‘the canting language’ or ‘gibbers’.<sup>59</sup> Language was significant to the prosecution’s investigations in both 1675 and 1678. In 1675,

---

<sup>57</sup> *RPCS* vol. ii, p. 210; vol. iii, p. 690.

<sup>58</sup> Axon ed., ‘A Gypsy Tract’, p. 70.

<sup>59</sup> NRS, GD6/996, the deposition of Robert Faw; NRS, JC2/14, fo. 398v; NRS, JC2/19, fos. 397v, 430v.

suspects were to be ‘interrogat concerning yr language’, and witnesses were asked if they had heard the Faws and Shaws use ‘the giptee language’. One witness was William Dunbar, described as an Edinburgh ‘officer’, who had been involved in Robert Faw’s arrest and brief imprisonment earlier that the same year. Dunbar was asked whether Robert Faw and his mother Agnes Shaw used the ‘giptee language’, to which he responded that he had ‘heard them speak a languag which he did not vnderstand and diverse tymes heard them intertain discourse in yee sd languag’. Dunbar added that he had not only heard Agnes’s sister, Isobel, use the language, but that his wife and servants had heard Robert, Patrick, and James Shaw ‘also speak that language’.<sup>60</sup> When Robert Faw was interrogated, he was asked whether he was a ‘giptee’ or spoke any other languages, to which he answered that neither he nor any of his relatives were Gypsies, and that he and his mother could only speak Scots.<sup>61</sup> Interrogator, witness, and suspect all appeared to know that speaking an ‘unknowen’ language might mark someone out as a Gypsy, and be used as evidence of a suspect’s guilt.

When Mackenzie prosecuted the Faws and Shaws two years later in 1677, he claimed in the indictment that the defendants ‘did converse with on another in gibbers [and] Egyptian language unknowen to any persons but yourselwes’.<sup>62</sup> The indictment also included accusations directed towards Gypsies since the beginning of the century: that they were sorners who ‘travell up [and] doun the countrey’ in great companies and that they were thieves and sexual deviants who lay ‘together promiscuouslie in barns’.<sup>63</sup> But the use of language as ‘proof’ that the accused were Gypsies had no legal precedent in Scotland. By contrast, Gypsies’ language had attracted comment in England for over a century; most notably in 1615, when prosecutors in Hampshire compiled a list of ‘canting words as the counterfeit Egyptians use amongst themselves as their language’.<sup>64</sup> Linguists have subsequently identified much of the vocabulary collected at this time as Anglo-Romani.<sup>65</sup> The curiosity of prosecutors at this early date was reflected in the rogue literature of

---

<sup>60</sup> NRS, GD6/996, the deposition of William Dunbar.

<sup>61</sup> NRS, GD6/996, the deposition of Robert Faw.

<sup>62</sup> For further discussion of what the language itself might have been, see ch. 7, pp. 184-87.

<sup>63</sup> NRS, JC2/14, fo. 398r.

<sup>64</sup> Alan McGowan, ed., *The Winchester Confessions, 1615–1616: depositions of travellers, Gypsies, fraudsters, and makers of counterfeit documents, including a vocabulary of the Romany language* (Romany and Traveller Family History Society, South Chailey, Sussex, 1996).

<sup>65</sup> See Yaron Matras, *Romani in Britain: The Afterlife of A Language* (Edinburgh: Edinburgh University Press, 2010), pp. 58, 91.

seventeenth-century England, in which authors (and presumably readers) expressed disdain for, and fascination with, Gypsies' 'secret' language. The writer and bookseller Richard Head's 1673 work on thieves' cant, *The canting academy*, described canting as 'a Speech as confused, as the Professors thereof are disorderly dispos'd', and claimed that Gypsies were the language's 'principal Professors'. Head's work, like that of others in the rogue literature tradition, was both widely read and derivative, plagiarising and recycling other works on the subject. As such, the similarity in terminology used by Head and Mackenzie to describe Gypsies may not be a coincidence, though there is no evidence of Mackenzie owning *The canting academy* or similar works.<sup>66</sup>

In England, Gypsies' language did not become a legal proof, and was never used to establish whether a suspect was a Gypsy, and therefore in contravention of the 1563 and 1597 acts against Gypsies. The English acts were more capacious in defining 'Counterfeit Egyptians', and this may have rendered such 'proofs' unnecessary. The English acts were also little-enforced during the seventeenth century.<sup>67</sup> In Scotland, by contrast, the use of language in the investigation and indictment of the Faws and Shaws, and its subsequent inclusion in Mackenzie's *Observations*, established the importance of Gypsies' language as evidence in a number of subsequent trials. In 1698, for example, seven members of the Baillie family were indicted for theft, murder, and being 'Egyptians'. They had been sent to Edinburgh from Lanark, where they had been arrested six months earlier following 'frequent thefts, robberies, and house breakings'.<sup>68</sup> Their indictment, drawn up by then lord advocate Sir James Stewart of Goodtrees, described the defendants as using 'the Canting Language of Agyptianes'.<sup>69</sup> The following year, Stewart pursued another member of the Baillie family, their 'Capt or Ringleader', and accused him of using 'the canting language' as well. Language also played an important role in the conviction of four men as 'notorious Gypsies' before Banff sheriff court in 1700.<sup>70</sup> While their indictment had not referred to use of the 'giptee language', witnesses described how they spoke in a language they could not understand, and 'which

---

<sup>66</sup> Julie Coleman, *A History of Cant and Slang Dictionaries: Volume I: 1567-1784* (Oxford: Oxford University Press, 2008), pp. 55-70.

<sup>67</sup> See Cressy, *Gypsies*, ch. 5.

<sup>68</sup> *Extracts from the Records of the Royal Burgh of Lanark* (Glasgow: Carson & Nicol, 1893), p. 255.

<sup>69</sup> NRS, JC26/80, bundle labelled '1698'; JC2/19, 397v.

<sup>70</sup> The records of the trial in the Sheriff Court records of Banff (NRS, SC2/1/6) appear to be lost. See University of Aberdeen Special Collections, MS 2264/16; depositions transcribed in *NSAS*, vol. xiii, pp. 22-25; 'Process: Procurator Phiscall against the Egyptians', *Miscellany of the Spalding Club* (Aberdeen: printed for the Spalding Club, 1846).

was not Irish' (referring to Gaelic).<sup>71</sup> Living on the Highland line, the Gypsies' language set them apart from both Gaelic and lowland Scots culture.

The Banff trial of 1700 also demonstrates the influence of Mackenzie's interpretation of the Egyptians Act in *Observations*. During the debate, the defence counsel, John Cuthbert, argued that the defendants could not be prosecuted under the Egyptians Act, because they were not fortune-telling vagrants who darkened their skin, and the law applied only to 'idle beggars, blakeing their faces, fortune-tellers, cheating of the people by waine superstitiones, by professing knowledge of charming, tellers of wirts'. These qualities were, according to Cuthbert, 'clearlie explained to be the inseperable attributes of those called Egyptians', both by the Act itself and 'farther cleared upon McKenzie's observationes'.<sup>72</sup> Since this way of defining Gypsies had no basis in the Egyptians Act passed in James's VI's reign, the defence counsel was quoting Mackenzie almost word-for-word, only leaving out Mackenzie's reference to Gypsies 'speaking the Gebrish peculiar to those people'. It was a convenient omission, given that the defendants spoke a 'peculiar' language, and probably suggests that the Cuthbert was well aware of how prosecutors might use it as proof of guilt. By the end of the seventeenth century, as seen in the previous chapter, Gypsies had become an unremarkable feature of rural Scottish life and were no longer perceived as the subversive foreigners described in Jacobean legislation. But Gypsies' language continued to set them apart from the wider population. Its use in the prosecution of the Faws and Shaws, and subsequent inclusion as a 'proof' of being 'Egyptian' in Mackenzie's *Observations*, breathed new life into the Egyptians Act. Well into the eighteenth century, language remained a notable feature of Gypsy trials. A witness in a circuit court trial of two Gypsies held at Glasgow in 1725 described how the defendants spoke in the strange 'dogg language used by the Egyptians'.<sup>73</sup> Even in 1770, during the final trial in Scotland which Gypsies were sentenced to death under the Egyptians Act, the indictment described the defendants as speaking the 'right Egyptian language'.<sup>74</sup>

### ***Skin colour***

---

<sup>71</sup> *NSAS*, vol. xiii, p. 23.

<sup>72</sup> 'Process: Procurator Phiscall against the Egyptians', in *Miscellany of the Spalding Club*, p. 179.

<sup>73</sup> NRS, JC13/5, p. 161.

<sup>74</sup> Simson, *A History of the Gipsies*, p. 133.

Compared to a century earlier, one of the most striking differences in the way Gypsies were described during the late seventeenth and early eighteenth centuries was in terms of skin colour. Both Nisbet and Mackenzie demonstrated an interest in Gypsies' skin pigmentation, and both implied that it was a trait that separated Gypsies from the wider population. Prior to the 1670s, there is no evidence that Scottish authorities or elites found Gypsies' skin notable. But as with their language, this was not the case in other polities: fifteenth-century German and French writers, for example, described Egyptians as 'black' and 'ugly'.<sup>75</sup> In 1497, the Cologne traveller Arnold von Harff described how in the Peloponnese there lived 'many poor black naked people' who claimed they were from little Egypt, and were called 'Suyginer' (*Zigeuner*) in German, thus linking together a people across a continent.<sup>76</sup> In the British Isles, the English writer Thomas Dekker was one of the first to discuss Gypsies' skin colour at any length, writing:

A man that sees them would swear they had all the yellow Iawndis, or that they were Tawny Moores bastardes, for no Red-oaker man caries a face of a more filthy complexion, yet are they not borne so, neither has the Sunne burnt them so, but they are painted so, yet they are not good painters neither: for they do not make faces, but marre faces. By a by name they are called Gipsies, they call themselues Egiptians.<sup>77</sup>

The repulsion evinced by Dekker towards Gypsies' skin tone represented a strand of colour prejudice that assumed greater significance as the century progressed. By the late seventeenth century, natural philosophers and theologians throughout Western Europe began to treat skin pigmentation as a legitimate source of enquiry, attempting to answer questions regarding the origins and implications of darker skin.<sup>78</sup> Disagreement arose as to whether the source of human pigmentation was artificial, climactic, or heritable, and whether it was even an important indicator of human difference.<sup>79</sup> Sir Thomas Browne, in the 1672 edition of his *Pseudodoxia Epidemica*, distinguished between sunburnt Europeans, whose darkness was accidental and temporary, sub-

---

<sup>75</sup> David Abulafia, 'The Coming of the Gypsies: Cities, Princes, Nomads' in Peter Hoppenbrouwers, Antheun Janse, and Robert Stein eds., *Power and Persuasion: Essays on the Art of State Building in Honour of W.P. Blockmans* (Turnhout: Brepols, 2010).

<sup>76</sup> See Fraser, *The Gypsies*, pp. 53-4.

<sup>77</sup> Thomas Dekker, *Lanthorne and candle-light. Or, The bell-mans second nights-walke* (London: Printed for John Busby, 1609), unpaginated, section entitled 'Moone-men, A discouery of a strange and wild people, very dangerous to Townes and country villages.'

<sup>78</sup> See Roxann Wheeler, *The Complexion of Race: Categories of Difference in Eighteenth-Century British Culture* (Philadelphia: Pennsylvania University Press, 2000), p. 7; Craig Koslofsky, 'Knowing Skin in Early Modern Europe, c. 1450–1750', *History Compass* 12 (2014).

<sup>79</sup> See Wheeler, *The Complexion of Race*, pp. 7, 24-25.

saharan Africans, whose skin colour was ‘spermatical’, and therefore permanent and heritable; and Gypsies, who ‘acquire their complexion by anointing their bodies with bacon and fat substances, and so exposing them to the Sun’.<sup>80</sup> The *Pseudodoxia Epidemica*, popularly known as ‘Common and Vulgar errors’, was a cornucopia of natural philosophy widely translated, circulated, and read for at least a century following its first publication in 1646.<sup>81</sup> The 1672 edition of the *Pseudodoxia* was the last to be published during Browne’s lifetime, and the passage was one of many additions he made to the text, including a chapter devoted to the Egyptian origins of Gypsies. Sir George Mackenzie was an assiduous reader of Browne, modelling his religious treatise *Religio Stoici* (1663) on Browne’s *Religio Medici* (1642), and critiquing Browne’s prose style in his novel *Arentina* (1660).<sup>82</sup> Browne’s *Religio Medici* had also referred to Gypsies as Browne had described how the ‘vagabond and counterfeit *Egyptians* doe yet pretend’ to knowledge of the ‘abstruce and magical sciences’ of the ancient Egyptians, palmistry, ‘and perhaps retain a few corrupted principles, which sometimes may verifie their Prognostickes’.<sup>83</sup> Mackenzie’s description of Gypsies as ‘bleaking their Faces’ and ‘telling Fortunes’ in *Observations* may thus owe a debt to Browne, although any evidence of a direct connection is elusive.

Questions of skin pigmentation played no legal role in the trials of 1678: the Faws and Shaws were not indicted for ‘bleaking their faces’, and skin pigmentation was not mentioned in their depositions. But the subject had interested Nisbet two years earlier. In a list of ‘Interrogatores for... the prisoneris thought to be AEgyptians’, the eighteenth question asked ‘Iff they be of those they call gypsies and why they doe oyle and collour ther faces and bodyes’?<sup>84</sup> The sentence has a number of implications. First, it suggests that Nisbet believed skin pigmentation marked out ‘those they call gypsies’, much as language would do in Mackenzie’s prosecutions. Second, Nisbet believed Gypsies’ pigmentation was artificial, acquired either through the application of oil and

---

<sup>80</sup> Thomas Browne, *Pseudodoxia Epidemica: or, enquiries into very many received tenents, and commonly presumed truths*, sixth edition (London: Printed by J.R. for Nath. Ekins, 1672)., p. 376.

<sup>81</sup> Harriet Phillips, ‘Common Errors, Common Readers: Thomas Browne’s *Pseudodoxia Epidemica* and the Scientific Public, 1646–ca. 1800’, *Studies in Philology*, 117 (2020).

<sup>82</sup> George Mackenzie, *Aretina; or, The serious romance written originally in English. Part first*. (Edinburgh, 1660), p. 9; D. Havenstein, ‘Religio Writing in Seventeenth-Century England and Scotland: Sir Thomas Browne’s *Religio Medici* (1643) and Sir George Mackenzie’s *Religio Stoici* (1663)’, *Scottish Literary Journal* 25(1998), pp. 19-20; Clare Jackson, ‘Latitudinarianism, secular theology and Sir Thomas Browne’s influence in George Mackenzie’s *Religio Stoici* (1663)’, *The Seventeenth Century* 29 (2014).

<sup>83</sup> Thomas Browne, *Religio Medici* (Printed for Andrew Crooke, 1642), p. 117.

<sup>84</sup> NRS, GD6996. Document entitled ‘Interrogatores for the prisoneris thought to be AEgyptians and Sorners.’

exposure to the sun, as Browne believed, or ‘coloured’ and painted, as Dekker held. Finally, Nisbet was interested in ‘why’ Gypsies might ‘oyle and colour’ their skin, suggesting curiosity regarding the purpose of such a practice. In the event, Nisbet’s question regarding Gypsies’ skin pigmentation was never asked, or went unanswered. The question of whether or not the prisoners were ‘Egyptians’ was raised in all surviving depositions, but skin colour does not appear once. While it is tempting to conjecture that close examination of Gypsies allowed prosecutors to establish whether or not Gypsies did ‘oyle’ their skins without needing to ask them, it would be entirely speculative: the depositions offer nothing to indicate how the defendants’ skin colour was perceived by prosecutors.

For one witness during the trial held in 1678, Dr. Alexander Pennecuik, Gypsies’ skin pigmentation not only distinguished them from the wider population, but also marked them out as non-white, unlawful, and ugly. Pennecuik was the son-in-law of John Murray of Romanno, whom the Faws had appealed to following the fight at Romanno; it was Murray and Pennecuik who had been responsible for apprehending and transporting the Faws and Shaws to Edinburgh in 1677. Pennecuik’s deposition, along with Murray’s, provided key evidence establishing that Robert Shaw and his sons were responsible for the killing of Alexander Faw and Helen Baillie – events described in the previous chapter. Pennecuik claimed to have heard Robert Shaw ‘insult upon the dead persons’, and when he ‘took Robert Shawes sword from him it wes bloodie & ther wes a peice skine sticking on it’, which he thought ‘wes the peice of the dead mans head’.<sup>85</sup> The fight at Romanno stayed with Pennecuik. In a topography of Tweeddale that was never published during his lifetime, he wrote of the ‘memorable Polymachy [battle] betwixt two clans of Gipsies, the Fawes and Shawes’. Pennicuik described how the Gypsies had travelled from Haddington fair ‘to meet two other clans of those rogues, the Baillies and Browns, with a resolution to fight them’, but had quarrelled over ‘the spoil they had got at Haddington; and fought it manfully’ – details that are absent from the trial records.<sup>86</sup> In 1683, Pennicuik went so far as to erect a dovecot at the site of the brawl in order to memorialise the event. An enthusiastic if not well-regarded poet, Pennecuik had the lintel above the dovecot door inscribed with a commemorative verse, presumably of his own

---

<sup>85</sup> NRS, JC2/14, fo. 401r.

<sup>86</sup> Alexander Pennecuik [Penicuik], *The Works of Alexander Pennecuik, esq., of New-Hall, M.D.; containing the Description of Tweeddale, and Miscellaneous Poems* (Leith: A. Allardice, 1815), p. 179.

devising: 'The field of Gipsie blood which here you see, / A shelter for the harmless dove shall be'.<sup>87</sup>

Pennecuik was not the only member of Tweeddale gentry involved in pursuing Gypsies. He had a circle of friends with whom he corresponded in verse, often comic or laudatory in tone, and occasionally their poems touched on the subject of Gypsies. In May 1714, for example, the advocate William Clerk wrote to Pennicuik, addressing him as 'Most noble Doctor, glory of our time, / Parnassus' prince, protector of our rhyme', before informing him that Clerk had 'just returned' from apprehending the 'troops of gypsies who molest our plains', with the help of Jonas Hamilton of Coldcoat.<sup>88</sup> Pennecuik responded with a verse celebrating the arrests:

Kind and stout patriots you are I vow,  
With your brave club to catch the gypsy crew;  
Your names should be engraven on marble stones,  
For clearing Tweeddale of these vagabonds.

He jokingly added:

... I do protest  
Kind Jonas had been captive with the rest,  
And sent to prison, if we should allow  
All to be rogues that have the gypsy hue.<sup>89</sup>

The joke implied that skin pigmentation could be a viable way to identify Gypsy criminality, while also making it clear that skin colour alone did not separate Gypsies and non-Gypsies. Elsewhere, Pennecuik described Hamilton as 'bonny Jonas of the gypsy hue', 'swarthy', and as having a 'royal nose on a mulatto face'.<sup>90</sup> For Pennecuik, the darkness of Gypsies was attributable to (non-Gypsy) Hamilton, and Gypsies' complexions were comparable to that of a 'mulatto'. The latter equivalence was also drawn in 1698 by an English traveller to the West Indies, Edward Ward, who described a Jamaican Creole woman as 'a Gipsej', 'Lacker-Fac'd', 'Tawny Fac'd', 'Pumpkin colour'd', and a

---

<sup>87</sup> *Ibid.*, pp. 179-80.

<sup>88</sup> *Ibid.*, p. 356. The author was probably the William Clerk admitted as an advocate in 1705, and son of Sir John Clerk of Penicuik, first baronet. See John MacPherson Pinkerton ed., *Minute Book of the Faculty of Advocates*, vol. i (Edinburgh: The Stair Society, 1976), p. 254.

<sup>89</sup> Pennecuik, *Works*, p. 356.

<sup>90</sup> *Ibid.*, pp. 361-62.

'*Moletto Strumpet*'.<sup>91</sup> The term 'mulatto' generally referred to those of mixed ancestry, particularly African and European, a group of people who could not be neatly categorised within contemporary racial categories such as 'European' and 'Negro', and 'Indian'.<sup>92</sup> By the early eighteenth century, mixed-race people categorised as 'mulattoes' faced a range of restrictive and discriminatory laws in many Anglophone colonies, and were increasingly treated as socially inferior by elites on both sides of the Atlantic.<sup>93</sup> By drawing an equivalence between Gypsies and 'mulattoes', Pennecuik was thus linking Gypsies with colonial hierarchies of race in which complexion was a key marker of social difference.

Pennecuik also made figurative use of the Gypsy in his poetry, equating 'Gypsy-ness' with darkness, ugliness, and immorality. In a satirical poem attacking the minister of Kirkmichael for slander, he listed the negative attributes of the minister, calling him an 'infamous scribbler', 'fool', and 'senseless satyr beast' before describing his appearance: 'What mortal can read manners good, or grace, / In the dark lanthorn of a Gypsy face'.<sup>94</sup> A 'dark lanthorn' was a type of lantern that could be shuttered without extinguishing its candle, and was associated with theft in eighteenth-century Scotland.<sup>95</sup> Hence the minister's 'Gypsy face' was not just dark like a covered lantern, but also betrayed a lack of moral probity. Pennecuik also treated the minister's dark complexion as an object of disgust and revulsion, describing him as a 'nasty negro, / filthy reesty ram, / O skin like that of a Westphalia ham!'<sup>96</sup> The references to the minister being 'reesty' and having skin like 'Westphalia ham' suggested that he looked like cured pork, darkened through exposure to smoke and heat. While Pennecuik and his correspondents showed no interest in the possible origins of Gypsies' skin pigmentation, they clearly understood Gypsies in terms of darkness and ascribed negative attributes to their skin pigmentation. Equally, there is no indication that Pennecuik saw Gypsies' darkness as 'bleaking', a disguise, or somehow artificial – or at least no more than his friend Jonas Hamilton's complexion was artificial. While Gypsies' skin colour had been of interest to Nisbet and Mackenzie

---

<sup>91</sup> Edward Ward, *A trip to Jamaica: with a true character of the people and island* (London, 1698), p. 10.

<sup>92</sup> See A. B. Wilkinson, *Blurring the Lines of Race and Freedom : Mulattoes and Mixed Bloods in English Colonial America* (University of South Carolina Press, 2020), esp. introduction.

<sup>93</sup> See Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill and London: University of South Carolina Press, 2012).

<sup>94</sup> Pennecuik, *Works*, p. 333.

<sup>95</sup> See, for instance, the various references to a dark lanthorn in William Roughead ed., *Trial of Deacon Brodie* (Glasgow and Edinburgh: William Hodge & Co., 1906).

<sup>96</sup> Alexander Pennecuik, *Works*, p. 333.

during the 1670s, colour prejudice was probably not a factor in the trials of 1678. But for Pennecuik, one of the key actors in bringing the Faws and Shaws to trial, Gypsies' skin was a significant feature of difference, placing them in a category of people – the 'mulatto', the 'negro' – defined against whiteness, and which he implied was socially, morally, and aesthetically inferior.

### *Lineage*

Questions regarding the origins and permanence of Gypsies' skin colour remained largely unanswered in late seventeenth-century Scotland, and it was only in the nineteenth century that a consensus would develop that Gypsies' skin colour was a racially integral, heritable, and a marker of ethnic 'purity'.<sup>97</sup> Nevertheless, ideas concerning Gypsies' lineage, more broadly conceived, were important in trials that were held during the 1670s. As seen in the third chapter, the capacious definition of 'Egyptian' in the Egyptians Act of 1609 had reflected a desire on the lawmakers' part to expedite the prosecution of Gypsies and improve enforcement. By demanding the trial of all those 'callit, knawin, repute and haldin Egiptianis', the Act had sought to leave no space for judicial lenience. But as Moses Faw discovered to his advantage, Jacobean authorities could be swayed into accepting that being 'Egyptian' was simply a way of life that might be abandoned. Throughout the first half of the seventeenth century, those prosecuted under the Egyptians Act were almost always accused of being 'Egyptians' in conjunction with other crimes, making it less necessary to test the legal definition of 'Egyptian'. Interrogation and prosecution of Gypsies in the 1670s led to a re-examination of whether being 'Egyptian' was a way of life or something more integral. Familial links and ancestry were incorporated into legal strategies for prosecuting 'Egyptians'. This marked a shift in the way 'Egyptian' was legally defined in Scotland: from people associated with acts of criminality, to a people who were criminal by lineage.

Defending the Shaws before the high court of justiciary in 1678, the advocate John Eleis argued that the Egyptians Act was 'only' the ratification of a privy council proclamation made in 1603. As such, he claimed that it was temporary legislation, and extended only to specific groups of Gypsies that were 'Looked upon as common & notorious theives' at that time.<sup>98</sup> Prosecuting the case as lord advocate, Mackenzie pointed out that the defendants were being prosecuted under an act of

---

<sup>97</sup> See Deborah Epstein Nord, *Gypsies and the British Imagination, 1807-1930* (New York: Columbia University Press, 2006), esp. ch. 2.

<sup>98</sup> NRS, JC2/14, fo. 399r.

parliament ‘which appeirs not to be temporarie’; given that in ‘1611 severall faas wer hanged upon that act and in anno 1624 Eight of the same ffaas were lykewayes hanged’. Citing the records of these two cases in the court’s books of adjournal, Mackenzie argued that if the defendents ‘wer held and reputt Egyptians’, then ‘no more needs be proven’. Eleis responded by claiming that the Egyptians Act had been expressly made against the defendants in the cases cited by Mackenzie; that they had been ‘declaired common theives’ by act of parliament, and ‘then found guiltie not only of being reput Egyptians’, but ‘vagabonds’ as well. Furthermore, and in contrast to those convicted in 1611 and 1624, the defendants whom Eleis was now representing could offer particulars about ‘ther baptisme residence & occupa[tio]n’, unlike those convicted in 1611.<sup>99</sup> In his *Observations*, Mackenzie briefly recounted this courtroom debate, summarising his argument thus:

it was lately Debated, that this Act was but at best, a Temporary Act; and so Aegyptians could not be impannelled for their Life: but yet this Act has been still repute a sufficient Warrant for punishing by Death, such as were known, holden and repute to be Aegyptians. And I find, that upon the last of July 1611. Moses Schaw and others were Hang'd as Aegyptians; and it is notour, that immediatly after this Act Sheriffs and others did Hang very many, by warrant thereof; and the Act is not Temporary, for it appoints them to be Executed in time coming.<sup>100</sup>

Just as he had done in the *Laws and Customes*, Mackenzie confused the surname of Moses Faw with that of the Shaws.<sup>101</sup> But both in print and in courtroom argument, Mackenzie differentiated clearly between some of the first prosecutions under the Egyptians Act and the individuals prosecuted in 1678. Aware of the long association of the surnames Faw and Shaw with ‘companies’ or ‘troops’ of Gypsies, Mackenzie sought to demonstrate both the continued relevance of the Jacobean Egyptians Act and the continued presence in Scotland of its targets: the Faws and Shaws.

Unlike in earlier instances of Gypsy prosecution, a preoccupation with establishing ‘proofs’ in the 1670s meant that questions regarding the place of residence and ancestry of the accused assumed a new significance. The suspects imprisoned in 1675 were all interrogated as to whether or not they or their family members were ‘known Egyptians’. Alexander Faw described at length his familial links with the other prisoners, naming his father as ‘Captain Faw’, while also claiming ‘that neither

---

<sup>99</sup>*Ibid.*, fos. 398v-399v.

<sup>100</sup> Mackenzie, *Observations*, p. 333.

<sup>101</sup> Regarding Mackenzie’s reliance on memory whilst writing, see Olivia Robertson, ‘Introduction’, in Olivia Robertson ed., *The Laws and Customs of Scotland in Matters Criminal by Sir George Mackenzie* (Edinburgh: The Stair Society, 2012).

he nor his father nor non of his forbeers were Egiptians to his knowledge'. The other Faws and Shaws interrogated along the same lines in 1675 also denied that they, or their family, were 'Egyptian', with the exception of Agnes Shaw who confessed that Robert and John Faw were her sons with 'Iohn Ffar, who 'wes execut in Ed[inburgh] the tyme of the English as ane Aegyptian and sornier'. Shaw then detailed her parental lineage, describing herself as the daughter of Sir James Shaw of Knockhill (an estate between Dunblane and Stirling), and Margaret Murray, 'a gentlewoman of Caitnes [Caithness]'. She had met John Faw when he was passing through her father's lands, and 'being ane Aegyptiane for the tyme', Agnes 'went away' with John 'beyond the border' of Scotland into England where they were married at the village of Kirkclinton in Cumberland, a short distance from Gretna Green.<sup>102</sup>

Some aspects of Agnes Shaw's remarkable deposition were corroborated by her sixty-three-year-old brother, Robert Shaw, who also identified Sir James Shaw of Knockhill as their father, but claimed that their mother's name was Margaret Campbell, not Murray. Robert Shaw added they had an uncle, Henry Shaw, who was minister of Logie, a parish nearby Knockhill. Unlike his sister, Robert did not confess to the interrogator that his father had been hanged as an 'Egyptian', instead saying 'that he left his father about threttie yeir' previously to serve in the military, after which he had settled in Annandale as a cottar. Robert Shaw also claimed to be known to Sir William Purves with whom he had served when he 'went to Sweden & wes in my lord Cranstouns regiment under captain Drummond'.<sup>103</sup> Taken together, the social and familial links recounted by Agnes and Robert Shaw are plausible: Knockhill had long been associated with the Shaw family and the minister of Logie between 1617 and 1648 was one Henry Shaw, and a Captain Alexander Drummond did serve in William Cranstoun's Swedish regiment in 1656.<sup>104</sup> Both prisoners were attempting to distance themselves from being 'known Egyptians' by stressing their non-Gypsy lineage, settled way of life, and (in Robert Shaw's case) military service. But this did not satisfy their interrogators in either 1675 or in 1677-78. Neither Nisbet nor Mackenzie shared Agnes Shaw's view that she had been 'an Egyptian at the time'; i.e. that being a Gypsy could be a temporary condition and later discarded. Both individuals carried a surname associated with Gypsies, had consorted with Gypsies, and were

---

<sup>102</sup> NRS, GD6/996, deposition of Agnes Shaw.

<sup>103</sup>NRS, GD6/996, deposition of Robert Shaw.

<sup>104</sup> See R. Menzies Fergusson, *Logie: A Parish History*, vol. ii (Paisley: Alexander Gardner, 1905), pp. 18, 89, 194, 252; Alexia Grosjean, 'Royalist Soldiers and Cromwellian Allies? The Cranstoun Regiment in Sweden 1656-1658' in Steve Murdoch and Andrew Mackillop eds., *Fighting for Identity: Scottish Military Experiences c.1550-1900* (Leiden: Brill, 2002); SSNE 2395; SSNE 2101.

identified as Gypsies by witnesses. When the siblings were again interrogated in 1677, both confessed to ‘sorning & oppressing of the leidges and being Egyptians’, and both were duly found guilty of contravening the Egyptians Act.<sup>105</sup>

According to Mackenzie’s reasoning, both as chief prosecutor in the 1678 trials and in his 1686 *Observations*, the Faws and Shaws belonged to a line of Gypsies who had been, and remained, the target of the 1609 Act. But for Mackenzie, ‘being Egyptian’ was not just a criminalised way of life: it referred to an identifiable group who had lived across Continental Europe for two centuries or more. In *Observations*, he asserted that the people ‘call’d Aegyptians in Scotland’, and ‘call’d Zigeni, Tartari, Bohemij’ in Europe, are known everywhere to be ‘idle Beggars, going about oppressing the people, and cheating them by vain Superstitions, and Fortune tellings’. He then described how ‘they were first suffered in several Nations...because they did assist several Princes in their great difficulties’. The earliest ‘Egyptians’, ‘from being Vagabonds, gathered themselves under Captains for that effect’, but had subsequently grown ‘insolent’, and were banished ‘in Germany, by an Imperial Constitution, anno 1500’, from France in 1561, and from Spain in 1492. Mackenzie’s account is the earliest instance of a Scottish writer outlining the history of a European Gypsy diaspora and one that is conceived as greater than simply the ‘countirfute people of diverse nationis falslie namyt Egiptianis’ described in Scottish legislation or Elizabethan and Jacobean rogue literature. It was much closer to the conception of Gypsies that would be outlined a century later by Heinrich Grellmann which started with a discussion of the different appellations used for Gypsies, including ‘Zigeuner’, ‘Bohémiens’, ‘Tataren’, ‘Aegyptier’, and ‘Gypsies’, and went on to recount their earliest presence in Western Europe, and their expulsion from various polities in the fifteenth and sixteenth centuries.<sup>106</sup> Thomas Browne had, however, made similar remarks to those of Mackenzie, again in the 1672 edition of his *Pseudodoxia Epidemica*, in which he had speculated ‘concerning the Original of Gypsies and counterfeit Moors, observable in many parts of Europe, Asia, and Africa’. It would appear that Mackenzie did not derive his outline from Browne – the two writers cited different sources and their accounts shared few details in common. Nevertheless, both men shared an impulse to recount the history of Gypsies as a European diaspora that was rooted in learned textual scholarship, and not in ‘vulgar errors’.<sup>107</sup>

---

<sup>105</sup> NRS, JC2/14, fo. 401r.

<sup>106</sup> Grellmann, *Die Zigeuner*, p. 15.

<sup>107</sup> Thomas Browne, *Pseudodoxia Epidemica*, pp. 387-88.

Mackenzie's brief account of Gypsies' European history was primarily drawn from that of the German jurist, Ahasver Fritsch, whose *Diatribē historico-politica de zygenorum origine, vita ac moribus* (1660) may have been the first scholarly treatise on Europe's Gypsies or 'Zigeuner'.<sup>108</sup> Two other (apparently unrelated) works, also published by Protestant jurists, compete for that distinction. The first, a short treatise by Jakob Thomasius entitled *Dissertatio philosophica de Cingaris*, was published in 1671, but had begun life two decades earlier as a doctoral dissertation.<sup>109</sup> The second and even shorter work was published by the Dutch theologian and jurist Gijsbert Voet in 1655, as an brief addendum to a treatise entitled 'De gentilisimo et vocatione gentium'.<sup>110</sup> Fritsch, Thomasius and Voet were all writing during a period in which anti-Gypsy prejudice was increasing in the German- and Dutch-speaking lands, culminating in new anti-Gypsy measures such as the impressment of Gypsies throughout much of the Holy Roman Empire around 1700, and the 'Gypsy hunts' that took place in the Dutch Republic in the 1720s.<sup>111</sup> While Fritsch and Thomasius both advocated the implementation of harsher anti-Gypsy measures, Voet's treatise cast doubt on the efficacy of baptising Gypsies' children. All three men were interested in the origins of Gypsies. Voet and Thomasius both suggested that 'little Egypt' was in, or near, Egypt itself and was possibly Nubia, while Fritsch remained sceptical of Gypsies' distant origins and suggested that their language was *Rotwelsch*, a vagrants' cant.<sup>112</sup> The three writers had few insights regarding Gypsies that differed from the official stereotypes and depictions of rogue literature which preceded them – their treatises 'creak under the inert mass of what had previously been written and consolidate the prejudices of earlier generations', as Angus Fraser put it.<sup>113</sup> Nevertheless, seventeenth-century jurists such as Fritsch recapitulated for a learned audience discourses on Gypsies' origins, history, and character, and in doing so lent intellectual heft to the continued persecution of Gypsies in late seventeenth- and eighteenth-century Europe.

---

<sup>108</sup> Ahasver Fritsch, *Diatribē historico-politica de zygenorum origine, vita ac moribus* (Jena: Georg Gengenwald, 1660). See Piasere, 'Pour une histoire des auto-dénominations romanès', p. 88.

<sup>109</sup> Jacobus Thomasius [Jakob Thomasius], *Dissertatio philosophica de cingari* (Leipzig: Johann Erici-Hahnii, 1671). See also Saul, *Gypsies and Orientalism*, pp. 2-3.

<sup>110</sup> Gisbertus Voetius [Gijsbert Voet], *Selectarum disputationum theologiarum*, pars secunda (Utrecht: Johannem à Waesberge, 1655), pp. 652-59.

<sup>111</sup> See Taylor, *Another Darkness, Another Dawn*, p. 78-83.

<sup>112</sup> Saul, *Gypsies and Orientalism*, p. 2; Fraser, *Gypsies*, p. 189.

<sup>113</sup> Fraser, *Gypsies*, p. 188.

In Scotland, the notion of Gypsy lineage helped to secure conviction of the Baillies under the Egyptians Act in the justiciary trials of 1698 and 1699. Indictments in these cases described the defendants as being ‘Under the name and owneing your selves... Aegyptians’, and having been ‘apprehended... as vagabonds and Gypties’. As mentioned earlier, the defence counsel sought to distance the defendants from these claims by pointing out how little they resembled the description of Gypsies in Mackenzie’s *Observations*: there was no evidence of the Baillies ‘bleaking their faces’ or ‘professing knowledge of charming’. But the lord advocate looked to different proofs to convict the suspects under the Egyptians Act. Not only did the Baillies speak ‘the Canting Language of Agyptianes’, but he also accused them of having ‘taken to your selves the name of Agyptianes as descended to yow from your forefathers under the name of Baillies’.<sup>114</sup> By the late seventeenth century, the surname Baillie (also spelt Bailie, Bailyie, and Bailzie) had already been associated with Gypsies in Scotland since the trial of Moses Faw in 1611 if not earlier, and at least two Baillies had been prosecuted under the Egyptians Act in 1616.<sup>115</sup> In the 1698 trial, the defendants were also accused of being related to ‘known Egyptians’, and in 1699, William Baillie’s indictment indicated that his brother John had been hanged as an ‘Egyptian’, thereby also incriminating William.<sup>116</sup> The majority of witnesses in both cases described how the defendants carrying the Baillie surname were ‘reknowned as Gypsies’, had been seen with Gypsies, or were related to Gypsies.<sup>117</sup> Given the paucity of evidence regarding the criminal acts with which the Baillies were charged in both cases – one of which was a murder that had occurred eighteen years previously – the prosecution instead emphasised the subjects’ reputation and lineage as Egyptians in order to secure their conviction.<sup>118</sup>

\*

The trials of 1698 and 1699 did not end well for the Baillies. In the 1698 case, five of the seven defendants – John Baillie and four of his nephews and nieces – were convicted of being ‘Egyptians’ and of petty theft, and sentenced to death. One of John’s nieces, Margaret Baillie, was solely found guilty of being an ‘Egyptian’ and escaped the gibbet. Helen Anderson, wife of John Baillie’s

---

<sup>114</sup> NRS, JC2/19, fo. 397v.

<sup>115</sup> Pitcairn, *Criminal Trials*, vol. iii, pp. 397-98.

<sup>116</sup> NRS, JC2/19, fo. 430v.

<sup>117</sup> NRS, JC6/14, fo. 219r-v.

<sup>118</sup> NRS, JC2/19, fo. 431r.

brother, William Baillie, was acquitted after witnesses were unable to testify that she was an ‘Egyptian’, and no evidence presented that she had taken part in any thefts. Earlier in the century, such distinctions had been of little significance to prosecutors, but the narrower interpretation of the Egyptians Act adopted since the 1670s meant that Anderson was found not guilty of being ‘knawin, repute and haldin Egiptian’.<sup>119</sup> William Baillie was tried the following year. He was found guilty of being an ‘Egyptian’ and sentenced to death, only to immediately receive a commutation from the privy council, ordering his banishment to the American colonies, under pain of death should he return.<sup>120</sup> What happened next is unclear: in 1715, William Baillie was tried before the justiciary court as an ‘Egyptian’ and forging passes. Although the lord advocate maintained that William Baillie had been banished for being a Gypsy in 1699, the defendant ‘informed he was not the same person’. In the end the jury, unable to reach a decision on the matter, convicted Baillie of sorning and being ‘habite and repute an Egyptian’, after which Baillie was sentenced to an order of transportation, possibly for the second time.<sup>121</sup>

Considering these cases almost a hundred years later in 1797, the jurist Baron David Hume of Ninewells observed in his *Commentaries* on criminal law that, since the late seventeenth century, Scottish courts had developed a ‘lenient course of dealing with the gypsies’. Hume highlighted the fact that the court had only sentenced convicted Gypsies to death if they had also been found guilty of being an ‘Egyptian’ alongside having committed another crime, ‘thus requiring some proof of actual guilt in aid of the evil fame’.<sup>122</sup> Hume also regarded use of transportation as further evidence of judicial lenience. Although the Egyptians Act remained in force and had not been ‘disarmed’ in 1797, he was unclear whether this reflected ‘long usage of a lenient construction’ or because ‘the better order of the country’ removed the need for ‘such irregular expedients’. Although Hume did not expect the Act to require enforcement in the future, he nevertheless added:

Touching the proof of such a charge (if ever it shall again be the subject of a special inquiry)... The special opinion of him as an Egyptian, or one of a different breed from the other inhabitants of this land, must be established; and this proceeding on those noted and peculiar circumstances of manners and appearance, by which, in all countries that they have visited, this loose and lazy race have so remarkably been distinguished. Among these some of

---

<sup>119</sup> *Ibid.* fos. 399r-404v.

<sup>120</sup> *Ibid.*, fo. 438r-v.

<sup>121</sup> John Maclaurin Dreghorn ed., *Arguments and Decisions in Remarkable Cases, Before the High Court of Justiciary, and other Supreme Courts, in Scotland* (Edinburgh: J. Bell, 1774), pp. 57-59.

<sup>122</sup> David Hume, *Commentaries*, vol. ii, pp. 341-42.

the chief are the black eye and swarthy complexion, a peculiar language, or gibberish intelligible only to themselves,- the practice of palmistry and fortune-telling, and the custom of living (as far as the climate will permit), in solitary places and in the open air.<sup>123</sup>

By the 1790s, Hume's *Commentaries* all but supplanted Mackenzie's work as the primary scholarly authority on Scots criminal law, and his inference that the Egyptians Act had permanently fall out of use proved accurate. But the lasting influence of Mackenzie and his contemporaries on Scottish perceptions of Gypsies inflects Hume's examination of the Act. Hume's definition of 'Egyptians' as 'a different breed' whose skin colour, language, and culture set them apart from the majority population owed as much to Mackenzie as it did to Grellmann, both of whom were cited by Hume in relation to Gypsies.<sup>124</sup> By the 1790s, 'proofs' based on a racialised typology of Gypsies had been used in Scottish courts for a century, and the view that Gypsies were a dark-skinned and itinerant diaspora, found everywhere in Continental Europe but nowhere domestically, had already taken root in Scottish culture. As for Hume's opinion that Scottish courts had become 'lenient' in enforcing the Egyptians Act since the Restoration, it was certainly true that capital punishment was not consistently enforced in criminal trials of Gypsies, and that those who were prosecuted were invariably accused of other forms of criminal activity, but this had been the case since the 1610s. The prosecution of Gypsies was also no longer a priority of central government when compared to James VI's reign. Nevertheless, Hume's description of the actions taken against Gypsies after 1660 as an 'indulgent plan' was a mischaracterisation. Penal transportation presented magistrates with new opportunities to remove Gypsies and other vagrants from their jurisdictions. Unlike in earlier decades, there was sustained pressure on the privy council to grant warrants for the arrest of Gypsies, largely driven by profits that merchants could make selling convicts into indentured servitude in the English colonies. Finally, reinterpretation of the Egyptians Act from the 1670s onwards may have narrowed how Gypsies were defined, but did not limit their prosecution: if anything, it facilitated their continued harassment by authorities.

Sir John Clerk of Penicuik, widely recognised as one of the preeminent men-of-letters in the early years of the Scottish Enlightenment, is less well known for his prosecution of Gypsies. A composer, antiquary, lawyer, and negotiator of the Treaty of Union in 1707, Clerk also held barony courts at

---

<sup>123</sup> *Ibid.*, p. 345.

<sup>124</sup> *Ibid.*, pp. 338, 345.

Penicuik, dispensing justice in a range of criminal and civil cases.<sup>125</sup> Writing to a local bailie in 1742, Clerk asked that if the correspondent should ‘Catch any of these Creatures they call Gipsies’ in Tweeddale, that he would send them to Clerk for trial. He went on, ‘between jest & earnest’, that:

I shall not truble my self about proving the particulars of their crimes but go a shorter way to work with them, that is, to get them hanged as halde and repute Gipsies... Lately, in the North, some of them have graced the Gallows – this and this only is the uay that must be taken to secure the peace of this Country.<sup>126</sup>

Clerk was evidently more in earnest than in jest, for he received a number of letters congratulating him on his ‘success against ye gipsies’. One correspondent, George Ross of Halkhead, hoped that ‘ye whole shire will contribute to get those gipsies brought to punishment, if there is no proof to hang them, at least to transport them to ye plantations, for nothing else will free ye country of them’.<sup>127</sup> Another correspondent, Robert Calderwood, who had helped to secure the Gypsies’ imprisonment, expressed a wish that Clerk would ‘bring them to a tryal as soon as possible’, insisting that ‘I’m sure they’re the true Gipsie kind’.<sup>128</sup> Following the Acts of Union, considerable divergence in the treatment of Gypsies north and south of the Anglo-Scottish border remained. Whereas in eighteenth-century England and Wales, ‘the long-ignored Tudor statutes were almost forgotten’, in Scotland the opportunities of empire and the reimagining of Gypsies in racial terms prolonged the life of the Egyptians Act.<sup>129</sup> Its revival in the decades following the Restoration enabled Scottish authorities to continue to hunt down, prosecute, hang, and transport ‘the true Gipsie kind’.

---

<sup>125</sup> Sir John Clerk of Penicuik, *Memoirs of the Life of Sir John Clerk of Penicuik* (Edinburgh: T and A Constable, 1892), pp. 240-42.

<sup>126</sup> NRS, GD18/5447, letter dated 9 October 1742.

<sup>127</sup> NRS, GD18/5422/12.

<sup>128</sup> NRS, GD18/5430/6.

<sup>129</sup> David Cressy, *Gypsies*, p. 117.

## *Ways of Life*

Tried before the regality court of Argyll in 1729, Ewan MacDonald appears to have been just the kind of ‘vagabond’ that Scottish authorities had long deplored. MacDonald’s indictment described him as a fraudster who, for the past five years, had lived as a ‘vagrant person’ throughout the three kingdoms of Scotland, England, and Ireland; ‘feigning himself dumb’ and telling fortunes for money, food, drink, and lodgings. Wherever he travelled, he assumed ‘the prevailing names of the countrie where he happened to be’. In Argyll, he assumed the clan identity of a Stewart, Cameron, or Gordon at his convenience, using whatever surname was most likely to attract support and protection. Having confessed to these crimes, MacDonald was scourged ‘throw the publick streets of Campbeltown’ and permanently banished from the regality of Argyll. Should he ever return, the justice-depute warned, he would be ‘proceeded against as a sworner and Egyptian’, and risk execution.<sup>1</sup>

Ewan MacDonald’s case indicates some of the pitfalls faced by the historian trying to uncover Gypsies’ way of life in early modern Scotland. It is derived, like much of the extant evidence concerning Gypsies, from an abridged record of a court proceeding, which noted a few relevant biographical details concerning MacDonald with extreme brevity. Moreover, the record reflects the views and prejudices of the prosecutor: extracted from the court’s book of adjournal, it does not offer a summary of the pannel’s confession, and contains no evidence of a legal debate, witness depositions, or any glimpse of alternative perspectives concerning the case. But a more fundamental problem for the record’s use as evidence of Gypsies and their way of life is that Ewan MacDonald was probably not a Gypsy at all. From the brief description of his activities, MacDonald appears to have been a travelling ‘dumbie’ – individuals who had lost (or feigned to have lost) the ability to speak, and were believed to have supernatural abilities, such as healing or fortune-telling. From the few records mentioning ‘dumbies’, many appear to have been lone itinerants, marked out from wider society by their speechlessness rather than any claims to Egyptian origin.<sup>2</sup> But given that the Egyptians Act and other legislation targeting ‘vagabonds’ and ‘Egyptians’ could be employed

---

<sup>1</sup> John Imrie ed., *The Justiciary Records of Argyll and the Isles, 1664-1742*, vol. ii (Edinburgh: The Stair Society, 1969), p. 404.

<sup>2</sup> See Todd, ‘Fairies, Egyptians and Elders’, pp. 203-4.

against a range of itinerant people, such as MacDonald, the legal definition of ‘Egyptians’ was sometimes blurred, as the previous chapter detailed. So while MacDonald may have been prosecutable as an ‘Egyptian’, we are left in the dark as whether he was seen as a Gypsy by wider society, or would have identified as such himself.

This thesis has resisted drawing a distinction between those labelled ‘Gypsies’ and cognate terms, and ‘Gypsies’ as an ethnicity, the cultural and genetic ancestors of the people who are defined today as ‘Romani’. The first half of the thesis treated ‘Gypsies’ as an assortment of perceptions: a criminal identity constructed by authorities, and a folk devil embodying many qualities and behaviours condemned by the Reformed Kirk. But Gypsies were also people grouped together on the basis of perceived characteristics, and perceptions of Gypsies by Scottish authorities were rooted in, if not entirely reflective of, interactions between Gypsies and non-Gypsies. The last two chapters have shown some of these interactions: in the fifth chapter, how ties between Gypsies and their neighbours enabled the former to avoid prosecution and establish a place in Scottish society, and in the sixth chapter, how first-hand experience of prosecuting Gypsies changed the ways in which legal authorities perceived and defined them in the last decades of the seventeenth century. This chapter extends this discussion, looking not so much at perceptions, representations, and interactions, but at the cultural signifiers, social organisation, and economic occupations of Gypsies themselves. It does so by re-examining the records used throughout the thesis, this time treating them as palimpsests: documents which contain fragmentary evidence of Gypsies’ ways of life, overwritten with the anxieties and occupations of governing authorities.

Attempts to trace the history of Gypsies as an ethnicity have justifiably invited charges of ethnic or cultural essentialism: by affixing ‘Gypsy identity’ to a series of social and cultural markers, historians risk obscuring historical change and cultural syncretism amongst those labelled Gypsies.<sup>3</sup> As discussed in the thesis introduction, a rejection of ethnic essentialism has led historians such as David Mayall, Klaus-Michael Bogdal, and Frances Timbers to avoid searching for cultural or ethnic affinities among those labelled ‘Gypsies’, instead treating the history of Gypsies as one of stereotypes, labels, and representations.<sup>4</sup> This chapter takes a different approach. It seeks to

---

<sup>3</sup> See, for instance, Willems, ‘Ethnicity as a Death-Trap: the History of Gypsy Studies’, in Lucassen, Willems, and Cottaar, *Gypsies and Other Itinerant Groups*; Michael Stewart, ‘Roma and Gypsy “Ethnicity”’, pp. 418-19; and John Morgan, ““Counterfeit Egyptians””, pp. 109-10.

<sup>4</sup> See ch. 1, pp. 12-14.

demonstrate that many of the people historically known as ‘Gypsies’ or ‘Egyptians’ in Scotland had shared cultural traditions, forms of social organisation, and economic roles, while also recognising their cultural and social diversity across both time and place. Annabel Tremlett has highlighted how, in acknowledging the heterogeneity of people labelled ‘Gypsies’ or ‘Roma’, historians and anthropologists are faced with the problem of ‘how *not* to rely on or insinuate narrow concepts of “Gypsies”’ when studying these groups.<sup>5</sup> Following Tremlett’s call for Romani studies to embrace the concept of ‘hybridity’, this chapter points to the hybrid and syncretic aspects of Gypsies’ cultural and social identity in early modern Scotland, in order to show that while many Gypsies were identifiably different to other Scots, they also shared many cultural and social norms. This chapter is therefore not a study of the qualities that defined Gypsies’ culture and society, but of the ways of life practised by those labelled Gypsies, identifying common threads that ran through many of their lives.

Taking this approach, it becomes apparent that Ewan MacDonald’s life says little about early modern Gypsies. From the scattered evidence of Gypsy lives dating to the sixteenth and seventeenth centuries emerge a people who, like MacDonald, were itinerant, but also tended to be marked out from other Scots by notable cultural differences. These included a rejection of the Reformed Kirk and its institutions, a ‘secret’ language that was neither Scots nor Gaelic, and self-presentation as ‘Egyptians’. Furthermore, Gypsies formed large groups, usually called ‘companies’ or ‘troops’, made up of extended kin, often with a shared surname, and led by men bearing titles such ‘earl’ or ‘captain’. These groups travelled together throughout Scotland and its neighbouring kingdoms, staying in the houses, barns, and kilns of non-Gypsies. By the late seventeenth century if not earlier, many Gypsies had established semi-permanent bases in rural areas from Annandale to Banffshire, and travelled annually to burgh fairs across Scotland and found various means of subsistence, whether trading horses, offering their services as performers, fortune-tellers, and healers, or committing acts of theft or robbery. While often compared to bandits and vagrants, Gypsies were not reducible to either of these categories, instead comprised a group of people whose social and cultural norms and economic occupations rendered them distinct from those labelled ‘rogues’, ‘vagabonds’, and other itinerant peoples.

---

<sup>5</sup> Annabel Tremlett, ‘Bringing Hybridity to Heterogeneity’, p. 160.

## *Language, Religion, and Appearance*

In 1630, the bailie-depute of Carrick arrested a group of ‘vagabound theeves callit Egiptianis’. The magistrate did so unprompted: no resident in the district had charged the group with any felony, and he was not acting on the direct order of central authorities.<sup>6</sup> Although local magistrates were legally required to arrest any Gypsies in their jurisdiction under the Egyptians Act, as we have seen, it was a duty they rarely carried out. Following the Gypsies’ arrest, it transpired that they were not carrying any stolen goods. The bailie-principal of Carrick, John Kennedy, sixth earl of Cassilis (a committed presbyterian who later served as Scotland’s justice-general), decided to seek the advice of the privy council on what ‘punishment suld be Inflictit’ on the Gypsies ‘for thair Idle lyff and wicked conversation’. The council recommended that Cassilis either try the prisoners in accordance with the Egyptians Act, or else arrange their transportation to Edinburgh for trial. Cassilis opted for the latter, and was granted a warrant, signed by the chancellor, which required the magistrates of Edinburgh to keep the prisoners while they awaited trial. The warrant also guaranteed that Cassilis would not be prosecuted for failing to try the captured Gypsies in his local district.<sup>7</sup> The bailies of Carrick also wrote to magistrates throughout the shire calling for witnesses to come forward regarding any wrongdoing committed by the detained Gypsies.<sup>8</sup> After being transported to Edinburgh, the imprisoned Gypsies also petitioned the privy council. The group was made up of three couples and a number of children, all bearing surnames closely associated with Scottish Gypsies: George Faw and Katherine Brown, William Baillie and Helen Faw, Andrew Baillie and Jonet Baillie. They claimed to have been travelling ‘peacably’ through Carrick on their return to Ireland before being detained, and had subsequently spent weeks imprisoned in Edinburgh ‘in miserable captivitie’. They requested to be released so that they could return to Ireland. The privy council granted their request, giving them fifteen days from their release to leave Scotland, under pain of death should they fail to do so.<sup>9</sup>

---

<sup>6</sup> *RPCS*, ser. 2, vol. iii, pp. 533-34.

<sup>7</sup> NRS, GD25/9/2/16, document entitled ‘Egyptians 1630’.

<sup>8</sup> NRS, GD25/9/2/16, document dated 8 July 1630.

<sup>9</sup> *Ibid.*

The case of the Carrick Gypsies reflects many aspects of the early modern history of Scotland's Gypsies.<sup>10</sup> It demonstrates how erratically the Egyptians Act was interpreted and applied, both by local and central authorities, and underlines the lack of appetite among local magistrates to prosecute Gypsies to the full extent of the law. Cassilis's transportation of the prisoners to Edinburgh suggests that he either had misgivings about prosecuting the Gypsies under the Egyptians Act, or else disliked the financial burden of imprisoning and trying a group of people with few assets to sequester. The privy council's eventual decision to free the Gypsies was a further demonstration of judicial lenience and the gap between rhetoric and action that characterised the treatment of Gypsies by central authorities. But the case also shows a continued appetite among magistrates for the arrest and removal of Gypsies two decades after the passage of the Egyptians Act. In addition, it demonstrates how, rhetorically at least, being a Gypsy was a crime of status rather than behaviour: the bailie-depute of Carrick arrested the group of Gypsies on the basis of their identity alone, and not as a result of any perceived wrongdoing.

Throughout the early modern period, Gypsies were plainly recognisable to Scottish authorities. The legislators who framed the Egyptians Act and other anti-Gypsy measures took it for granted that civil authorities would be able to arrest, prosecute, and convict the people 'commounlie callit Egiptianis' without enumerating the group's identifiable characteristics.<sup>11</sup> Before the 1670s, prosecutors and witnesses in criminal and church court cases were likewise able to identify Gypsies without passing comment on how they did so. The identifiers ascribed to Gypsies were rarely articulated in the documentary evidence, and on occasions when they were, described Gypsies in various, sometimes contradictory, ways that changed considerably over time. As the last chapter showed, the ways in which Gypsies were defined by magistrates was influenced by myriad factors beyond direct observation. Early modern authorities made poor ethnographers, and the task of tracing Gypsies' cultural practices from their accounts is daunting, if not impossible. Nevertheless, the case of the Carrick Gypsies and others like it suggest that Gypsies were perceived to be a distinct people, and this section will consider the evidence regarding three different aspects of that distinctiveness: language, religion, and appearance. Taken together, they suggest that Gypsies were marked out from other Scots not only by their itinerancy, but also by significant cultural differences.

---

<sup>10</sup> In the early nineteenth century, a number of legends concerning the sixth earl of Cassilis and Gypsies were recorded and widely circulated. See [Simson], 'Notices Concerning Scottish Gypsies', pp. 49-50; Robert Chambers, *A Picture of Scotland*, vol. i (Edinburgh: William Tait, 1827), pp. 290-92.

<sup>11</sup> *RPS*, 1609/4/32.

The study of Romani languages has played a crucial role in supporting the idea of a collective Romani diaspora with a shared culture, history, and place of origin. In the late eighteenth century, several scholars independently recognised the grammatical and etymological similarities between Romani and Indic languages, and published works arguing that these similarities supported the theory that Europe's Romani-speaking peoples originated in India.<sup>12</sup> Writing to the Society of Antiquaries in 1785, the Irish polymath William Marsden proposed not only that 'the language spoken by the Gypsy tribes in England' and the 'Cingari, Zingari, and Chingali' of Continental Europe were 'one and the same', but also that their vocabulary bore close correspondence to 'Hindustanic', or Hindi-Urdu. While Marsden stopped short of asserting that Gypsies' origin lay in India, he noted that it had 'long been surmised' that these 'vagrant tribes of people... were of Eastern origin', and provided a list of thirty-seven Hindi words and their equivalents in the dialects of the 'English Gypsies', the 'Turkish Chinghiarès', and the 'Cingari'.<sup>13</sup> Three years earlier, the German linguist Johann Rüdiger had made similar etymological links between equivalent Romani and 'Hindustani' terms, and reached the conclusion that 'the Gypsies together with the Indians constitute one people'.<sup>14</sup> Drawing on Rüdiger's work, Heinrich Grellmann popularised the theory of Indian origins and established a 'scientific' basis for the idea that Gypsies constituted a single diasporic people, united by a shared racial lineage and a common culture spanning centuries and continents.<sup>15</sup>

Evidence from the early nineteenth century points to the use of a wide-ranging Romani lexicon in pre-industrial Scotland. The earliest known vocabulary of the 'Scottish tinklers, or Gipsies', was compiled by Walter Simson in the 1820s. Following the advice of Sir Walter Scott, Simson collected responses from at least ten 'Gipsies' regarding their language, and would 'get the same words from different individuals; and... set down the names of the persons by whom they were communicated'. Simson prompted the responses by asking for the English meaning of words from printed Angloromani lexicons as well as 'specimens of our Scottish Tinkler or Gipsy language' that

---

<sup>12</sup> See Yaron Matras, 'Johann Rüdiger and the study of Romani in 18th Century Germany', *Journal of the Gypsy Lore Society* 9 (1999).

<sup>13</sup> William Marsden, 'Observations on the Language of the People commonly called *Gypsies*', *Archaeologia* 7 (1785), pp. 382-83, 386.

<sup>14</sup> Manuel Priego Thimmel, Karl Bernhardt, & Annette Monreal, 'On the Indic Language and Origin of the Gypsies' (unpublished thesis: University of Manchester, 1996), p. 11.

<sup>15</sup> Acton, 'Modernity, Culture and "Gypsies"', in Saul and Tebbutt eds., *The Role of the Romanies*, pp. 106-7.

he had already ‘committed to memory’.<sup>16</sup> A similar vocabulary of the ‘Gipsies of Yetholm’ was compiled in the 1830s by John Baird, minister of Kirk Yetholm in Roxburghshire, a village with a notable population of settled Gypsies from the eighteenth century onward.<sup>17</sup> According to Baird, the vocabulary collected from his parishioners demonstrated that their ‘language — if it may be so called... is precisely the same — with some differences of spelling or pronunciation — with the language used by gypsies in all parts of the continent of Europe; a language, therefore, which may have been brought with them’.<sup>18</sup> The evidence of Gypsies’ language provided by Simson and Baird has to be handled a great deal of care: both authors were convinced that contemporary ‘tinkler-gypsies’ were remnants of a population of ‘pure’ Gypsies, and single-mindedly pursued lexical examples that would ‘prove’ Scottish Gypsies to be members of a ‘barbarous race’ from Asia. Nevertheless, both Simson’s and Baird’s interlocutors indisputably used a lexicon of Romani terms, suggesting a shared linguistic inheritance, or at least extensive linguistic exchange, with English Romani Gypsies.

Evidence from early modern England also points to the use of the Romani language by people labelled ‘Egyptians’ or ‘Gypsies’. Thirteen phrases collected by the English physician and early travel-writer Andrew Boorde in 1542, together with a lexicon compiled by Hampshire prosecutors in 1615, provide compelling evidence of the use of a Romani dialect by Gypsies in the sixteenth and seventeenth centuries.<sup>19</sup> Peter Bakker has gone so far as to propose that the 1615 lexicon demonstrates the early development of Angloromani, a ‘mixed language’ or ‘para-Romani’ dialect that employed a Romani lexicon and English grammatical forms.<sup>20</sup> While Boorde called the language of the ‘Egyptians’ simply ‘Egipt speche’, the 1615 lexicon was headed ‘a note of such Canting words as the Counterfett Egiptians use amongst themselves as ther Language’.<sup>21</sup> English

---

<sup>16</sup> Simson, *A History of the Gipsies*, pp. 291-337.

<sup>17</sup> See Baird, *Memoir of the Late Rev. John Baird*, pp. 74-80.

<sup>18</sup> *Ibid.*, p. 72.

<sup>19</sup> Andrew Boorde [Borde], *The fyrst boke of the introduction of knowledge made by Andrew Borde, of physycke doctor*, ed. F. J. Furnivall (London: Kegan Paul, Trench, Trubner & Co., 1870), pp. 217-18; McGowan ed., *Winchester Confessions*, ch. 6, pp. 217-18; David Cressy, ‘Marginal People in a Stressful Culture: Gypsies and ‘Counterfeit Egyptians’ in Margaret Spufford’s England’, pp. 216-17; and John Considine, *Small Dictionaries and Curiosity: Lexicography and Fieldwork in Post-Medieval Europe* (Oxford: Oxford University Press, 2016), pp. 57-65.

<sup>20</sup> See Peter Bakker, ‘An Early Vocabulary of British Romani (1616): a Linguistic Analysis’, *Romani Studies* 12 (2002).

<sup>21</sup> Boorde [Borde], *The fyrst boke of the introduction of knowledge*, p. 217.

writers working in the rogue literature tradition often described the language of the ‘Egyptians’ as a ‘cant’, but attached considerable ambiguity to whether or not the language of ‘Egyptians’ was separable from the ‘cant’ of other vagrants. While the presence of Romani grammar and lexical forms in the two early vocabularies provide strong evidence of the use of early modern Romani, ambiguity regarding such neat linguistic distinctions in early modern literary accounts, coupled with contemporary ethnographic research, has fuelled much scholarly debate regarding the question of English Gypsy identity.<sup>22</sup>

Given these uncertainties in the better-documented English context, it cannot be assumed that Scottish references to the ‘Egyptian language’ were evidence of Romani language use. Unlike their English counterparts, early modern Scottish writers produced no vocabularies of the language spoken by ‘Egyptians’. Members of those identified as Scottish Travellers today employ a vocabulary drawn from English Cant, Irish Shelta, and Angloromani that has been variously identified as an ‘oral passport’, a ‘secret language’, and a ‘mixed language’, incorporating a lexicon of Traveller terms within an English grammatical framework.<sup>23</sup> The use of specifically Romani terms by Scottish Travellers may be a remnant of the use of a more grammatically and lexically complete Romani language, or else evidence of cultural exchange between Scottish Travellers and English Romanichal Gypsies.<sup>24</sup> As elucidated in the previous chapter, references to the ‘Egyptian’ or ‘giptee’ language first appeared in Scottish sources in the 1670s, when it caught the attention of Scottish prosecutors, whose interest in the language appears to have been driven by a desire to define ‘Egyptians’ more clearly in law. In the case of Mackenzie of Rosehaugh and later writers, perceptions of the language were almost certainly influenced by descriptions of Gypsies in printed works from England and Continental Europe.<sup>25</sup> Nevertheless, the ‘Egyptian language’ as used in Scotland was not the invention of prosecutors such as Nisbet and Mackenzie, an imagined attribute borne out of their wide reading and desire to categorise Gypsies. It was a real point of difference between Gypsies and the wider population.

---

<sup>22</sup> See ch. 1, pp. 11-14, 30.

<sup>23</sup> See Yaron Matras, *Romani in Britain: the Afterlife of a Language* (Edinburgh: Edinburgh University Press, 2010), p. 2; Yaron Matras, Hazel Gardner, Charlotte Jones, Veronica Schulman, ‘Angloromani: A Different Kind of Language?’, *Anthropological Linguistics*, 49 (2007), pp. 146-47.

<sup>24</sup> See Sheila Douglas, ‘Travellers’ Cant in Scotland’, in John M. Kirk and Dónall Ó Baoill eds., *Travellers and Their Language*, pp. 125-31.

<sup>25</sup> See ch. 6, pp. 161-63, 174-75.

Court records from the late seventeenth and early eighteenth century reveal something of how Gypsies' language was perceived first-hand by non-Gypsies. In 1675, the Edinburgh officer William Dumbar described how he had heard two alleged Gypsies 'intertain discourse' in an unknown language on a number of occasions.<sup>26</sup> In the trial of four 'notorious Gypsies' at Banff in 1700, witnesses described the pannels as speaking a language they could not understand, but 'which was not Irish', meaning Scottish Gaelic.<sup>27</sup> The witnesses, as residents of the district of Moray, were doubtless familiar with both Scots and Gaelic, and the pannels' itinerant way of life straddled the Highland-Lowland divide. It would seem, then, that the language spoken by the pannels distinguished them from both the Scots and Gaelic-speaking communities, and was probably not a Gaelic-based 'cant', or an early manifestation of the Traveller dialect now known as Shelta or Gammon.<sup>28</sup> Plausibly, many labelled 'Gypsies' or 'Egyptians' in early modern Scotland spoke a Romani or para-Romani language, but it does not follow that when early modern Scots talked about the 'Egyptian language', they invariably referred to Romani. Without any supporting lexicographical or grammatical evidence from early modern Scotland, it is impossible to move beyond conjecture. Nevertheless, it is apparent that many early modern Gypsies in Scotland had an in-group form of communication distinguishing them from the wider population, Scots and Gaelic speakers alike.

Religion was another key point of cultural differentiation between Gypsies and non-Gypsies. While the fourth chapter traced the development of theological concerns regarding Gypsies between the 1570s and the 1640s, the following paragraphs consider the extent to which those concerns were rooted in reality. During the late sixteenth and seventeenth centuries, Kirk authorities held the official line that Gypsies were enemies of the established Church who rejected the word of God, practised magic, spread superstition amongst the faithful, and lived a debauched and promiscuous way of life. Clearly, the Reformed Kirk projected many of its fears and anxieties on the figure of the 'Gypsy', but ecclesiastical authorities were also responding to beliefs and practices of Gypsies themselves. Attempting to reconstruct aspects of the religion and beliefs of early modern Gypsies is therefore as fraught as attempting to ascertain their language. Almost all of what can be ascertained is negative, in the sense that ascertaining what they did not believe is more feasible than positive

---

<sup>26</sup> NRS, GD6/996, deposition of William Dumbar.

<sup>27</sup> *NSAS*, vol. xiii, p. 23.

<sup>28</sup> See Kirk and Ó Baoill eds., *Travellers and Their Language*, esp. the introduction.

inferences. But even from such partial and unpromising evidence, it is possible to establish that throughout the early modern period, many Gypsies rejected the authority of the established Kirk, presented themselves as fortune-tellers, charmers, and healers, and did not always subscribe to conventional sexual morality.

Over the seventeenth century, ecclesiastical authorities at all levels, from the kirk session to the general assembly, sporadically issued formulaic condemnations of Gypsies ‘for thair wicked and vngodlie forme of living’. Aspects of Gypsies’ ‘forme of living’ that were deemed to provoke ‘the wrath of god’ included their alleged neglect of the holy institutions of baptism and marriage, as well as range of criminal activities, including ‘Adulterie Incest Thift and wther odious Crymes’.<sup>29</sup> Individual Gypsies were sometimes condemned by ministers from the pulpit, apparently for the benefit of non-Gypsy parishioners who might aid or sympathise with those named. In 1675, the minister of Galashiels, Hew Scott, publicly condemned the Faw family ‘as stand alone persons’ who were guilty of being ‘Gipties and louse men’. Although the condemnation was declared before the congregation as a whole, Scott had a particular audience in mind: the local landowners who had been harbouring the Faws.<sup>30</sup> Hew Scott had also complained to his brother about the Faw family, saying they ‘were lowse & scanderlous persons and never come to the church’, and that he had been seeking their removal from the parish.<sup>31</sup> Occasionally, parish ministers were the deliberate targets of crimes committed by Gypsies: the minister of Cockburnspath described how in 1632 a group of Gypsies had broken into his house, despoiled his possessions, and chased him in armed pursuit, possibly due to his having previously evicted them from the parish.<sup>32</sup> In 1700, the minister of Dipple, John Scot, had been tricked out of forty pounds by two Gypsies while at St Rufus Fair in Keith, Moray. Scot knew one of the perpetrators, Peter Brown, by name, and the theft had involved an elaborate deception requiring Scot to trust Brown to retrieve the stolen item.<sup>33</sup> Both instances suggest a degree of familiarity between Gypsies and local ministers, as well as significant mutual antagonism. Ecclesiastical authorities sought to alienate and exclude Gypsies through public

---

<sup>29</sup> NRS, CH2/224/1, fo. 26r-v.

<sup>30</sup> NRS, GD6/996, deposition of George Kirkup.

<sup>31</sup> NRS, GD6/996, deposition of Patrick Scott.

<sup>32</sup> *RPCS*, ser. 2, vol. v, p. 402.

<sup>33</sup> *NSAS*, vol. xiii, p. 25.

condemnation and the punishment of congregants who harboured them, but were evidently unable to coerce them through religious exclusion.

As discussed in the fourth chapter, it does not appear that Gypsies submitted to the authority of the church courts: there are no instances of individuals described as Gypsies being threatened with excommunication or the withholding of infant baptism. Nor were Gypsies called before church courts to be questioned about their moral probity or punished for spiritual wrongdoing. While other ‘vagabonds’ occasionally petitioned church courts to seek baptism for their children, no such petitions submitted by people labelled Gypsies have come to light, and there are likewise no examples of Gypsies having wedding banns proclaimed.<sup>34</sup> By the late seventeenth century, however, there is limited evidence that some Gypsies had accepted aspects of contemporary religious norms. In the justiciary court cases against the Faws and Shaws heard in 1678, the defence counsel John Eleis claimed that the pannels could offer particulars about ‘ther baptisme residence & occupa[tio]n’.<sup>35</sup> As seen previously, this approach was an attempt to challenge Mackenzie’s attempts to prosecute the individuals under the Egyptians Act, given questions thereby raised as to what constituted an ‘Egyptian’. The defence counsel sought to argue that since Gypsies were not baptised, settled, and industrious, the pannels in this case could not be Gypsies. In their depositions, the pannels attested to their place of residence and economic livelihood, but made no mention of being baptised or attending church. It is notable that among those on trial were the members of the Faw family whom the minister of Galashiels had condemned for never attending church and being ‘lowse & scanderlous’ three years previously.<sup>36</sup> The Banff Gypsy trial of 1700 also saw the pannels’ faith tested, when the alleged Gypsies were ordered to recite the Lord’s Prayer before the assize.<sup>37</sup> Unfortunately, their success or otherwise in this task was not recorded, and no reference to the pannels’ faith (or faithlessness) was included in their conviction. While both instances point to the possibility that some Gypsies exhibited a degree of religious conformity by 1700, they also make clear that authorities who interacted with Gypsies viewed their religion as a significant signifier of difference.

---

<sup>34</sup> George Ritchie Kinloch ed, *Selections from the Minutes of the Presbyteries of St Andrews and Cupar* (Edinburgh: Abbotford Club, 1837), p. 25.

<sup>35</sup> NRS, JC2/14, fo. 399v.

<sup>36</sup> See Colin Clark, ““Severity has often enraged but never subdued a gipsy”, p. 234.

<sup>37</sup> *NSAS*, vol. xiii, p. 23.

Gypsies' sexual relations were another area of periodic concern for authorities, revealing something about Gypsies' relationship with Scotland's wider religious culture and social expectations. The poor law of 1575 had condemned Gypsies for 'leving... without mariage', a trope that continued to be applied to Gypsies throughout the seventeenth century and indeed long afterwards.<sup>38</sup> In post-Reformation Scotland, marriage had no sacramental value, and two parties might be legally married by the simple exchange of consent. So-called 'irregular' marriages assumed a number of legally valid forms, including a verbal declaration of marriage before a witness, a promise of marriage followed by sexual intercourse, or even cohabitation in which the couple were considered married 'by habit and repute'.<sup>39</sup> Nevertheless, Kirk authorities placed great emphasis on 'regular' marriage as the most common and socially acceptable form of union, which required the public reading of banns in church, followed by a ceremony before a minister and a male witness of good standing.<sup>40</sup> As Margo Todd has shown, the kirk session of Perth interpreted these requirements in extreme form in 1591 by declaring that contracts of marriage would only be recognised by the session if the couple intending to marry underwent examination by the minister and elders, in order to prevent Kirk members from marrying 'infidels'.<sup>41</sup> As well as issuing fines and other punishments, church courts sometimes ordered unmarried couples to marry, regardless of their place on the social spectrum.<sup>42</sup> Marriage therefore incorporated a broad spectrum of relationships, and although 'irregular' marriages were legal, such unions routinely encountered disapproval and interference from Kirk ministers and elders.

The majority of adult Gypsies who appear in court records claimed to be married, though it seems likely that these were 'irregular' marriages. Sexual relations between Gypsies and non-Gypsies attracted the attention of church courts: in 1593, one Rutherglen parishioner confessed before the presbytery of Glasgow that he had received 'in his hous an egyptian woman, And ane scottisman' who had 'mareit hir'.<sup>43</sup> Stories of marriages between Gypsies and non-Gypsies suggest that such

---

<sup>38</sup> *RPS*, A1575/3/5.

<sup>39</sup> See Eleanor Gordon, 'Irregular Marriage: Myth and Reality', *Journal of Social History* 47 (2013).

<sup>40</sup> See Leah Leneman and Rosalind Mitchison, 'Clandestine Marriage in the Scottish Cities 1660-1780', *Journal of Social History* 26 (1993).

<sup>41</sup> Margo Todd, 'Profane Pastimes', p. 147.

<sup>42</sup> See Keith M. Brown, 'In Search of the Godly Magistrate in Reformation Scotland', *Journal of Ecclesiastical History* 40 (1989), pp. 569-70; Katie Barclay, 'Marriage, Sex, and the Church of Scotland: Exploring Non-Conformity Amongst the Lower Orders', *Journal of Religious History* (2019).

<sup>43</sup> *NRS*, CH2/171/31, p. 43.

unions were often 'irregular' in some way. In 1675, one Jon Whyt described how he had employed a servant in his household called Mareon Neilson, but she 'ran away out of his service' and married a Gypsy, Patrick Shaw.<sup>44</sup> In the same case, Agnes Shaw (Patrick Shaw's aunt) claimed that she was the daughter of gentry who met an 'Aegyptiane' called John Faw and 'went away with him beyond the border' and married in the Cumberland village of Kirkclinton.<sup>45</sup> Given that she was seeking to stave off accusations of being a Gypsy, Agnes Shaw may not have been truthful about her origins, but nevertheless her deposition implied that she had entered into an irregular marriage with Faw. Another witness reported that the Faw men were 'thought to be so prophan as to exchange wyves', while an indictment lodged with the high court of justiciary in 1678 alleged that the Faw and Shaw families 'did lye all night together promiscuouslie in barns and other houses'.<sup>46</sup> These accusations may have been baseless and another iteration of the long-running stereotype that held Gypsies to be sexually promiscuous. However, Robert Faw's deposition contained the 'confession' that he along with 'his brother & mother and the shawes & ther children & wyves lay altogither'; the notion of 'lying together' having the dual meaning of both sexual intercourse and simply sharing a bed.<sup>47</sup> While it is not possible to reconstruct the marital and sexual practices of Scotland's early modern Gypsies from the available evidence, their sexuality and marital relations clearly fell outside the norms prescribed by the Kirk and attracted alarm and condemnation.

While it is apparent that many Scottish Gypsies did not adhere to the Kirk's prescribed moral framework and doctrine, questions remain concerning what beliefs they actually held. The evidence is scant. Their non-participation in the rituals of the Church and lack of respect for ecclesiastical authority placed them beyond the pale from the perspective of Kirk authorities. Gypsies were also held to encourage superstition amongst 'the simple and ignorant people by telling of fortunes and useing of charmes', along with practising witchcraft and 'jugling trikkis'.<sup>48</sup> Accusations that Gypsies practised magic, witchcraft, and divination can hardly be taken at face value, though court cases do suggest concrete and widely held associations between Gypsies and various practices branded 'superstitious'. Gypsies presented themselves as healers, charmers, and fortune-tellers,

---

<sup>44</sup> NRS, GD6/996, deposition of Jon Whyt, deposition of Mareon Neilson

<sup>45</sup> *Ibid.*, deposition of Agnes Shaw.

<sup>46</sup> *Ibid.*, deposition of George Kirkup.

<sup>47</sup> NRS, JC26/49, document dated 5 November 1677.

<sup>48</sup> *RPCS*, ser. 1, vol. x, pp. 655-57.

presumably benefiting from the association of Egypt and ‘Egyptians’ with magic and arcane knowledge. While Gypsies were occasionally accused of acts of magic commonly ascribed to witches, such as hindering cattle from producing milk, in other cases witnesses reported Gypsies practising cures, spells, and charms that were both prosaic and highly specific.<sup>49</sup> For instance in 1629, the kirk session of Dundonald heard reports that Gypsies told fortunes and carried out charms involving knots of straw, water, and bread, while one Gypsy in rural Moray ‘took in hand to cure’ a patient with a boil or cyst in 1700.<sup>50</sup> Such practices, as Margo Todd has suggested, hint at alternative ‘cosmologies’ or belief systems alongside that of the Kirk, although it is not clear whether they reflected the belief systems of Gypsies themselves.<sup>51</sup> Nevertheless, it seems that Scottish Gypsies’ system of belief was not tied to Scotland’s religious orthodoxy; indeed they actively subverted that orthodoxy through their ‘cheating of the people by waine [vain] superstitiones’, ‘knowledge of charming’, and fortune-telling.<sup>52</sup>

The physical appearance of Scottish Gypsies is, perhaps surprisingly, potentially more difficult to ascertain than their language or belief systems. The earliest ‘Egyptians’ to travel through, and settle in, Europe were identified as foreign by many local authorities, marked out by their ‘exotic’ clothing and darker skin.<sup>53</sup> Visual representations from fifteenth- and sixteenth-century Germany and the Netherlands depicted ‘Egyptians’ as impoverished foreign travellers in ragged clothing; women were often presented as sporting a knotted cloak, and both sexes were shown with head coverings resembling flat turbans, quite distinct from those attributed to ‘Turks’ in comparable representations (see the frontispiece of this thesis).<sup>54</sup> In early modern England, physical appearance was taken to be a key signifier of cultural and ethnic difference: legislation enacted in 1563 under Elizabeth I banished anyone ‘disguising themselves by their Apparell Speache or other Behaviour like... Egyptians’.<sup>55</sup> Another act in 1597 was directed against all people ‘wandering in the habite,

---

<sup>49</sup> For Gypsies accused of generic acts of witchcraft, see *Miscellany of the Maitland Club*, vol. ii, pp. 164-65; Pitcairn, *Criminal Trials*, vol. i, part 3, p. 196.

<sup>50</sup> Paton ed., *Dundonald Parish Records*, pp. 278-80; *NSAS*, vol. xiii, p. 25.

<sup>51</sup> See Todd, ‘Fairies, Egyptians and Elders’, pp. 197-99.

<sup>52</sup> ‘Process: Procurator Phiscall against the Egyptians’, *Miscellany of the Spalding Club*, vol. iii, p. 181.

<sup>53</sup> See Fraser, *Gypsies*, pp. 68-69.

<sup>54</sup> See Erwin Pokorny, ‘The Gypsies and their Impact on Fifteenth-Century Western European Iconography’, in Jaynie Anderson ed., *Crossing Cultures: Conflict, Migration, and Convergence* (Melbourne: The Miegunyah Press, 2009), pp. 597-601.

<sup>55</sup> 5. Eliz. I c. 20.

forme, or attire of counterfeiting Egyptians'.<sup>56</sup> Likewise, King Philip III sought to assimilate Spain's Gypsy population by an order decreed in 1619 that required all Gypsies to settle in large towns and abandon their language and style of dress. Physical appearance may also have been pertinent to the enforcement of Scottish anti-Gypsy legislation: the drafters of the Egyptians Act implicitly assumed that 'Egyptians' were easily identifiable, and required no further 'proof' to achieve conviction. It was only in the 1670s that Mackenzie of Rosehaugh and contemporaries made explicit the various qualities which made a person recognisably 'Egyptian', and therefore liable to prosecution: itinerancy, darkened skin, fortune-telling, language, and connections with the 'Zigeni', 'Tartari', 'Bohemij' of Europe.<sup>57</sup>

Given the assumption prevalent in the sixteenth century that Gypsies were 'foreign', it is reasonable to infer that physical appearance was part of this perceived foreignness. By the seventeenth century, English writers in the rogue literature tradition saw Gypsies' outward appearance as pretended exoticism, designed to deceive the naive and unsuspecting. According to the anonymous author of a pamphlet published in 1673, Gypsies were 'a sort of extravagants', who, 'by discolouring their faces, wearing Antick Habits, using a Barbarous Language... [and] Fortune telling, pass amongst the poor Credulous Rabble for Natives of Ægypt'.<sup>58</sup> In such accounts, Gypsies were not rendered distinct by their foreignness or a common ethnicity, but rather by belonging to an underworld of vagrants and criminals that had its own cultural traditions entirely separate from those of England's settled and law-abiding subjects.<sup>59</sup> Scottish records, however, offer sparse hints as to what Gypsies wore, while their skin pigmentation (real or otherwise) only began to attract comment in the late seventeenth century. The Beggars Act of 1593 grouped 'Egyptians' with those who disguised themselves with false beards, linen clothing, and fools' garments, suggesting that Gypsies were viewed as having a comparable 'counterfeit' identity.<sup>60</sup> Unlike the English legislation, however, the Beggars Act did not make an explicit connection between these disguises and the attire worn by Gypsies. In Scotland, Gypsies were also accused of stealing clothing from non-Gypsies, and a witness deposition from a circuit court case in 1725 described an alleged Gypsy as wearing 'a bonet

---

<sup>56</sup> 39 Eliz. I c. 4.

<sup>57</sup> See ch. 6, pp. 159.

<sup>58</sup> William E. A. Axon, 'A Gypsy Tract from the Seventeenth Century', p. 70.

<sup>59</sup> See Paul Slack, 'Vagrants and Vagrancy in England 1598-1664', in Peter Clark and David Souden eds., *Migration and Society in Early Modern England* (London, 1987).

<sup>60</sup> *RPS*, A1593/9/14.

and tartan hose' that gave him the appearance of a man from 'the north country' (that is, the Highlands).<sup>61</sup> Such is the paucity of evidence that it seems likely that Gypsies' attire was unremarkable in the eyes of other Scots, though even this is necessarily speculative. Although use of skin pigmentation as an identifier is better evidenced than that of dress, it was not a fixed and stable point by which their ethnic identity was insolubly connected. It is likely that some Gypsies' darker complexion marked them out from the majority, but as the last chapter showed, it was only in the late seventeenth and eighteenth centuries that elite Scots came to view Gypsies' skin colour as a heritable and ineradicable marker of ethnicity. Gypsies' complexion carried no inherent cultural or ethnic significance, despite the contrary assumptions of nineteenth-century Gypsyloists; and, given the lack of evidence, reveals nothing about how Gypsies saw themselves and related to one another.

### *Lords and captains, companies and troops*

This attempt to reconstruct Gypsies' language, religion, and physical appearance demonstrates the acute limitations of extant evidence. It seems possible only to ascertain who Gypsies were not, rather than obtaining concrete aspects of who they were: we do not know what language they spoke, what they believed, or what they looked like, let alone how their culture changed over the course of two centuries. But in considering Gypsies' social structures, we move to firmer ground. During the sixteenth and seventeenth centuries, groups of Gypsies were variously labelled 'companies', 'tribes', or 'clans', led by 'earls', 'lords', or 'captains'. Scotland's lawmakers routinely treated Gypsies as an undifferentiated mass onto which they projected a frightening and subversive collective identity, but court cases and literary accounts enable us to move beyond stereotypes of Gypsies as inchoate parties of 'vagabonds', roaming across the country and fighting amongst themselves. Rather, Gypsies formed hierarchical groups based on extended familial kinship, bound by shared surnames much like the Highland clans or Borders surname groups. Furthermore, while most Gypsies appear to have been highly mobile, they were not consistently itinerant. By the seventeenth century, a pattern emerged whereby many Gypsies appear to have had rural places of residence where they lived for some of the year, far from centres of political authority and under the protection of friendly landowners. The social boundaries between Gypsies and non-Gypsies were porous, and there was a degree of cultural and social syncretism that both anti-Gypsy legislation and attempts to discern a 'pure' Gypsy culture have obscured.

---

<sup>61</sup> NRS, JC13/5, p. 159.

Gypsies were invariably described in the plural by early modern Scots. The earliest records consistently referred to ‘the Egiptianis’ and suggested that they formed hierarchical groups of travellers: James IV sought safe passage to Denmark for ‘earl’ Anthony Gawino and ‘the rest of his company’ as members of an ‘afflicted and miserable gens’. Likewise, James V issued letters of protection to John Faw, ‘Lord and Erle of Litill Egipt’, and ordered magistrates ‘to assist to him in executioun of justice upoun his cumpany and folkis’ so that they ‘conforme to the lawis of Egipt’.<sup>62</sup> As described in previous chapters, these royal letters offer insights into Gypsies’ self-presentation and possible juridical autonomy, but they are also straightforward observations of how Gypsies organised themselves. In these and other examples, Gypsies were represented by male leaders in their interactions with non-Gypsy officials. Leaders adopted aristocratic titles such as ‘earl’ or ‘lord’ during the first half of the sixteenth century, as well as the more martial ‘captain’ thereafter. According to Angus Fraser, the use of the term ‘captain’ was ‘a new vogue’ in mid sixteenth-century Europe, rapidly replacing use of aristocratic labels to describe ‘Egyptian’ leaders.<sup>63</sup> When two Gypsy women were accused of theft in Aberdeen in 1540, one ‘Erle’ George Faw acted both as ‘capitane’ of the ‘Egiptians’, and as ‘forspeikar’, or male representative, for the two pannels.<sup>64</sup> Likewise in 1579, Robert Baillie, ‘capitane of certane Egiptianes’, appeared before the bailies of Glasgow ready to answer for any criminal accusations against ‘himself and his cumpany’.<sup>65</sup> By using titles that were comprehended and respected by Scottish authorities, Faw and Baillie acted as interlocutors between the Gypsy and non-Gypsy communities, defending the interests of the former through the political and legal institutions of the latter. The titles themselves also connected them with the other groups labelled ‘Egyptians’ and cognate terms travelling throughout Europe.

As the legislative noose was tightened on Gypsies from the 1570s onwards, Gypsy leaders no longer found themselves in a position to represent their companies collectively and defend themselves against accusations of wrongdoing. David Abulafia has noted that the use of titles by

---

<sup>62</sup> James Gairdner ed., *Letters and Papers of Richard III and Henry VII*, vol. ii (London: Longman, Green, Longman, Roberts, and Green, 1863), pp. 213-14: ‘Anthonius Gawino, ex parva egipto comes et caetera comitatus’.

<sup>63</sup> Fraser, *Gypsies*, p. 96.

<sup>64</sup> *Extracts from the Council Register of the Burgh of Aberdeen*, pp. 167-68.

<sup>65</sup> Mawick ed., *Extracts from the records of the Burgh of Glasgow*, p. 75.

Gypsy leaders in fifteenth- sixteenth-century Europe showed how Gypsies made themselves 'legible' to non-Gypsies, but posits that such titles offer no indication of the internal organisation of Gypsy groups.<sup>66</sup> Nevertheless, the use of titles amongst Scottish Gypsy groups was widespread and long-lasting, and appears to have been more than just a form of self-presentation for outsiders' benefit. Throughout the seventeenth century, observers and prosecutors of Gypsies continued to note that Gypsy companies had 'captains', but such figures no longer appeared in the role of interlocutor between different communities. Instead, Gypsy 'captains' were pursued by central authorities as 'the principall ringleadaris' and sentenced to harsh punishments, with the intention of striking 'terror' in 'the whole companis' of Gypsies.<sup>67</sup> Court indictments and witness depositions also noted 'captains' of Gypsy groups.<sup>68</sup> In the trial of William Baillie before the high court of justiciary in 1699, for example, one witness described how Baillie's company were Egyptians – indeed they 'called themselves so' – and stressed that William Baillie was their 'captaine and leader & wes father to severall of them'.<sup>69</sup> In these accounts, seventeenth-century Gypsy groups and their leaders appeared to more closely resemble contemporary parties of Highland bandits than exotic retinues of foreign pilgrims with leaders posing as aristocrats.

Authorities described bandit leaders as 'captains', and their gangs as 'companies' or 'troops', with the latter term becoming more readily associated with Gypsies in the later seventeenth century. Yet as early as 1630, the Scottish privy council issued a proclamation describing Gypsies as travelling throughout the north of the kingdom 'in troupes and companeis armed with unlawfull and invasive armour'.<sup>70</sup> While the term 'troop' was used fairly innocuously to refer to any group of people, it also carried similar martial connotations to today. Highland bandits formed loosely defined groups known as 'caterans', which were usually labelled 'troops' by central authorities. Dominated by adult men, caterans were highly peripatetic, worked within a confined territory, had strong in-group social bonds, and maintained patron-client relationships with local elites – all of which had parallels

---

<sup>66</sup> See Abulafia, 'The Coming of the Gypsies', in Hoppenbrouwers, Janse, and Stein eds., *Power and Persuasion*, pp. 325-42.

<sup>67</sup> RPCS, ser. 1, vol. xiii, pp. 393-93, 415. See also NRS, JC6/14, fo. 220v.

<sup>68</sup> See Pitcairn, *Criminal Trials*, vol. iii, pp. 560-61; RPCS, ser. 1, vol. ix, 256; vol. xii, pp. 243-44; NRS, JC6/14/218, deposition of Andrew Thomsone.

<sup>69</sup> NRS, JC6/14, fo. 218v-219r.

<sup>70</sup> RPCS, ser. 2, vol. iv, pp. 85-86.

in the social organisation of Gypsies, aspects of which are discussed in the fifth chapter and hereafter.<sup>71</sup>

Despite ostensible similarities, most ‘companies’ or ‘troops’ of Gypsies differed from those of bandits in significant ways. Gypsy groups were bound together by ties of family as well as of extended kindred, and comprised men, women, and children. Such ties were attested to by the arrests of whole parties of Gypsies, which generated records of the age, gender, and interpersonal relationships of detainees. The kin-based makeup of Gypsy ‘companies’ differentiated them from most ‘beggars’ and ‘vagabonds’, who were primarily single young men travelling alone or in small groups.<sup>72</sup> ‘Companies’ of Gypsies were often larger than bandit groups as well: the English author of the ‘News-Letter from Dundee’ in 1652 described the ‘Egyptians’ who travelled through northern Scotland as numbering ‘about an hundred people’, led by individuals surnamed ‘Hause’ and ‘Browne’.<sup>73</sup> Although only eleven individuals were arrested for brawling at Dunbar in 1675, they evidently formed part of a larger group of ‘threscor’ Gypsies roaming around east Haddingtonshire, according to a petition submitted by Dunbar’s magistrates to the privy council. According to the magistrates, this larger group would divide into smaller ‘companyis’ in order to commit crimes ‘clandestinly’, claiming that twenty of their number had descended on Dumbar in the days prior to the annual fair.<sup>74</sup> As described in the fifth chapter, the detainees in this case were all closely related: children, parents, and grandparents, cousins and half-siblings, bearing the surnames Faw or Shaw (see fig. 2).<sup>75</sup> The ties of blood, marriage, and surname shared by those detained in 1675 closely resemble those of the eighteen men and women tried before the court of the justice-general half a century earlier, in 1624, most of whom had the surnames Faa or Brown.<sup>76</sup> The group of Gypsies captured in Carrick in 1630 also included three married couples who gave their names as William Baillie and Helen Faw, Andrew Baillie and Janet Baillie, George Faw and Katherine Brown, with an

---

<sup>71</sup> See ch. 5, pp. 124-34.

<sup>72</sup> Keith M. Brown, Allan Kennedy and Siobhan Talbott, “‘Scots and Scabs from North-by-Tweed’: Undesirable Scottish Migrants in Seventeenth- and Early Eighteenth-Century England, *The Scottish Historical Review* 98 (2019), pp. 252.

<sup>73</sup> Firth ed., *Scotland and the Commonwealth*, pp. 28-29.

<sup>74</sup> *RPCS*, ser. 3, vol. iv, pp. 659-60.

<sup>75</sup> See ch. 5, pp. 142.

<sup>76</sup> NRS, JC2/6, fos. 140r-141r.

unknown number of children.<sup>77</sup> The Gypsies tried before the High Court of Justiciary in 1698, discussed in the sixth chapter, were also an extended family group carrying the surname Baillie. According to their indictment, the Baillie family had assumed ‘the name of Agyptianes as descended’ from their ‘forefathers’, who had also lived ‘under the name of Baillies’.<sup>78</sup> While the prosecutor was linking the pannels to Baillies convicted under the Egyptians Act in earlier decades, he also alluded to a significant aspect of Gypsies’ social identity: their surnames.

Surnames played an important role in delineating social and political relationships throughout early modern Scotland. Kindred were identified by their surname which provided a common identity and helped define hierarchical relations between leaders and (usually his) kin, with leaders providing protection and patronage in exchange for his kindred’s loyalty and armed service. While common throughout sixteenth-century Scotland, these strong ties based on surname became increasingly restricted to the Highlands and Borders in the seventeenth century.<sup>79</sup> During James VI’s reign, it became routine for particular surnames to be censured by central authorities for feuding or subverting the authority of the crown, as shown by policies pursued against the Elliots and Armstrongs of Liddesdale, or more notoriously, the efforts to extirpate the Highland clan Gregor.<sup>80</sup>

While anti-Gypsy executive action were directed towards Gypsies as a whole, efforts to apprehend and prosecute particular groups of Gypsies reveal the importance of surnames in defining kindred ties within and between Gypsy ‘companies’. Throughout the sixteenth and seventeenth centuries, the majority of those prosecuted as ‘Egyptians’ in Scotland carried the surnames Faw (or Faa), Shaw, Baillie, or Brown. In the nineteenth century, Walter Simson speculated that Gypsies had adopted the surnames of those from whom they sought protection thereby ‘becoming, nominally, clansmen’.<sup>81</sup> While there is no direct evidence to support Simson’s claim, the surnames Shaw, Baillie, and Brown were widespread throughout lowland Scotland. Furthermore, in 1611 Moses Faw had described how ‘the Egiptianis that callis them selvis Bailzeis’ had sought protection from

---

<sup>77</sup> *RPCS*, ser. 2, vol. ii, pp. 598-99.

<sup>78</sup> NRS, JC2/19, fo. 397v.

<sup>79</sup> Groundwater, *The Scottish Middle March*, pp. 47-49.

<sup>80</sup> See Groundwater, *The Scottish Middle March*, p. 29; and Martin McGregor, ‘Civilising Gaelic Scotland: the Scottish Isles and the Stewart Empire’, in Éamonn Ó Ciardha and Micháel Ó Siochrú eds., *The Plantation of Ulster: Ideology and Practice* (Manchester: Manchester University Press, 2012).

<sup>81</sup> Simson, *A History of the Gypsies*, p. 115.

William Baillie, Laird of Lamington and head of the Baillie surname in Lanarkshire.<sup>82</sup> Almost unheard-of prior to the sixteenth century, the surname ‘Faw’ was used by some of the earliest recorded Gypsies in Scotland, and became so closely associated with Border Gypsies that, by the early eighteenth century, the term ‘faw’ had entered Northumberland dialect as a synonym for Gypsy or tinker.<sup>83</sup> During the seventeenth century, however, individuals bearing the Faw surname occupied positions across the social spectrum, leading the nineteenth-century Gypsyologists Walter Simson and David MacRitchie to claim that some Gypsies had become ‘town-minstrels, executioners, and constables’.<sup>84</sup> Whilst an intriguing possibility, the claim rests on an assumption that all Faws in seventeenth-century records were Gypsies, which is a point of equivalence not made by early modern Scots.<sup>85</sup>

Writing in 1678, the jurist Sir John Lauder of Fountainhall characterised the Faws, Shaws, Browns, and Baillies as four separate ‘tribes’ or ‘clans’ of Gypsies. Lauder recounted events leading up to the trials of the Faws and Shaws before the high court of justiciary in early 1678, writing that these two ‘clans’ had met at Romanno Bridge in Tweeddale, in order to form an alliance and ‘chasse’ the Browns and Baillies back to Ireland, so that the latter ‘might not share in their labours’. But the confrontation never took place: the Faws and Shaws became caught up ‘in a drunken squabble’ at Romanno Bridge, the consequences of which were discussed in the previous two chapters.

Describing the same events, Alexander Pennecuik also labelled the four surname groups ‘clans’, adding that the Faws and Shaws were on their way to Harestanes, an alehouse a few miles west of Romanno Bridge, in order to fight the Browns and Baillies, but the two ‘clans’ had fallen out over ‘dividing the spoil they had got at Haddington [fair]’.<sup>86</sup> While the fight at Romanno Bridge appears to have been a spontaneous disagreement that got out of hand, the fifth chapter demonstrated that different Gypsy surname groups became embroiled in long-running and internecine disputes throughout the seventeenth century. Elsewhere in Europe, many Romani groups appear to have been similarly riven by internal strife, divided by surname and familial identity; Richard Pym has described how early modern Spanish Gypsies engaged in ‘kinship-reinforcing “blood feuds” and

---

<sup>82</sup> *RPCS*, ser. 1, vol. xiv, p. 562.

<sup>83</sup> Morgan and Rushton, *Banishment in the Early Atlantic World*, p. 32.

<sup>84</sup> MacRitchie, *Scottish Gypsies*, pp. 85-86; and Simson, *A History of the Gypsies*, pp. 85-86; pp. 343-44, 347-48.

<sup>85</sup> See, for instance, NRS, RH15/39/21; E100/16/5.

<sup>86</sup> Lauder, *Historical Notices of Scottish Affairs* vol. i, pp. 187-88.

occasional territorial disputes' much like those of the Faws, Shaws, Baillies, and Browns.<sup>87</sup> Kinship groups built on shared surnames and familial relations appear to have been an essential part of Gypsy social organisation in early modern Scotland, structuring the 'troops' or 'companies' of Gypsy men, women, and children as they travelled throughout the kingdom.

### *Itinerancy and Subsistence*

The picture of Gypsies that emerges from the records is not one of 'vagabonds' or 'bandits', but distinct social groups, tied together by familial and kinship associations as well as a fluid set of cultural characteristics differentiating them from other vagrants. But a clearer understanding of the particularity of Gypsies in early modern Scotland requires locating them geographically, as well as culturally and socially. Gypsies' mobility figured large in official rhetoric, and while anti-Gypsy legislation and proclamations offer little sense of the nature of their itinerancy, such documents did reflect a basic reality. Throughout the early modern period, Gypsies formed communities on the move, their means of subsistence and legally marginal position necessitating a degree of itinerancy. Unlike the majority of settled Scots, many Gypsies criss-crossed the kingdom's borders, whether driven by the threat of persecution or for economic reasons. From James VI's reign onwards, Gypsies were at greater risk of arrest and prosecution in more rigorously policed urban centres of Scotland, and consequently their lives and livelihoods became increasingly rural in character. This was closely tied to their means of subsistence: while there is little evidence that Gypsies became farmers or farm labourers, by the late seventeenth century many appeared to visit the annual burgh fairs that were central to Scotland's rural economy. Although extant evidence relating to Gypsies' mobility and subsistence resists any generalisations about specific routes travelled, or the places at which they congregated, or their most significant sources of livelihood, it nevertheless offers glimpses of where Gypsies moved and their economic motivations for doing so.

A key reason that the earliest 'Egyptians' in Europe appear in fifteenth- and sixteenth-century records was because they regularly crossed the borders between polities. Continental European political authorities first engaged with 'Egyptians' because they assumed they were foreign travellers, seeking safe passage through their respective kingdoms; James IV's letter seeking safe

---

<sup>87</sup> See Pym, *The Gypsies of Early Modern Spain*, p. 15.

passage for Anthony Gawino and his people to Denmark was a representative of this phenomenon.<sup>88</sup> Crossing borders provided opportunities for early ‘Egyptians’, who were able to curry favour with elites and earn a living from people across the social spectrum still unused to their presence who treated them as entertainers or the objects of pity and charity. As those ‘Egyptians’ began to face orders of expulsion and repressive legislation, they looked for less hostile polities or tried to inhabit borderlands and other places away from the reach of central authorities.<sup>89</sup> National borders remained porous and ill-defined in Europe throughout the late medieval and early modern periods, and as ‘Egyptians’ began to face expulsion and repressive legislation, they found refuge by leaving one jurisdiction for another. Increasingly, those targeted by anti-Gypsy measures found security by maintaining an itinerant way of life in rural places and borderlands.<sup>90</sup> This was not universally the case: in both Spain and the Polish-Lithuanian commonwealth, for example, sixteenth-century Gypsies formed sedentary and urban populations, even as they faced edicts of expulsion and attempts at forced integration.<sup>91</sup> In Scotland, however, Gypsies appeared more likely to inhabit the geographical peripheries.

During the sixteenth and seventeenth centuries, Scottish Gypsies moved across the land and sea frontiers separating Scotland from England, Ireland, and Continental Europe, usually to avoid arrest or prosecution. ‘Egyptians’ were formally banished from the Holy Roman Empire (including the Low Countries) in 1500, and from France in 1504.<sup>92</sup> While neither expulsion order was particularly effective, they may explain Anthony Gawino’s presence in Scotland in 1505, as well as his wish to travel to Denmark in particular, given it was another kingdom from which ‘Egyptians’ had yet to be expelled.<sup>93</sup> In 1541, John Naune and his company of ‘Egyptians’ arrived in Ireland from Scotland, in the earliest recorded crossing of the Irish channel by ‘Egyptians’.<sup>94</sup> James V had issued an order of expulsion in Scotland earlier that same year, while the previous decade had also seen the

---

<sup>88</sup> See ch. 2, p. 44.

<sup>89</sup> Fraser, *The Gypsies*, pp. 178-79.

<sup>90</sup> Taylor, *Another Darkness, Another Dawn*, p. 69.

<sup>91</sup> See Pym, *The Gypsies of Early Modern Spain*, p. 16; Mróz, *Roma-Gypsy Presence*, esp. ch. 2.

<sup>92</sup> Henriette Asséo, ‘Marginalité et exclusion: le traitement administratif des Bohémiens dans la société française du XVIIe siècle’, in Henriette Asséo and Jean-Pierre Vittu, *Problèmes socio-culturels en France au XVIIe siècle* (Paris: Klincksieck, 1974), p. 22; and Cressy, *Gypsies*, p. 15.

<sup>93</sup> Gairdner ed., *Letters and Papers*, pp. 213-14.

<sup>94</sup> See Power, ‘Gypsies and Sixteenth-century Ireland’, p. 205.

first edicts of expulsion in England (1531) and Denmark (1536).<sup>95</sup> Throughout the sixteenth and early seventeenth centuries, Ireland served as a refuge for many Scots, especially Gaelic Highlanders, and served as a site of commercial opportunity, colonial plantation, and a destination for banished criminals.<sup>96</sup> Following the arrest and imprisonment of the Carrick Gypsies in 1630, the imprisoned Gypsies petitioned to be banished to Ireland, confirming that they ‘wer upon the pointe of thair returne backe’ but had been arrested while travelling in ‘a peaceable maner’.<sup>97</sup>

The Anglo-Scottish border was the scene of a more dramatic attempt to evade the law in 1672, when (according to his prosecutors) the Gypsy John Faw murdered a man in West Lothian and fled the scene, ‘hotlie persewed’ southwards by the victim’s father. On reaching England, the hue and cry was raised against Faw, who reached as far as Appleby-in-Westmorland before being arrested. He was then transported to Scotland, only to escape from the tolbooth of Dumfries and evade capture for a further two years.<sup>98</sup> The multiple examples of Gypsies’ penal transportation to Continental Europe also indicates their ability to move freely across the North Sea. In 1676, for example, John Faw’s brother, Robert Faw, received an order of transportation to serve as a soldier in France, but within eighteen months of the order had escaped military service and returned to Scotland.<sup>99</sup> The Scottish Borders and Gaelic Highlands provided a degree of security for John Faw, Robert Faw, and other Gypsies at risk of prosecution. Following the passage of the Egyptians Act in 1609, some Gypsies retreated to the relative safety of Highland Perthshire, while others, particularly the Baillies, found shelter in South Lanarkshire.<sup>100</sup> But mobility did not just offer a means for Gypsies to avoid prosecution; it also formed the basis for alternative forms of subsistence that were unavailable to the largely sedentary majority. Much of the extant documentation concerning Gypsies’ livelihoods might appear to suggest that they were sustained entirely through criminal activities, particularly theft and sorning, but this should be approached with scepticism. The reliance on judicial and government records to uncover Gypsies’ economic activities means that criminal forms of livelihood are inevitably over-represented. These records also hint a range of other

---

<sup>95</sup> Cressy, *Gypsies*, pp. 12, 63.

<sup>96</sup> See Alison Cathcart, ‘The Scottish *Gàidhealtachd*’, in Harris and Macdonald eds., *Scotland: The Making and Unmaking of the Nation c.1100-1707*, vol. ii (Dundee: Dundee University Press, 2007).

<sup>97</sup> NRS, GD25/9/2/16, document dated 8 July 1630.

<sup>98</sup> JC2/14, fo. 402r-v.

<sup>99</sup> NRS, JC26/49, document dated 3 February 1676, document dated 5 November 1677.

<sup>100</sup> See ch. 3, pp. 88-89.

occupations as well, making it unlikely that Gypsies had ‘no visible way of living bot by stouth and robbery’, as the formulaic accusation ran in anti-Gypsy proclamations.<sup>101</sup> It is nevertheless worthwhile considering how, for some Gypsies at least, their proscribed status and itinerant way of life enabled them to live as bandits and evade arrest.

During the decade of the 1690s, when Scotland was gripped by its last general famine, a company of Baillie Gypsies again found sanctuary in South Lanarkshire. It is unclear if this company of Baillies was protected by a local landowner, as had been the case for their nominal predecessors eighty years earlier. The Baillies had nevertheless managed to carve out lives for themselves in the region for at least thirty years, before seven of their number were arrested and prosecuted in two trials before the high court of justiciary in 1698 and 1699. The account of the Baillies’ way of life, as depicted in trial indictments and thirty witness depositions, suggested that banditry was their primary means of subsistence. The indictment lodged in 1699 by the lord advocate Sir James Stewart against William Baillie alleged that Baillie’s ‘ordinary trade’ was ‘to steall and robbe goods from the Countrey’.<sup>102</sup> Witnesses in 1698 recounted how William Baillie travelled in and around the parish of Crawford in upper Clydesdale with a ‘company’ or ‘band’ of around twenty Gypsies, including his brothers, their ‘wyffs’, and children, accompanied by dogs and armed with swords and firearms. While sometimes given temporary accommodation by local residents, they also forcibly demanded food and board and were suspected of stealing corn, fuel, clothes, hens, and sheep. The livestock was then butchered in upland moors, away from prying eyes.<sup>103</sup> When threatened with arrest, the company would retreat into the sparsely populated Lowther Hills west of Crawford.<sup>104</sup> While the lord advocate and many of the witnesses painted a picture of the company terrorising the neighbourhood, some of the witness depositions suggest that the Gypsies were a familiar presence locally and known by name to many. One witness, James Hislope, described how William Baillie was their ‘captaine and leader’ and ‘father to severall of them’, also remarking that the ‘band’ lived ‘weell and plentifully and never wanted provisiones of Flesh’.<sup>105</sup> In earlier court cases, witnesses also commented on Gypsies’ apparent lack of want, clearly suspecting this reflected their

---

<sup>101</sup> *RPCS*, ser. 1, vol. ii, p. 210, 555-56; vol. vii, pp. 712-13; vol. x, pp. 655-57; vol. xiii, pp. 295-96, 392-93; ser. 3, vol. ii, pp. 201-2; ser. 3, vol. ii, pp. 427-28.

<sup>102</sup> NRS, JC2/19, fo. 431v.

<sup>103</sup> NRS, JC2/19, fos. 397v-398r. Cf. NRS, JC6/14, fos. 213v-213r.

<sup>104</sup> NRS, JC2/19, fos. 397v-404v.

<sup>105</sup> NRS, JC6/14, fos. 218v-219r.

criminality; given the severe dearth affecting all of rural Scotland in 1698-99, Hislope's remark was, moreover, especially pointed.<sup>106</sup>

Although Hislope and other witnesses in the two trials detailed a litany of criminal acts allegedly committed by the Baillies, it is also apparent that interactions between the Baillies and non-Gypsies were commonplace, even extending to intimacy. In 1695, the presbytery of Biggar heard a confession by Margaret Shanklaw, from the parish of Lamington (near Crawford), that she had committed adultery with a 'gypsie', William Baillie – possibly the same William Baillie tried in 1699, or his son of the same name.<sup>107</sup> Such details do not accord with the image projected by prosecutors and central authorities: i.e. that Gypsies, like the Baillies, were inveterate bandits who made a living by briefly terrorising neighbourhoods before swiftly moving on to new pickings elsewhere. In the justiciary court case of 1699, William Baillie's defence counsel, Sir David Thoris, claimed that Baillie lived 'peaceably in the country', and that he had found 'honest employment... buying and selling horses' across Scotland for his entire adult life. Thoris argued that itinerancy came with such employment, and therefore Baillie's 'wandering' through the realm was insufficient evidence to convict him of being an 'Egyptian'.<sup>108</sup> In 1675 and 1678, the Faws and Shaws had made similar claims regarding their places of residence and occupations, when their defence counsel had described them as 'traffecquers in small merchandice in England', and 'known to be residenters in Annandale & Tweddale'.<sup>109</sup> Such claims were at least partially verified by the depositions of their neighbours, and stood in marked contrast to their indictment which alleged that they 'did rove & some' throughout southern Scotland, from Dumfriesshire to East Lothian.<sup>110</sup> In depositions sworn in 1675, both Robert Faw, his brother John, and Alexander Shaw offered detailed descriptions of commercial transactions in which they had been involved, citing the number of horses they had purchased, prices paid for the horses, and locations of purchase.<sup>111</sup> Robert Faw also claimed to have brought 'Rings & gold' with him from France, presumably to sell, that were found on his person

---

<sup>106</sup> NRS, GD6/996, deposition of George Kirkup; *NSAS*, vol. xiii, pp. 25-26. See also Karen J. Cullen, *Famine in Scotland – the 'Ill Years' of the 1690s* (Edinburgh: Edinburgh University Press, 2010), esp. ch. 5.

<sup>107</sup> NRS, CH2/35/4, pp. 25-26.

<sup>108</sup> NRS, JC6/14, fos. 212v-r.

<sup>109</sup> NRS, JC2/14, fo. 399r.

<sup>110</sup> JC2/14, fos. 402r-v.

<sup>111</sup> NRS, GD6/996, deposition of Robert Faw, second deposition of Alexander Faw (mislabelled Alexander Faw).

when he was arrested at Romanno Bridge.<sup>112</sup> Across all of the depositions recorded in 1675 and 1678, it is apparent that the Faws and Shaws spent at least some of each year in hamlets and villages near Galashiels and Selkirk, while also travelling to annual fairs held in burghs throughout lowland Scotland, including those held in Dunbar, Dundee, Melrose, Haddington, Selkirk, and Stirling. Robert Faw also recounted travelling to Edinburgh ‘to buy a pistoll’, only to be arrested and banished from the city for being ‘a giptee & idle person’, who had ‘idle women following him’.<sup>113</sup>

Across much of early modern Europe, horse trading was closely associated with ‘Egyptians’, and likewise appears to have been a source of income for Scottish Gypsies during the seventeenth century.<sup>114</sup> It was an occupation that allowed for a high degree of mobility, and could easily be combined with other ways of making a living. For some Gypsies at least, their incomes were supplemented by criminalised activities, including petty theft, charming, and magic. In Scotland, companies of Gypsies were accused of stealing horses in 1634 and 1657, and there were numerous credible reports of Gypsies healing, performing charms, and telling fortunes.<sup>115</sup> Instances of Gypsies entertaining, whether through dance, ‘guising’, or music, also appear occasionally, and offered another means of survival. The case of James Macpherson, James Gordon, Patrick Brown, and Donald Brown, tried before the Banff sheriff court in 1700, is suggestive of various ways that Gypsies subsisted. Like the Faws and Shaws before them, the four pannels could claim to have places of residence attested to by others. Macpherson had a house in the vicinity of Keith, while the Browns lived ‘in or neer to Castle Grant’, the property of Ludovick Grant of Freuchie, chief of clan Grant.<sup>116</sup> The relationship between Grant and the Browns appears to have been one of clientage, in which Grant may have employed the Browns as musicians.<sup>117</sup> Grant was a powerful ally: called ‘His Highland Majesty’ by the Duke of York in 1681, he was a member of parliament and privy councillor for much of the 1690s, and presided over an extensive local regality court.<sup>118</sup> One of Grant’s representatives made considerable efforts to have the trial of Patrick and Donald Brown

---

<sup>112</sup> NRS, JC26/49, document dated 5 November 1677.

<sup>113</sup> *Ibid.*, deposition of Robert Faw, deposition of William Dumbar.

<sup>114</sup> Kenrick, ‘The Origins of Anti-Gypsyism’, in Saul and Tebbutt eds., *The Role of the Romanies*, pp. 80-82.

<sup>115</sup> *RPCS*, ser. 2, vol. v, p. 402; NRS, JC6/5, fo. 133r.

<sup>116</sup> *NSAS*, vol. xiii, pp. 24-25; ‘Process: Procurator Phiscall against the Egyptians’, *Miscellany of the Spalding Club*, vol. iii, p. 177.

<sup>117</sup> See William Fraser, *The Chiefs of Grant, vol. 1: Memoirs* (Edinburgh, 1883), pp. 325-26.

<sup>118</sup> Charles Fletcher, *Justice and Society in the Highlands of Scotland: Strathspey and the Regality of Grant (c. 1690-1748)* (Leiden: Brill, 2021), pp. 17-22, 24.

moved to the regality of Grant in order to accord the men a more sympathetic hearing.<sup>119</sup> The notion that the Browns were ‘settled’ was vigorously disputed by John Geills, procurator-fiscal of Banff and prosecutor in the case. Geills argued that, for the past three months at least, the ‘two Brouns hade never so much as a forty dayes’ residence in any place whatsumever’, and that they only returned to ‘a house ... possest by one Donald Broun, elder, in the Laird of Grant's land’ in order to ‘to cloak ther knavry’.<sup>120</sup> In Geills’s view, the Gypsies’ supposed permanent residence was in fact a front for their criminal activities, aided and abetted by the laird of Grant.

Whether Geills’s assertion was correct or not, itinerancy was clearly integral to the pannels’ way of life. Macpherson, Gordon, and the Browns regularly attended the Saint Rufus fair at Keith, and spent much time travelling throughout rural north-east Scotland in companies of up to twenty-seven men, women, and children.<sup>121</sup> One witness recounted how these groups were accommodated in houses throughout the region, staying a few days at a time and taking little more than peat fuel and cabbages.<sup>122</sup> Another witness, John Shand, complained that sixteen men and women, including Peter Brown, had stayed in his kiln for a month: despite the initial protestations of Shand and his wife to their occupation of the kiln, the company of Gypsies ‘took nothing but peats’, and paid for the milk, cheese, and mutton they consumed. Shand also recalled an evening when James Macpherson had visited the house ‘and drank with the rest and danced all night’. When they attended the fair, the company appear to have arrived armed and with a piper in tow. A number of witnesses alleged that the Gypsies committed acts of petty theft at the fair and elsewhere, accusing them of pick-pocketing and stealing oxen, sheep, and items of clothing. James Macpherson also attempted to ‘cure’ a man with ‘a bile’ (meaning boil or tumour), Macpherson taking two mares in exchange for the service.<sup>123</sup> In another instance, following the rumoured theft of a sheep by a company of Gypsies, the owner of the sheep was promptly repaid for his loss by Alexander Phyn of Achansie, under whom the Gypsies had found protection.<sup>124</sup>

---

<sup>119</sup> *NSAS*, vol. xiii, p. 23. See also Fletcher, *Justice and Society*, p. 21.

<sup>120</sup> ‘Process: Procurator Phiscall against the Egyptians’, *Miscellany of the Spalding Club*, vol. iii, p. 178.

<sup>121</sup> *NSAS*, vol. xiii, p. 25.

<sup>122</sup> *Ibid.*, pp. 24-26.

<sup>123</sup> *Ibid.*, p. 25.

<sup>124</sup> *Ibid.*

Reading between the lines of the various depositions, the pannels in the Banff case were evidently a familiar and not always unwelcome presence in Keith and the surrounding area. While they may have committed acts of petty criminality and were not always willingly accommodated, they also engaged in trade and offered their services as musicians and charmers. Non-Gypsies appear to have willingly given the pannels shelter and protection, including the powerful local landowner and magistrate Ludovick Grant of Freuchie. While there were clearly cultural differences between the pannels and the witnesses in the case, not least the former group's itinerancy and use of an unfamiliar language 'which was not Irish', their being 'Egyptians' was not obvious to all. One witness, a tacksman named Patrick Reid, described seeing two of the pannels and twenty-five other 'men in armes, with a piper' gathered in Keith following the fair; inquiring after who these men were, he was told that 'they were these called the Egiptians'.<sup>125</sup> Although the presence in Keith of an armed company of Gypsies was considered worthy of remark, their identity was not readily apparent to Reid by sight alone. The pannels' names, appearance, social ties, and musical traditions all point to their deep integration into rural society at the dawn of the eighteenth century. Beyond a shared 'Egyptian' label, Macpherson and his kin had little in common with the earl Anthony Gawino's 'miserable and afflicted' retinue from 'little Egypt' who were granted safe passage to Denmark by James IV. Two centuries on from their first appearance, Scotland's 'Egyptians' were no longer exotic and aristocratic foreigners seeking favour from the crown; rather, they were a culturally distinctive and itinerant people who had established alternative, viable, and permanent ways of life in a kingdom where they remained legally proscribed and stigmatised.

The Banff case, like others examined in this chapter, demonstrates not only differences between Gypsies and their neighbours, but also a high degree of cultural syncretism and economic interdependence. As Wim Willems has warned, the range of source material available to social historians of Gypsies risks ignoring or downplaying 'signs that point to the integration of Gypsies', noting in particular their musical traditions, horse-trading, and marriages with non-Gypsies as indicators of social integration.<sup>126</sup> This warning is all the more pertinent when considering Gypsies in early modern Scotland, whose archival presence is confined almost entirely to the records that

---

<sup>125</sup> *Ibid.*

<sup>126</sup> Willems, *In Search of the True Gypsy*, p. 10.

detail the authorities' efforts to stigmatise, marginalise, and extirpate them. Furthermore, the rare appearances of Gypsies in these records are often so brief, fragmentary, and disconnected that it is not possible to reconstruct a continuous account of how Gypsies' lives changed over the period, or to plot significant regional variations.

But even this unpromising material reveals traces of Gypsy ways of life. Their cultural particularity is attested to by their rejection of the Kirk, its beliefs, and practices, as well as in their distinctive language and social structures. Gypsies' itinerancy endured throughout the period despite the sometimes intense pressure of authorities to end the practice; indeed, Gypsies' legal marginalisation likely reinforced the necessity of mobility. Gypsies became normalised and integrated into the social and economic patterns of Scotland during the sixteenth and seventeenth centuries, assimilating many aspects of the cultural majority, while maintaining a way of life that placed them at the cultural and economic margins of society. By the end of the seventeenth century, Gypsies were not only remarkable for what set them apart from the values and norms of Scottish society, but also for having themselves become an unremarkable, even integral, part of that society.

## *Coda*

Shortly after his execution at Banff in 1700, the Gypsy outlaw James Macpherson was memorialised via a cheaply printed broadside ballad entitled ‘The Last Words of James Mackpherson Murderer’.<sup>1</sup> Written from Macpherson’s perspective as he approached the tree that would serve as his gallows, the song recounted his life and crimes as the head of a company of Gypsies:

I spent my time in rioting,  
debauch’d my health and strength,  
I pillag’d, plundred, murdered,  
but now alas! at length;  
I’m brought to punishment condign;  
pale Death draws near to me,  
The end I ever did project  
to hang upon a Tree...

The Egiptian Band I did command  
with greater sway by far,  
Than ever did a General  
his Soldiers in the War;  
Being fear’d be all and spar’d be all,  
I lived most joyfullie  
But ay pox take this fate of mine,  
most hang upon a Tree.<sup>2</sup>

The ballad was possibly the first literary work to be framed from the perspective of a Scottish Gypsy, and indicates a clear shift in how Scottish Gypsies were represented in print. Like other execution ballads composed and sold through eighteenth-century Europe, ‘The Last Words of James Mackpherson Murderer’ was told from the perspective of the condemned in the first-person, contained a confession of guilt, and was addressed to an imagined audience of listeners.<sup>3</sup> But the ballad included little of the moralising content that was conventionally typical of execution ballads.

---

<sup>1</sup> NLS, Ry.III.a.10(029). The broadside is undated, though it was likely published in the first decade of the eighteenth century. See James Maidment, *Scottish Ballads and Songs*, p. 29; D. K. Wilgus, ‘Fiddler’s Farewell: The Legend of the Hanged Fiddler’, *Studia Musicologica Academiae Scientiarum Hungaricae*, pp. 195-96.

<sup>2</sup> NLS, Ry.III.a.10(029).

<sup>3</sup> See Una McIlvena, *Singing the News of Death: Execution Ballads in Europe 1500-1900* (Oxford: Oxford University Press, 2022), pp. 4-6.

Macpherson was portrayed as unrepentant, as well as bitterly resenting the role of wealth and power in perverting the true course of justice:

Ah! Laws and Justice buried are,  
Force, Fraud and Guile Succeed,  
The Guilty pass unpunished.;  
if Money interceed;  
The Laird of Grant that highland saint  
that mightie majesty,  
Did plead the Cause for Peter Brown  
and let Mackpherson dye.<sup>4</sup>

‘The Last Words of James Mackpherson Murderer’ was the first of many works mythologising Macpherson’s life to be published during the eighteenth and nineteenth centuries.<sup>5</sup> Notably, Robert



Fig. 3. Woodcut detail from broadside ballad ‘The Last Words of James Mackpherson Murderer’. NLS, Ry.III.a.10(029).

<sup>4</sup> NLS, Ry.III.a.10(029).

<sup>5</sup> See [B.G.], ‘Anecdotes of J. Macpherson, the Ancient Freebooter and Musician’, *The New Monthly Magazine and Literary Journal*, vol. i (1821), pp. 142-42; Fraser, *The Chiefs of Grant*, pp. 325-26.

Burns wrote a version of Macpherson's ballad, entitled 'Macpherson's Farewell', in which the Gypsy was recast as a tragic hero who courageously faced his impending doom.<sup>6</sup> Other eighteenth-century Scottish ballads also portrayed Gypsies as simultaneously dangerous and attractive figures.<sup>7</sup> The ballad 'Johny Faa, the Gypsie Laddie', for instance, first printed in 1740, recounted the tale of a group of Gypsies who lured a noblewoman out of her house with song, only to cast an enchantment over her so that she abandoned her 'kith and kin' to 'follow the gypsie laddie'.<sup>8</sup> By the early nineteenth century, folklorists and Gypsy scholars including Walter Simson and Sir Walter Scott recounted a popular tradition the noblewoman of the ballad was the wife of John Cassilis, sixth earl of Cassilis, who had notably arrested and imprisoned a group of Gypsies in 1630.<sup>9</sup>

Such ballads are far better utilised as evidence of eighteenth-century perceptions and mentalities than as records of historical events.<sup>10</sup> As this thesis has demonstrated, there is no doubt that Gypsies were regarded favourably by some non-Gypsies in sixteenth- and seventeenth-century Scotland, but no literary record encapsulated these perceptions until the emergence of the printed ballad tradition in the eighteenth century. It may be that the depictions of James Macpherson and Johny Faa reflected long-existing popular attitudes towards Gypsies, but they could also signal a shift in perceptions of Gypsies. The ballad 'Johny Faa, the Gypsie Laddie', for instance, appears to confirm that Gypsies continued to be perceived as entertainers and musicians, and is part of a long tradition of tales describing transgressive relations between Gypsy men and gentlewomen. At the same time, the various ballads concerning James Macpherson reflect many tropes of the romantic highwayman, who was a characteristically eighteenth-century literary figure.<sup>11</sup> The scholarly questions posed by the source material are certainly intriguing, yet representations of Gypsies in eighteenth-century

---

<sup>6</sup> James Kinsley ed., *The Poems and Songs of Robert Burns*, vol. i (Oxford: Oxford University Press, 1968), pp. 385-86.

<sup>7</sup> See BL, C.20.f.9.685; NLS, Ry.III.a.10(36); Allen Ramsay ed., *The Tea-Table Miscellany*, vol. i (London: A. Millar, 1740), pp. 427-28; Francis J. Child, *The English and Scottish Popular Ballads*, vol. iv [part vii] (Boston: Houghton, Mifflin, and Co., 1890), [entry 200], pp. 61-74.

<sup>8</sup> Ramsay ed., *The Tea-Table Miscellany*, p. 427.

<sup>9</sup> Walter Scott ed., *Minstrelsy of the Scottish Border*, vol. iii (Edinburgh: James Ballantyne & Co., third edition, 1806), p. 161; John Finlay ed., *Scottish Historical and Romantic Ballads*, vol. ii (Edinburgh: James Ballantyne & Co., 1808), pp. 35-38; Simson, *A History of the Gypsies*, pp. 108-9, 241.

<sup>10</sup> See Charles Duffin, 'Fixing Tradition: Making History from Ballad Texts', in Edward J. Cowan ed., *The Ballad in Scottish History* (East Linton: Tuckwell Press, 2000), pp. 24-26; Groundwater, *The Scottish Middle March*, p. 28.

<sup>11</sup> See Erin Mackie, *Rakes, Highwaymen, and Pirates: The Making of the Modern Gentleman in the Eighteenth Century* (Baltimore: John Hopkins University Press, 2009), esp. ch. 3.

Scottish literature have, as yet, received little attention from historians. In fact, the perceptions, treatment, and experiences of Gypsies in eighteenth-century Scotland remains an historiographical lacunae, though even the most cursory examination of the subject reveals its rich potential for future research.

The advent of the eighteenth century did not immediately bring any dramatic changes to the lives of Scotland's Gypsies. In the first half of the century, parties of Gypsies continued to be prosecuted by civil authorities following incidents of sorning, theft, and violence, much as they had in the previous century. Circuit courts held in Ayr, Dumfries, Glasgow, and Jedburgh tried individuals who were 'held and repute to be Egyptians', and sentenced them to death or indentured servitude in the New World.<sup>12</sup> Gypsies and their resettlers may even have been pursued more vigorously in the early eighteenth century than previously. On at least one occasion in the 1700s, resettlers of Gypsies were prosecuted before the circuit court for a crime that had formerly been reserved for the lower church courts. The bailies of Lanark perceived Gypsies to be a sufficient threat to the town that they purchased twenty guns 'for arming the inhabitants' against 'gipsies, theeves, and others transgressours of the lawes'.<sup>13</sup> Criminal trials of Gypsies appear to have been sporadic, yet groups of Gypsies were tried at least once a decade by the high court of justiciary or circuit courts between 1700 and 1770.<sup>14</sup> While some local magistrates like Sir John Clerk of Penicuik were enthusiastic about arresting Gypsies, others complained volubly about the costs of imprisoning them.<sup>15</sup> How church courts handled Gypsies during the period remains unclear, though further research seems likely to offer insights into Gypsies' religion, social ties, and the enduring authority of the Kirk. In 1760, a Gypsy woman, Mary Leitch, reluctantly appeared before the presbytery of Kelso and confessed to fornicating with a non-Gypsy man, only to be condemned by her alleged lover as 'a most extravagant woman and common whore'.<sup>16</sup> All the while, companies of Gypsies continued to travel throughout Scotland, finding shelter in barns, kilns, and the houses of those well-disposed

---

<sup>12</sup> See NRS, JC12/1, fos. 14, 21, 73; JC12/2, p. 119; JC13/5, pp. 155-161; Hume, *Commentaries*, pp. 342-344.

<sup>13</sup> Robert Renwick ed., *Extracts from the Records of the Royal Burgh of Lanark* (Glasgow: Carson & Nicol, 1893), p. 288.

<sup>14</sup> Hume, *Commentaries*, vol. ii, pp. 342-44.

<sup>15</sup> Mawick ed., *Extracts from the records of the Burgh of Glasgow*, pp. 529-30.

<sup>16</sup> NRS, CH2/1550/1, pp. 334, 349, 353-54; James Balfour Paul ed., *Diary of George Ridpath, Minister of Stichel* (Edinburgh: T. & A. Constable, 1922), pp. 289, 357.

towards them.<sup>17</sup> It appears that annual fairs also remained integral to Gypsies' way of life, both economically and as places where Gypsies were reputed to meet, thieve, and fight.<sup>18</sup>

The last Gypsies to be convicted under the Egyptians Act were hanged in 1770, almost a century and a half after the last execution in England under equivalent anti-Gypsy legislation. The two men, Alexander MacDonald and Charles Jamieson, had been tried before the high court of justiciary, and had been found to have 'the fame of being Egyptians' and had used 'the right Egyptian language'.<sup>19</sup> Mackenzie of Rosehaugh's prosecutions in the 1670s continued to cast their shadow. Three years later, the jurist John Erskine of Carnock noted that the Egyptians Act was 'still in force; but the pannels are allowed to bring witnesses to their character, that the jury might be the better able to judge whether they fall under the description of the statute.'<sup>20</sup> When Baron David Hume of Ninewells came to reflect on anti-Gypsy laws in 1797, he noted that such 'sharp and severe enactments' had become obsolete.<sup>21</sup> According to Hume, they were the product of 'looser times, when both the height of the disorder, and the weakness of Government' had necessitated such 'violence and excessive denunciations'.<sup>22</sup> The Egyptians Act finally fell into desuetude. In less than a generation, Sir Walter Scott and his antiquarian colleagues would reimagine Scottish Gypsies yet again, this time as a 'strange, picturesque, and sometimes terrific' race of people who had all but passed into history.<sup>23</sup>

---

<sup>17</sup> NRS, JC13/5, p. 155-57; Perth and Kinross County Archives, B59/26/11/3/1/25; Hume, *Commentaries*, vol. ii, pp. 346.

<sup>18</sup> William Hunter, *Biggar and the House of Fleming: An Account of the Biggar District, Archaeological, Historical and Biographical* (Edinburgh: William Paterson, 1867), pp. 395-400.

<sup>19</sup> [Walter Ruddiman ed.] *The Edinburgh Weekly Magazine*, 16 August 1770, p. 224; 20 September 1770, p. 384; Hume, *Commentaries*, vol. ii, pp. 343-44; Simson, *A History of the Gipsies*, p. 133.

<sup>20</sup> John Erskine, *An Institute of the Law of Scotland*, vol. ii (Edinburgh: John Bell, 1773), pp. 724-25.

<sup>21</sup> Hume, *Commentaries*, vol. ii, p. 353

<sup>22</sup> *Ibid.*

<sup>23</sup> [Simson], 'Notices Concerning Scottish Gypsies', p. 43.

# ***Bibliography***

## **Primary Sources**

*This section includes all texts written before 1800.*

## ***Manuscript sources***

### **The British Library [BL]**

C.20.f.9.685 — ‘The Gypsy Loddy’, part of the Roxburghe Collection.

### **Glasgow City Archives**

CH2/171/1/1 — Minutes of the presbytery of Glasgow, 1592-1599.

CH2/171/1/2 — Minutes of the presbytery of Glasgow, 1599-1603.

### **The National Library of Scotland [NLS]**

Ry.III.a.10(029) — ‘The Last Words of James Mackpherson Murderer’, c. 1700.

Ry.III.a.10(36) — ‘The Highland Man’s Lament’.

### **The National Records of Scotland [NRS]**

CH2/1/1 — Minutes of the presbytery of Aberdeen, 1598-1610.

CH2/35/4 — Minutes of the presbytery of Biggar, 1694-1701.

CH2/84/28 — Minutes of the Dalkeith kirk session, 1610-1617.

CH2/171/31 — Minutes of the presbytery of Glasgow, 1592-1595 (nineteenth-century transcription of fire-damaged original).

CH2/171/32 — Minutes of the presbytery of Glasgow, 1595-1598 (nineteenth-century transcription of fire-damaged original).

CH2/171/33 — Minutes of the presbytery of Glasgow, 1598-1601 (nineteenth-century transcription of fire-damaged original).

- CH2/171/34 — Minutes of the presbytery of Glasgow, 1601-1603 (nineteenth-century transcription of fire-damaged original).
- CH2/185/1 — Minutes of the presbytery of Haddington, 1587-1596.
- CH2/224/1 — Minutes of the presbytery of Kirkcaldy, 1630-1653.
- CH2/276/1 — Minutes of the Newbattle kirk session, 1616-1628.
- CH2/276/2 — Minutes of the Newbattle kirk session, 1643-1649.
- CH2/299/1 — Minutes of the presbytery of Perth, 1618-1647.
- CH2/299/35 — Minutes of the presbytery of Perth, 1618-1631 (modern transcription).
- CH2/299/38 — Minutes of the presbytery of Perth, 1642-1644 (modern transcription).
- CH2/338/1 — Minutes of the Stow kirk session, 1626-1653.
- CH2/377/1 — Minutes of the Yester kirk session, 1613-1643.
- CH2/400/1 — Minutes of the Falkirk kirk session, 1617-1640.
- CH2/424/1 — Minutes of the presbytery of Dalkeith, 1582-1630.
- CH2/424/2 — Minutes of the presbytery of Dalkeith, 1630-1639.
- CH2/448/2 — Minutes of the Aberdeen, St Nicholas kirk session, 1602-1609.
- CH2/448/3 — Minutes of the Aberdeen, St Nicholas kirk session, 1609-1620.
- CH2/471/1 — Minutes of the Lasswade kirk session, 1615-1637.
- CH2/523/1 — Minutes of the Burntisland kirk session, 1602-1667.
- CH2/526/1a — Minutes of the presbytery of Kirkubright, 1700-1707.
- CH2/532/1 — Minutes of the presbytery of Ayr, 1642-1651.
- CH2/1026/1 — Minutes of the Stirling, Holy Rood kirk session, 1597-1614.
- E2/33 — Remissions, 1613-1622.
- E100/16/5 — Captain William Baillie of Fardintain's company at Edinburgh. From the army muster rolls: Lord Blantyre's regiment of foot.
- GD6/996 — Lord advocate Sir John Nisbet's papers relating to the examination of Gypsies arrested at Dunbar, 1675. From the papers of the Brooke family of Biel, East Lothian.

- GD6/1265 — Proclamation of Kirk Yetholm fair, 1707. From the papers of the Brooke family of Biel, East Lothian.
- GD18/5422 — Letters to Sir John and Lady Clerk of Penicuik and George Lockhart of Carnwath from George, Lord Rosse, and Lady Rosse, 1738-1742. From the papers of the Clerk family of Penicuik.
- GD18/5422 — Letters to Sir John Clerk of Penicuik from Robert Calderwood, 1639-1742. From the papers of the Clerk family of Penicuik. From the papers of the Clerk family of Penicuik.
- GD18/5440 — Letters to Sir John Clerk of Penicuik from Andrew Fletcher of Saltoun, Sir Robert Dickson of Inveresk, and Alexander Lind of Gorgie, 1741. From the papers of the Clerk family of Penicuik.
- GD18/5447 — Letter from Sir John Clerk of Penicuik to Bailie Ramsay, 9 October 1742. From the papers of the Clerk family of Penicuik. From the papers of the Clerk family of Penicuik.
- GD18/5702 — Letters from John Philp to Sir John Clerk of Penicuik, 1729-1742. From the papers of the Clerk family of Penicuik.
- GD25/9/2/16 — Warrant, instrument of delivery, and privy council proclamation relating to ‘Egyptians’ of Carrick, 1630. From the papers of the Kennedy family, earls of Cassillis.
- GD157/1671 — Letter signed David Hanna, 4 May 1664. From the papers of the Scott family of Harden, Lords Polwarth, Berwickshire.
- GD157/2770 — Letter from J. Greine to Baillie Scott of Selkirk, 3 August 1704. From the papers of the Scott family of Harden, Lords Polwarth, Berwickshire.
- JC2/5 — High court book of adjournal, 1611-1619.
- JC2/6 — High court book of adjournal, 1619-1631.
- JC2/14 — High court book of adjournal, 1673-1678.
- JC2/19 — High court book of adjournal, 1693-1699.
- JC6/5 — High court minute books, 1655-1659.
- JC6/14 — High court minute books, 1693-1701.
- JC10/1 — Circuit court minute books, 1655-1666.
- JC10/2 — Circuit court minute books, 1671.
- JC11/1 — North circuit court minute book, 1708-1710.

JC12/1 — South circuit court minute book, 1708-1710.

JC12/2 — South circuit court minute book, 1711-1718.

JC13/5 — West circuit court minute book, 1723-1725.

JC26/7 — High court processes, 1610-1619.

JC26/8 — High court processes, 1620-1626.

JC26/45 — High court processes, 1674.

JC26/46 — High court processes, 1675.

JC26/47 — High court processes, 1676.

JC26/48 — High court processes, 1677.

JC26/49 — High court processes, 1678.

JC26/80 — High court processes, 1698-1699.

JC26/88 — High court processes, 1709: series 'D'.

JC53/35 — Letters to Gerald L. Crole, Clerk of the Justiciary, from David MacRitchie, 1893.

PC9/1 — Inventories and missive letters of the privy council, 1611-1623.

PS1/83 — Register of the privy seal, 1609-1615.

RH15/19/46 — Tack by James Home of Eccles to James Faa, mason, 4 March 1644.

RH15/39/21 — Letters from Robert Faa, Melrose, to the earl of Haddington, 1683-1685.

SC2/1/6 — Court, diet, and act book of Banff sheriff court, 1699-1706.

***Perth and Kinross County Archives***

B59/16/1 — Register of the acts of Perth town council, 1601-1622.

B59/26/11/3/1 — Sentences and death warrants, Perth burgh records, 1735-1741.

## ***Printed primary sources***

*Accounts of the Lord High Treasurer of Scotland*, 13 vols. (Edinburgh: General Register House, 1877-1978).

*Acts and Proceedings of the General Assemblies of the Kirk of Scotland, 1560-1618*, 3 vols. (Edinburgh: The Bannatyne Club, 1839-45).

Ady, Thomas, *A candle in the dark shewing the divine cause of the distractions of the whole nation of England and of the Christian world* (London: printed for Robert Ibbitson, 1655).

Asloan, John, *The Asloan Manuscript, a miscellany in prose and verse, written by John Asloan in the reign of James the Fifth*, vol. i, ed. W. A. Craigie (Edinburgh: William Blackwood, 1923).

Barclay, Robert S. ed., *The Court Books of Orkney and Shetland, 1614-1615* (Edinburgh: Scottish History Society, 1967).

Calderwood, David, *The History of the Kirk of Scotland*, ed. Thomas Thomson, vol. v (Edinburgh: Wodrow Society, 1844).

Chambers, R. W., and Batho, Edith C., eds., *The Chronicles of Scotland Compiled by Hector Boece: Translated into Scots by John Bellenden, 1531*, vol. i (Edinburgh: William Blackwood & Sons Ltd., 1838).

Bloomfield, Francis *An Essay Towards a Topographical History of the County of Norfolk*, vol. i (London: Printed for W. Miller, 1739).

Boece, Hector, *Heir beginnis the hystory and croniklis of Scotland*, trans. John Bellenden (Edinburgh: Thomas Davidson, 1540).

Boorde [Borde], Andrew, *The fyrst boke of the introduction of knowledge* (London: William Copland, 1555).

Boorde [Borde], Andrew, *The fyrst boke of the introduction of knowledge made by Andrew Borde, of physycke doctor*, ed. by F. J. Furnivall (London: Kegan Paul, Trench, Trubner & Co., 1870).

Bower, Walter, *The Scotichronicon*, vol. i, ed. by John and Winifred MacQueen (Edinburgh: Aberdeen University Press, 1993).

Boyd, William K., ed., *Calendar of State Papers relating to Scotland and Mary, Queen of Scots, 1585-86* vol. viii (Glasgow: James Hedderwick and Sons, 1914).

Boyd, William K., ed., *Calendar of State Papers relating to Scotland and Mary, Queen of Scots, 1586-88* vol. ix (Glasgow: James Hedderwick and Sons, 1915).

Brown, Thomas, *Pseudodoxia Epidemica: or, enquiries into very many received tenents, and commonly presumed truths* (London: Printed for Edward Dod, 1646).

- Brown, Thomas, *Pseudodoxia Epidemica: or, enquiries into very many received tenents, and commonly presumed truths*, sixth edition (London: Printed by J.R. for Nath. Ekins, 1672).
- Brown, Thomas, *Religio Medici* (London: Printed for Andrew Crooke, 1642).
- Buchanan, George, *De jure regni apud Soctos, or, A dialogue concerning the due priviledge of government in the kingdom of Scotland, betwixt George Buchanan and Thomas Maitland* ([s.n.], 1680).
- Butler, John, *Hagiastrologia, or, The most sacred and divine science of astrology* (London: Printed for the author and to be sold by William Bromwich, 1680).
- Calderwood, David *The History of the Kirk of Scotland*, ed. by Thomas Thomson, vol. v (Edinburgh: Printed for the Wodrow Society, 1844).
- Christie, James, and Alexander F. Mitchell, eds., *The Records of the Commissions of the General Assemblies of the Church of Scotland Holden in Edinburgh in the Years 1646 and 1647* (Edinburgh: R. and A. Constable, 1892).
- Cochran-Patrick, Robert William, *Early Records Relating to Mining in Scotland* (Edinburgh: David Douglas, 1878).
- Cramond, William, ed., *Extracts from the the Kirk-Session of Elgin, 1584-1779* (Elgin: Elgin Courant and Courier, 1897).
- Cramond, William, ed., *Extracts from the Records of the Synod of Moray* (Elgin: Elgin Courant and Courier, 1906).
- Cramond, William, ed., *The Annals of Banff* (Aberdeen: Printed for the New Spalding Club, 1891-93).
- Cramond, William, ed., *The Church and Churchyard of Cullen* (Aberdeen: Printed for the author, and sold by J. Adam 1883).
- Cramond, William, ed., *The Church of Alves* (Elgin: Courant and Courier, 1900).
- Dasent, John Roche, ed., *Acts of the Privy Council of England*, vol. ix (London: Her Majesty's Stationary Office, 1894).
- Dekker, Thomas, *Lanthorne and candle-light. Or, The bell-mans second nights-walke* (London: Printed for John Busby, 1609).
- Dekker, Thomas, *The belman of London Bringing to light the most notorious villanies that are now practised in the kingdome* (London: Printed for Nathaniell Butter, 1608).
- Edinburgh Weekly Magazine*, ed. Walter Ruddiman *et al.* (16 August 1770 and 20 September 1770).

- Erskine, John, *An Institute of the Law of Scotland*, vol. ii (Edinburgh: John Bell, 1773).
- Extracts from the Records of the Burgh of Edinburgh*, ed. J. D. Mawick *et al.*, 14 vols., (Edinburgh: Printed for the Scottish Burgh Records Society, 1869-1967).
- Extracts from the Records of the Burgh of Glasgow*, ed. James David Mawick *et al.*, 11 vols. (Glasgow: Scottish Burgh Records Society, 1876-1916).
- Extracts from the Records of the Royal Burgh of Lanark* (Glasgow: Carson & Nicol, 1893).
- Extracts from the Records of the Royal Burgh of Stirling*, 2 vols. (Glasgow: printed for the Glasgow Stirlingshire and Sons of the Rock Society, 1887).
- Firth, C. H., ed., *Scotland and the Commonwealth. Letters and papers relating to the military government of Scotland, from August 1651 to December 1653* (Edinburgh, 1895).
- Firth, C. H., ed., *Scotland and the Protectorate: Letters and Papers relating to the Military Government of Scotland from January, 1654 to June, 1659* (Edinburgh: T. and A. Constable, 1899).
- Fletcher, Andrew, *Political Works*, ed. by John Robertson (Cambridge: Cambridge University Press, 1997).
- Fowler, William, *A true reportarie of the most triumphant, and royal accomplishment of the Baptisme of the most excellent, right high, and mightie prince, Frederik Henry by the grace of God, Prince of Scotland: Solemnized the the 30. day of August* (Edinburgh: printed by R. Walde-grave, 1594).
- Fraser, William, ed., *The Chiefs of Grant*, 3 vols. (Edinburgh: [s.n.], 1883).
- Fritsch, Ahesver, *Diatribē historico-politica de zygenorum origine, vita ac moribus* (Jena: Georg Gengenwald, 1660).
- Gaule, John, *Pus-mantia the mag-astro-mancer; or, The magicall-astrologicall-diviner posed, and puzzled.* (London: Printed for Joshua Kirton, 1652).
- Glanvill, Joseph, *The Vanity of Dogmatizing, or Confidence in opinions manifested in discourse of the shortness and uncertainty of our knowledge, and its causes: with some reflexions on peripateticism, and an apology for philosophy* (London: printed for Henry Eversden, 1661).
- Harff, Arnold von, *The Pilgrimage of Arnold Von Harff*, ed. by Malcolm Letts (London: Hakluyt Society, 1946).
- Hannay, Robert Kerr ed., *Acts of the Lords of Council in public affairs, 1501-1554: Selections from the Acta Dominorum Concilii* (Edinburgh: H. M. General Register House, 1932).
- Hannay, Robert Kerr, and Wood, Marguerite, eds., *Extracts from the Records of the Burgh of Edinburgh, 1589-1603* (London: Oliver and Boyd, 1927).

- Harman, Thomas, *A caueat for commen cursetors vlgarely called uagabones* (London: William Gryffith, 1567).
- Hay, Richard Augustine, *Genealogie of the Sainteclaires of Roslin* (Edinburgh: Thomas G. Stevenson, 1835).
- Head, Richard, *The canting academy, or, The devils cabinet opened wherein is shewn the mysterious and villanous practices of that wicked crew, commonly known by the names of hectors, trapanners, gilts, &c.* (London: printed for Mat. Drew, 1673).
- Henderson, Ebenezer, ed., *Extracts from the Kirk-session Records of Dunfermline* (Edinburgh: Fullarton & MacNab, 1865).
- Hume, David, *Commentaries on the Law of Scotland, Respecting the Description and Punishment of Crimes*, vol. ii (Edinburgh: Printed for Bell & Bradfute, 1797).
- Imrie, John ed., *The Justiciary Records of Argyll and the Isles, 1664-1742* (Edinburgh: The Stair Society, 1969).
- Kinloch, George Ritchie ed., *Selections from the Minutes of the Presbyteries of St Andrews and Cupar* (Edinburgh: Abbotford Club, 1837).
- Kirk, James, *Patterns of Reform: Continuity and Change in the Reformation Kirk* (Edinburgh: Edinburgh University Press, 1989)
- Kirk, James, ed., *The Second Book of Discipline* (Edinburgh: The Saint Andrew Press, 1980).
- Kirk, James, ed., *The Records of the Synod of Lothian and Tweeddale* (Edinburgh: The Stair Society, 1977).
- Larkin, James F., and Hughes, Paul L., eds., *Stuart Royal Proclamations, Vol. 1: Royal Proclamations of King James I 1603–1625* (Oxford: Oxford University Press, 1973).
- Lauder, John, *Historical Notices of Scottish Affairs vol. i, 1661-1683* (Edinburgh: Bannatyne Club, 1848).
- Laws and acts past in the second session of the second Parliament, of our most high and dread sovereign, Charles the second, by the grace of God, King of Scotland, England, France, and Ireland, defender of the faith Holden at Edinburgh, from the 28. of July, to the 22. of August, 1670* (Edinburgh: Andrew Anderson, 1674).
- Leigh, Edward, *A Treatise of Religion & Learning, and of Religious and Learned men* (London: for Charles Adams, 1656).
- Fenton, Geoffrey, *A forme of Christian pollicie drawne out of French* (London: H. Middleton, 1574).

- Gairdner, James, ed., *Letters and Papers of Richard III and Henry VII*, vol. ii (London: Longman, Green, Longman, Roberts, and Green, 1863).
- Gillon, Stair A., ed., *Selected Justiciary Cases, 1624-1650*, vol.i (Edinburgh: J. Skinner & Co. 1953).
- Gose, Francis, *A Provincial Glossary: With a Collection of Local Proverbs, and Popular Superstitions* (London: S. Hooper, 1787).
- Grellmann, Heinrich Moritz Gottlieb, *Die Zigeuner* (Dessau and Leipzig: Berlags, 1783).
- Grellmann, Heinrich Moritz Gottlieb, *Dissertation on the Gipsies: Being an Historical Enquiry, Concerning the Manner of Life, Economy, Customs and Conditions of there People in Europe, and their Origin*, trans. Matthew Raper (London: Elmsley, Cadell, and Sewell, 1787).
- Letters and State Papers during the Reign of King James the Sixth* (Edinburgh: printed for the Abbotsford Club, 1838).
- Leyden, John, *The Poetical Remains of the Late Dr John Leyden* (London: Strahan and Spottiswoode, 1819).
- Mackenzie, George, *A vindication of the government in Scotland during the reign of King Charles II against mis-representations made in several scandalous pamphlets to which is added the method of proceeding against criminals, as also some of the phanatical covenants, as they were printed and published by themselves in that reign* (London: I. Hindmarsh, 1691).
- Mackenzie, George, *Observations on the acts of Parliament, made by King James the First, King James the Second, King James the Third, King James the Fourth, King James the Fifth, Queen Mary, King James the Sixth, King Charles the First, King Charles the Second* (Edinburgh: The heir of Andrew Anderson, 1686).
- Mackenzie, George, *The Laws and Customes of Scotland, in Matters Criminal* (Edinburgh: James Glen, 1678).
- Mackenzie, George, *The Laws and Customs of Scotland in Matters Criminal*, ed. by Olivia Robertson (Edinburgh: The Stair Society, 2012).
- Mackay, William, ed., *Chronicles of the Frasers* (Edinburgh: T. and A. Constable, 1905).
- Maclaurin, John, ed., *Arguments and Decisions in Remarkable Cases, Before the High Court of Justiciary, and other Supreme Courts, in Scotland* (Edinburgh: J. Bell, 1774).
- Malcolm, Charles A. ed., *The Minutes of the Justices of the Peace for Lanarkshire, 1707-1723* (Edinburgh: Edinburgh University Press, 1931).
- Marsden, William, 'Observations on the Language of the People commonly called *Gypsies*', *Archaeologia* 7 (1785), pp. 39-41.

- Mascardi, Giuseppe, *De Probationibus*, vol. i (Frankfurt: impensis Sigis. Feyerabendij, 1585).
- Maxwell, James, *Carolanna, That is to say, a Poeme in honovr of ovr King Charles – James, Qveene Anne, And Prince Charles: But principally in honour of the immortall memory of our late noble & good Queene of Albion and Vnion* (London: Allde, 1619).
- Memorabilia of the City of Glasgow, selected from the Minute Books of the Burgh, 1588-1750* (Glasgow: printed for private circulation, 1835).
- McGowan, Alan, ed., *The Winchester Confessions, 1615–1616: depositions of travellers, Gypsies, fraudsters, and makers of counterfeit documents, including a vocabulary of the Romany language* (South Chailey: Romany and Traveller Family History Society, 1996).
- Miscellany of the Maitland Club*, 3 vols. (Edinburgh: printed for the Maitland Club, 1833-43).
- Miscellany of the Spalding Club*, vol. iii (Aberdeen: printed for the Spalding Club, 1846).
- Montgomerie, Alexander, *The Poems of Alexander Montgomerie* (Edinburgh: Published by the Scottish Text Society, 1887).
- Monipennie, John, *The abridgement or summarie of the Scots chronicles with a short description of their originall* (London: Printed at Brittaines Bursse by Iohn Budge and Simon Stafford, 1612).
- Nettesheim, Agrippa von, *The vanity of arts and sciences* (London: Printed for Samuel Speed, 1676).
- New Statistical Account of Scotland*, 15 vols. (Edinburgh: William Blackwood & Sons, 1834-1845).
- Overbury, Thomas, *Sir Thomas Ouerburie his wife with new elegies vpon his (now knowne) vntimely death: whereunto are annexed, new newes and characters* (London: Edward Griffin for Laurence L'isle, seventh edition, 1611).
- Parker-Lawson, John, *The Book of Perth: An Illustration of the Moral and Ecclesiastical State of Scotland Before and After the Reformation* (Edinburgh: Thomas G. Stevenson, 1847).
- Paton, Henry, ed., *Dundonald Parish Records. The Session Book of Dundonald, 1602 - 1731* (Edinburgh: Morrison and Gibb Ltd., 1936).
- Paton, Henry, ed., *Penninghame Parish Records: The Session Book of Penninghame, 1696-1724* (Edinburgh: Morrison and Gibb Ltd., 1933).
- Paton, Henry, ed., *Wigtown Parish Records: The Session Book of Wigtown, 1701-1745* (Edinburgh: Morrison and Gibb Ltd., 1934).
- Paul, James Balfour, ed., *Diary of George Ridpath, Minister of Stichel* (Edinburgh: T. & A. Constable, 1922).

- Pennecuik [Penicuik], Alexander, *The Works of Alexander Pennecuik, of New-Hall, M.D.; containing the Description of Tweeddale, and Miscellaneous Poems* (Leith: A. Allardice, 1815).
- Pennecuik [Penicuik], Alexander, *A collection of Scots Poems on Several Occasions, By the Late Mr. Alexander Pennecuik, Gent. And Others* (Glasgow: Alexander Buchanan, 1787).
- Pinkerton, John MacPherson, ed., *Minute Book of the Faculty of Advocates*, vol. i (Edinburgh: The Stair Society, 1976).
- Pitcairn, Robert, *Criminal Trials in Scotland., from A.D. M.CCCC.LXXXVIII to A.D. M.DC.XXIV, embracing the entire reigns of James IV. and V., Mary Queen of Scots and James VI*, 3 vols. (Edinburgh: William Tate, 1833).
- Pryde, G. S., ed., *Ayr Burgh Accounts 1534–1624* (Edinburgh: Edinburgh University Press, 1937).
- Ramsay, Allen, ed., *The Tea-Table Miscellany*, vol. i (London: A. Millar, 1740).
- Register of the Privy Council of Scotland*, ed. J. H. Burton *et al.*, 3 series (Edinburgh, 1877–1933).
- Registrum Magnii Sigilli Regum Scotorum: Register of the Great Seal of Scotland*, ed. J. Thompson *et al.*, 11 vols. (Edinburgh, 1882–1914).
- Registrum Secreti Sigilli Regum Scotorum: Register of the Privy Seal*, ed. M. Livingstone *et al.*, 8 vols. (Edinburgh, 1908–82).
- Renwick, Robert ed., *Extracts from the Records of the Royal Burgh of Lanark* (Glasgow: Carson & Nicol, 1893).
- Romanes, Charles S., ed., *Selections from the Records of the regality of Melrose, 1605-1661*, vol. i (Edinburgh: Edinburgh University Press, 1914).
- Rid, Samuel, *The Art of Iugling or Legerdemaine* (London: printed for T.B., 1612).
- Sammes, Aylett, *Britannia antiqua illustrata, or, The antiquities of ancient Britain derived from the Phœnicians* (London: Thomas Roycroft, 1676).
- Saunders, Richard, *Palmistry, the secrets thereof disclosed* (London: Printed by H.B. for G. Sawbridge, 1663).
- Scott-Moncrieff, William George, ed., *Records and Proceedings of the Justiciary Court, Edinburgh, 1661-78*, 2 vols. (Edinburgh: Edinburgh University Press, 1905).
- Shaw, Duncan, ed., *Acts and Proceedings of the General Assemblies of the Church of Scotland, 1560-1619*, 2 vols. (Edinburgh: The Scottish Record Society, 2004).
- Skene, John, *De Verborum Significatione: The Exposition of the termes and difficult words contained in the foure buikes of the Regiam Majestatem* (London: E.G., 1641).

- Skene, John, *The Lawes and Acts of Parliament Made be the Most Excellent and Mightie King and Monarch James be the Grace of God, King of Great Britane, France and Ireland, Defender of the Faith, &c. Since His Maiesties XV. Parliament the XIX Day of December 1597* (Edinburgh: Thomas Finlason, 1611).
- Skene, John, *The lawes and acts of Parliament, maid be King Iames the First, and his royal successours kinges of Scotland* (Edinburgh: Robert Waldegrave, 1597).
- Skene, John, *Regiam majestatem. The auld lavves and constitutions of Scotland* (Edinburgh: Thomas Finlason, 1609).
- Smith, J. Irvine, eds., *Selected Justiciary Cases, 1624-1650*, vol. ii (Edinburgh: printed for the Stair Society, 1972).
- Smith, Mark C., ed., *The Presbytery of St Andrews, 1586-1605: a study and annotated edition of the register of the minutes of the Presbytery of St Andrews, Vol. 1* (unpublished doctoral thesis, University of St Andrews, 1986).
- Spalding, John, *Memorialls of Trubles in Scotland & England A.D. 1624- A.D. 1645*, vol. i, (Aberdeen: printed for the Spalding Club, 1850).
- Stevenson, William ed., *The Presbyterie Booke of Kirkcaldie* (Kirkcaldy: James Burt, 1900).
- Strange and Certain News from Warwick* (London: Edward Crowch, 1673).
- Stuart, John, ed., *Extracts from the Records of the Burgh of Aberdeen, 1395-1625*, 2 vols. (Edinburgh: William Bennett, 1844, 1848).
- The Ioyfull Receiuing of Iames the sixt of that name King of Scotland, and Queene Anne his wife, into the Townes of Lyeth and Edinborough the first daie of May last past. 1590. Together with the Triumphs shewed before the Coronation of the said Scottish Queene* (London: printed for Henrie Carre, 1590).
- Thomasius, Jacobus [Jakob Thomasius], *Dissertatio philosophica de cingari* (Leipzig: Johann Erici-Hahnii, 1671).
- Thomson, Thomas, ed., *A Collection of Inventories and other Records of the Royal Wardrobe and Jewelhouse, 1488-1606* (Edinburgh: [s.n.], 1815).
- Thomson, Thomas, ed., 'A Description of the Oldest Council Books and other Records of the Town of Haddington, with copious extracts', in *Proceedings of the Society of Antiquaries of Scotland*, vol. ii, part 3 (Edinburgh: Neill and Company, 1859), pp. 384-420.
- Todd, Margo, ed., *The Perth Kirk Session Books, 1577-1590* (Woodbridge: The Boydell Press, 2012).

- Voetius, Gisbertus [Gijsbert Voet], *Selectarum disputationum theologicarum*, pars secunda (Utrecht: Johannem à Waesberge, 1655).
- Ward, Edward, *A trip to Jamaica: with a true character of the people and island* (London: [s.n], 1698).
- Wodrow, Robert, *The History of the Sufferings of the Church of Scotland from the Restauration to the Revolution*, vol. ii (Edinburgh: James Watson, 1722).
- Wood, Marguerite ed., *Extracts from the Records of Edinburgh, 1604-1626* (London: Oliver and Boyd, 1931).

### Secondary sources

- Abbott, William M., 'Ruling Eldership in Civil War England, the Scottish Kirk, and Early New England: A Comparative Study of Secular and Spiritual Aspects', *Church History* 75 (2006), pp. 38-68.
- Abrams, Lynn, and Ewen, Elizabeth, eds., *Nine Centuries of Man: Manhood and Masculinity in Scottish History* (Edinburgh: Edinburgh University Press, 2017).
- Abulafia, David, 'The Coming of the Gypsies: Cities, Princes, Nomads', in Peter Hoppenbrouwers, Antheun Janse, and Robert Stein, eds., *Power and Persuasion. Essays on the Art of State Building in Honour of W.P. Blockmans* (Turnhout: Brepols, 2010), pp. 325-42.
- Achim, Viorel, *The Roma in Romanian History* (Budapest: Central European University Press, 2004).
- Acton, Thomas, 'Modernity, Culture and "Gypsies": Is there a Meta-Scientific Method for Understanding the Representation of "Gypsies"? And do the Dutch really exist?', in *The Role of the Romanies: Images and Counter-images of "Gypsies"/ Romanies in European Cultures*, eds. Nicholas Saul and Susan Tebbutt (Liverpool: Liverpool University Press, 2004), pp. 98-116.
- Acton, Thomas ed., *Gypsy Politics and Traveller Identity* (Hatfield: University of Hertfordshire Press, 1997).
- Adams, Sharon, and Goodare, Julian, eds., *Scotland in the Age of Two Revolutions* (Woodbridge: The Boydell Press, 2014).
- Allan, David, "'In the Bosome of a Shaddowie Grove": Sir George Mackenzie and the Consolations of Retirement', *History of European Ideas* 25 (1999), pp. 251-73.

- Allan, David, *Philosophy and Politics in Later Stuart Scotland: Neo-Stoicism, Culture, and Ideology in an Age of Crisis, 1540-1690* (East Linton: Tuckwell, 2000).
- Alexander, Neal, Alcobia-Murphy, Shane, and Oakman, Anne, eds., *To the Other Shore: Cross-currents in Irish and Scottish Studies* (Belfast: Cló Ollscoil na Banríona, 2004).
- Allardyce, Nicoll, *A History of English Drama*, vol. iv (Cambridge: Cambridge University Press, 1955).
- An Introduction to Scottish Legal History* (Edinburgh: Stair Society, 1958).
- Andrews, William, ed., *Legal Lore: Curiosities of Law and Lawyers* (London: William Andrews & Co., 1897).
- Archer, John Michael, *Old Worlds: Egypt, Southwest Asia, India, and Russia in Early Modern English Writing* (Stanford, Calif: Stanford University Press, 2001).
- Aresu, Massimo, 'Representing Spanish Gypsies during the Second Half of the 18th Century: A Dissenting Voice', *Frühneuzeit-Info* 30 (2019), pp. 37-55.
- Aresu, Massimo, 'Zingari e gitani tra città e campagna. Forme e mutamenti di una presenza inammissibile. Il caso sardo (XVI-XVII secolo)', in Giampaolo Salice ed., *La Terra ai Forestieri, Colonizzazioni Interne nel Mediterraneo Moderno* (Pisa: Pacini, 2019).
- Armitage, David, 'Making the Empire British: Scotland in the Atlantic World 1542-1707', *Past and Present* 155 (1997), pp. 32-63.
- Armitage, David, 'The Scottish vision of empire: intellectual origins of the Darien venture', in John Robertson ed., *A Union for Empire: Political Thought and the British Union of 1707* (Cambridge: Cambridge University Press, 1995), pp. 97-118.
- Armstrong, Jackson W., and Mackillop, Andrew, 'Introduction: Communities, Courts and Scottish Towns', *Urban History* 44 (2017), pp. 358-364.
- Asséo, Henriette, 'Marginalité et exclusion: le traitement administratif des Bohémiens dans la société française du XVIIe siècle', in Henriette Asséo and Jean-Pierre Vittu, *Problèmes socio-culturels en France au XVIIe siècle* (Paris: Klincksieck, 1974), pp. 9-87.
- Asséo, Henriette, 'Visibilité et identité flottante: Les "Bohémiens" ou "Egyptiens" (Tsiganes) dans la France de l'Ancien Régime', *Historiein* 2 (2000), pp. 109-122.
- Axon, William E. A., ed., 'A Gypsy Tract from the Seventeenth Century', *Journal of the Gypsy Lore Society* 1 (1908), pp. 69-73.
- [B. G.], 'Anecdotes of J. Macpherson, the Ancient Freebooter and Musician', *The New Monthly Magazine and Literary Journal*, vol. i (1821), pp. 142-144.

- Baird, John, *Memoir of the Late Rev. John Baird, Minister of Yetholm, Roxburghshire*, ed. William Baird (London: James Nisbet & Co., 1862).
- Baird, John, *The Scottish Gipsy's Advocate: Being a Short Account of the Gipsies of Kirk Yetholm* (Edinburgh: John Lindsay & Co., 1839).
- Baker, Lane B., 'Marginal People, Marginal History: A Historiography of Medieval Romani Immigration', *German Historical Institute London Bulletin* 45 (2023), pp. 44-75.
- Bakker, Peter, 'Romani Genetic Linguistics and Genetics: Results, Prospects and Problems', *Romani Studies* 22 (2012), pp. 91-111.
- Bakkar, Peter, and Kenrick, Donald, 'Angloromani', in David Britain ed., *Language in the British Isles* (Cambridge: Cambridge University Press, 2007), pp. 368-74.
- Bakker, Peter, 'An Early Vocabulary of British Romani (1616): a Linguistic Analysis', *Romani Studies* 12 (2002), pp. 75-101.
- Barbour, Reid, 'Thomas Browne and the Hieroglyphics of Skin', in Reid Barbour and Claire Preston eds., *Sir Thomas Browne: The World Proposed* (Oxford: Oxford University Press, 2008), pp. 279-85.
- Barclay, Katie, 'Independence, Affection and Mobility in Eighteenth-Century Scotland', in Heather Dalton, ed., *Keeping Family in an Age of Long Distance Trade, Imperial Expansion, and Exile, 1550-1850* (Amsterdam: Amsterdam University Press, 2020), pp. 127-145.
- Barclay, Katie, 'Marriage, Sex, and the Church of Scotland: Exploring Non-Conformity Amongst the Lower Orders', *Journal of Religious History* (2019), pp. 163-79.
- Barrie, J. M., *The Little Minister* (London: Cassell and Company, 1894).
- Bath, Michael, *Emblems in Scotland: Motifs and Meanings* (Leiden: Brill, 2018).
- Bath, Michael, *Renaissance Decorative Painting in Scotland* (Edinburgh: National Museums of Scotland Publishing, 2003).
- Bautz, Annika, 'The "universal favourite": Daniel Terry's *Guy Mannering; or, The Gipsy's Prophecy* (1816)', *The Yearbook of English Studies* 47 (2017), pp. 36-57.
- Beckles, Hilary, *White Servitude and Black Slavery in Barbados, 1627-1715* (Knoxville: University of Tennessee Press, 1989).
- Beier, A. L., *Masterless Men: The Vagrancy Problem in England 1560-1640* (London: Methuen, 1985).
- Beier, A. L., 'Vagrants and the Social Order in Elizabethan England', *Past & Present* 64 (1974), pp. 3-29.

- Bell, Catherine, *Ritual Theory, Ritual Practice* (Oxford: Oxford University Press, 2009).
- Bell, Barbara, 'The National Drama', *Theatre Research International* 17 (1992), pp. 96-108.
- Belton, Brian, *Questioning Gypsy Identity: Ethnic Narratives in Britain and America* (Walnut Creek, CA: AltaMira Press, 2005).
- Bhopal, Kalwant, and Myers, Martin, *Insiders, Outsiders, and Others: Gypsies and Identity* (Hatfield: University of Hertfordshire Press, 2008).
- Blair, F. G., 'Forged Passports of British Gypsies in the Sixteenth Century', *Journal of the Gypsy Lore Society* 3 (1950), pp. 131-136.
- Blakeway, Amy, *Regency in Sixteenth-Century Scotland* (Woodbridge: The Boydell Press, 2015).
- Blakeway, Amy, 'The Privy Council of James V of Scotland, 1528-1542', *The Historical Journal* 59 (2016), pp. 23-44.
- Blécourt, Willem de, 'Witch Doctors, Soothsayers and Priests: On Cunning Folk in European Historiography and Tradition', *Social History* 19 (1994), pp. 285-303.
- Boardman, Stephen, and Goodare, Julian, eds., *Kings, Lords, and Men in Scotland and Britain: Essays in Honour of Jenny Wormald* (Edinburgh: Edinburgh University Press, 2014).
- Boes, Maria, 'Unwanted Travellers ? The Tightening of City Borders in Early Modern Germany', in Thomas Betteridge ed., *Borders and Travellers in Early Modern Europe* (Aldershot: Ashgate, 2007), pp. 87-112.
- Bogdal, Klaus-Michael, *Europa erfindet die Zigeuner. Eine Geschichte kultureller Gewalt* (Berlin: Suhrkamp, 2010).
- Bogdal, Klaus-Michael, *Europe and the Roma: A History of Fascination and Fear*, trans. by Jefferson Chase (London: Allen Lane, 2023).
- Bowers, Rick, 'James VI, Prince Henry, and "A True Reportarie" of Baptism at Stirling 1594', *Renaissance and Reformation / Renaissance Et Réforme* 29 (2005), pp. 3-22.
- Bowie, Karin, and Munck, Thomas, 'Early Modern Political Petitioning and Public Engagement in Scotland, Britain and Scandinavia, c. 1550-1795', *Parliaments, Estates and Representation*, 38 (2018), pp. 271-278.
- Braddick, Michael J., *State Formation in Early Modern England, c. 1550-1700* (Cambridge: Cambridge University Press, 2000).
- Braddick, Michael J., and Walter, John, eds., *Negotiating Power in Early Modern Society: Order, Hierarchy, and Subordination in Britain and Ireland* (Cambridge: Cambridge University Press, 2001).

- Braude, Benjamin, 'The Sons of Noah and the Construction of Ethnic and Geographical Identities in the Medieval and Early Modern Periods', *The William and Mary Quarterly* 54 (1997), pp. 103-142.
- Brock, Michelle D., *Satan and the Scots: the Devil in Post-Reformation Scotland, c.1560-1700* (London: Routledge, 2016).
- Brockie, William, *The Gypsies of Yetholm: Historical, Traditional, Philological, and Humorous* (Kelso: J. & J.H. Rutherford, 1884).
- Brooks, Ethel C., 'The Possibilities of Romani Feminism', *Signs* 38 (2012), pp. 1-11.
- Broun, Dauvit, *Scottish Independence and the Idea of Britain: From the Picts to Alexander III* (Edinburgh: Edinburgh University Press, 2013).
- Brown, Iain Gordon, *The Clerks of Penicuik: Portraits of Taste and Talent* (Loanhead: Macdonald Printers, 1987).
- Brown, Kathleen M., *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill and London: University of South Carolina Press, 2012).
- Brown, Keith M., *Bloodfeud in Scotland 1573 - 1625: Violence, Justice, and Politics in an Early Modern Society* (Edinburgh: John Donald, 1986).
- Brown, Keith M., 'In Search of the Godly Magistrate in Reformation Scotland', *Journal of Ecclesiastical History* 40 (1989), pp. 553-581.
- Brown, Keith M., *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh: Edinburgh University Press, 2013).
- Brown, Keith M., *Noble Society in Scotland: Wealth, Family and Culture, from Reformation to Revolution* (Edinburgh: Edinburgh University Press, 2000).
- Brown, Keith M., Kennedy, Allan, and Talbott, Siobhan, "'Scots and Scabs from North-by-Tweed": Undesirable Scottish Migrants in Seventeenth- and Early Eighteenth-Century England, *The Scottish Historical Review* 98 (2019), pp. 241-265.
- Brown, Keith M., Mann, Alastair J., eds., *Parliament and Politics in Scotland, 1567-1707* (Edinburgh: Edinburgh University Press, 2005).
- Brubaker, Rogers, 'Ethnicity without groups', *European Journal of Sociology/Archives Européennes de Sociologie* 43 (2002), pp. 163-189.
- Brubaker, Rogers, 'Beyond ethnicity', *Ethnic and Racial Studies* 37 (2014), pp. 804-808.
- Bryce, William Moir, 'The Magistrates and their Jurisdiction', in *The Book of the Old Edinburgh Club*, vol. x (T. and A. Constable, 1918), pp. 83-95.

- Buckroyd, Julia, *Church and State in Scotland, 1660–1681* (Edinburgh: J. Donald, 1980).
- Burke, Peter, *Language and Community in Early Modern Europe* (Cambridge: Cambridge University Press, 2004).
- Burns, Ryan, ‘Enforcing Uniformity: Kirk Sessions and Catholics in Early Modern Scotland, 1560–1650’, *The Innes Review* 69 (2018), pp. 111-130.
- Butler, Sara, and Kesselring, K. J., eds., *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain* (Leiden: Brill, 2018).
- Cairns, John W., *Law, Lawyers, and Humanism* (Edinburgh: Edinburgh University Press, 2015).
- Cameron, Joy, *Prisons and Punishment in Scotland from the Middle Ages to the Present* (Edinburgh: Canongate, 1983).
- Campbell, Ian, *Renaissance Humanism and Ethnicity Before Race: The Irish and the English in the Seventeenth Century* (Manchester: Manchester University Press, 2015).
- Campbell, Lorne, ‘The Authorship of the *Recueil d’Arras*’, *Journal of the Warburg and Courtauld Institutes* 40 (1977), 301-313.
- Chambers, William, *Domestic Annals of Scotland from Reformation to Revolution* (Edinburgh and London: W. & R. Chambers, 1859).
- Chambers, Robert, *A Picture of Scotland*, vol. i (Edinburgh: William Tait, 1827).
- Chambers, William, *Exploits and Anecdotes of the Scottish Gypsies* (Edinburgh: William Chambers, 1821).
- Chambers, William, *Memoir of William and Robert Chambers*, thirteenth ed. (W. & R. Chambers, 1884).
- Chaplin, Joyce E., ‘Race’, in David Armitage and Michael J. Braddick eds., *The British Atlantic World, 1500-1800* (Basingstoke: Palgrave Macmillan, 2009).
- Chaplin, Joyce E., *Subject Matter: Technology, the Body, and Science on the Anglo-American Frontier, 1500-1676* (Cambridge, MA: Harvard University Press, 2001).
- Charnon-Deutsch, Lou, *The Spanish Gypsy: The History of a European Obsession* (University Park, PA: Pennsylvania State University, 2004).
- Child, Francis J., *The English and Scottish Popular Ballads*, vol. iv [part vii] (Boston: Houghton, Mifflin, and Co., 1890).
- Childs, John, ‘The British Brigade in France, 1672-1678’, *History* 69 (1984), pp. 384-397.

- Chiot, Daniel, 'Review: Gypsies and Other Itinerant Groups: A Socio-Historical Approach', *The Journal of Interdisciplinary History* 30 (1999), pp. 306-308.
- Clark, Colin, 'Defining Ethnicity in a Cultural and Socio-Legal Context: the Case of Scottish Gypsy-Travellers' *Scottish Affairs* 54 (2006), pp. 39-67.
- Clark, Colin, "'Severity has often enraged but never subdued a gipsy": The History and Making of European Romani Stereotypes', in Nicholas Saul and Susan Tebbutt, eds., *Images and Counter-Images of Gypsies/Romanies in European Cultures* (Liverpool: Liverpool University Press, 2004), pp. 226-246.
- Clark, Colin, and Greenfield, Margaret, eds., *Here to Stay: The Gypsies and Travellers of Britain* (Hatfield: University of Hertfordshire Press, 2006).
- Clark, Peter, and Souden, David, eds., *Migration and Society in Early Modern England* (London, 1987).
- Cogswell, Thomas, Richard Cust, and Peter Lake, eds., *Politics, Religion and Popularity in Early Stuart Britain: Essays in Honour of Conrad Russell* (Cambridge: Cambridge University Press, 2002).
- Coleman, Julie, *A History of Cant and Slang Dictionaries: Volume I: 1567-1784* (Oxford: Oxford University Press, 2008).
- Considine, John, *Small Dictionaries and Curiosity: Lexicography and Fieldwork in Post-Medieval Europe* (Oxford: Oxford University Press, 2016).
- Corson, James C. *Notes and Index to Sir Herbert Grierson's Edition of the Letters of Sir Walter Scott* (Oxford: The Clarendon Press, 1979).
- Cowan, Edward J., ed., *The Ballad in Scottish History* (East Linton: Tuckwell Press, 2000).
- Cowan, Edward J., and Finlay, Richard J., eds., *Scottish History: The Power of the Past* (Edinburgh: Edinburgh University Press, 2002).
- Cowan, Ian B., *The Scottish Reformation* (London: Weidenfeld & Nicolson, 1982).
- Cowan, Ian B., *The Scottish Covenanters, 1660-1688* (London: Victor Gollancz, 1976).
- Crailsheim, Eberhard, and Elizalde, María Dolores, eds., *The Representation of External Threats from the Middle Ages to the Modern World* (Leiden: Brill, 2019).
- Cressy, David, *Gypsies: an English History* (Oxford: Oxford University Press: 2018).
- Cressy, David, 'Trouble with Gypsies in Early Modern England', *The Historical Journal* 59 (2016), pp. 45-70.

- Crofton, Henry Thomas, *Crofton's Tudor Gypsies*, ed. by Robert Dawson (Robert Dawson: Alfriston, 2001).
- Crowe, David M., *A History of the Gypsies of Eastern Europe and Russia* (New York: Palgrave Macmillan, 2007).
- Cullen, Karen J., *Famine in Scotland - the 'Ill Years' of the 1690s* (Edinburgh: Edinburgh University Press, 2010).
- Curran, Andrew S., *The Anatomy of Blackness: Science and Slavery in an Age of Enlightenment* (Baltimore: Johns Hopkins University Press, 2011).
- Davies, Owen *Cunning-Folk. Popular Magic in English History* (London: Hambledon, 2003).
- Davies, Stephen J., 'Law and Order in Stirlingshire, 1637-1747' (unpublished doctoral thesis, University of St Andrews, 1984).
- Dawson, Robert, *Empty Lands: Aspects of Scottish Traveller Survival* (Robert Dawson: Alfreton, 2007).
- Dean, Trevor, Parry, Glyn, and Vallance, Edward, eds., *Faith, Place and People in Early Modern England: Essays in Honour of Margaret Spufford* (Woodbridge: The Boydell Press, 2018).
- Devine, T. M., *Scotland's Empire, 1600-1815* (London: Allen Lane, 2003).
- Devine, T. M., and Wormald, Jenny, eds., *The Oxford Handbook of Modern Scottish History* (Oxford: Oxford University Press, 2012).
- Dixon, C. Scott, Freist, Dagmar, and Greengrass, Mark, eds., *Living with Religious Diversity in Early-Modern Europe* (Farnham: Ashgate, 2009).
- Dobson, David, *Dictionary of Scots Banished to the American Plantations* (Baltimore: Genealogical Publishing Co., 1983).
- Dobson, David, *Scottish Emigration to Colonial America, 1607-1785* (Athens, GA: The University of Georgia Press, 2004).
- Donaldson, Gordon, *The Scottish Reformation* (Cambridge: Cambridge University Press, 1960).
- Donoghue, John, and Jennings, Evelyn P., eds., *Building the Atlantic Empires: Unfree Labor and Imperial States in the Political Economy of Capitalism, ca. 1500-1914* (Leiden: Brill, 2016).
- Donovan, Bill, 'Changing Perceptions of Social Deviance: Gypsies in Early Modern Portugal and Brazil', *Journal of Social History* 26 (1992), pp. 33-53.
- Dow, F. D., *Cromwellian Scotland, 1651-1660* (Edinburgh: John Donald, 1979).

- Drexler, Marjorie, 'The Extant Abridgements of Walter Bower's "Scotichronicon"', *The Scottish Historical Review* 61 (1982), pp. 62-67.
- Dwyer, John, Mason, Roger A., and Murdoch, Alexander, eds., *New Perspectives on the Politics and Culture of Early Modern Scotland*, (Edinburgh: John Donald 1982).
- Eggert, Katherine, *Disknowledge: Literature, Alchemy, and the End of Humanism in Renaissance England* (Philadelphia: University of Pennsylvania Press, 2015).
- Eigen, Sara, and Larrimore, Mark, eds., *The German Invention of Race* (Albany, N.Y.: State University of New York Press 2007).
- Fairley, John A., *Bailie Smith of Kelso's Account of the Gypsies of Kirk Yetholm in 1815* (Hawick: privately printed, 1907).
- Falconer, J. R. D., *Crime and Community in Reformation Scotland: Negotiating Power in a Burgh Society* (London: Pickering & Chatto, 2013).
- Farmer, Lindsay, *Criminal Law, Tradition and Legal Order: Crime and the Genius of Scots Law, 1747 to the Present* (Cambridge: Cambridge University Press, 1996).
- Ferguson, Catherine, 'Law and Order on the Anglo-Scottish Border, 1603-1707' (unpublished doctoral thesis, University of St Andrews, 1981).
- Ferguson, Emily, "'None to Judge, Fight or Plead': An Introduction to Sir George Mackenzie's 'Laws and Customs of Scotland in Matters Criminal (1678)'" (unpublished masters thesis, University of Guelph, 1997).
- Ferguson, William, *The Identity of the Scottish Nation: An Historic Quest* (Edinburgh: Edinburgh University Press, 1998).
- Fergusson, R. Menzies, *Logie: A Parish History*, vol. ii (Paisley: Alexander Gardner, 1905).
- Findlay, Johan, *All Manner of People: The History of the Justices of the Peace in Scotland* (Edinburgh: The Saltire Society, 2000).
- Finke, Laurie A., and Shichtman, Martin B., *King Arthur and the Myth of History* (University of Florida Press, 2004).
- Finlay, John, *Legal Practice in Eighteenth-Century Scotland* (Leiden: Brill, 2015).
- Finlay, John, 'The Petition in the Court of Session in Early Modern Scotland', *Parliaments, Estates and Representation* 38 (2018), pp. 337-349.
- Finlay, John, ed., *Scottish Historical and Romantic Ballads*, vol. ii (Edinburgh: James Ballantyne & Co., 1808).

- Fletcher, Charles, 'Justice and Society in Strathspey: The Regality Court of Grant, c. 1690-1748' (unpublished doctoral thesis, University of Edinburgh, 2019).
- Fletcher, Charles, *Justice and Society in the Highlands of Scotland: Strathspey and the Regality of Grant (c. 1690-1748)* (Leiden: Brill, 2021).
- Fotta, Martin, 'The Figure of the Gypsy (*Cigano*) as a Signpost for Crises of the Social Hierarchy (Bahia, 1590s–1900s)', *International Review of Social History* 65 (2020), pp. 315-341.
- Fraser, Angus, 'Counterfeit-Egyptians', *Tsiganologische Studien* 2 (1990), pp. 43-69.
- Fraser, Angus, 'Juridical Autonomy among Fifteenth and Sixteenth Century Gypsies', *American Journal of Comparative Law* 45 (1997), 291-304.
- Fraser, Angus, *The Gypsies* (Oxford: Blackwell, 1992).
- Fraser, Angus, 'The Present and Future of the Gypsy Past', *Cambridge Review of International Affairs* 13 (2000), pp. 17-31.
- Fumerton, Patricia, 'Making Vagrancy (In)Visible: The Economics of Disguise in Early Modern Rogue Pamphlets', *English Literary Renaissance* 33 (2003), pp. 211-227.
- Gibson, Jason, and Gardner, Helen, 'Conversations on the Frontier: Finding the Dialogic in Nineteenth-century Anthropological Archives', *History Workshop Journal* 88 (2019), pp. 47-65.
- Glaze, Alice, 'Women and Kirk Discipline: Prosecution, Negotiation, and the Limits of Control', *Journal of Scottish Historical Studies* 36 (2016), pp. 125-142.
- Glickman, Gabriel, *Making the Imperial Nation: Colonization, Politics, and English Identity, 1660-1700* (New Haven: Yale University Press, 2023).
- Goatman, Paul, 'Exemplary Deterrent or Theatre of Martyrdom?: John Ogilvie's Execution and the Community of Glasgow', *Journal of Jesuit Studies* 7 (2020), pp. 47-66.
- Goatman, Paul, 'Religious Tolerance and Intolerance in Jacobean Scotland: The Case of Archibald Hegate Revisited', *The Innes Review* 67 (2016), pp. 159-181.
- Goldstein, R. James, 'Writing in Scotland, 1058 - 1560' in David Wallace, ed. *The Cambridge History of Medieval English Literature* (Cambridge: Cambridge University Press, 1999), pp. 229-254.
- Goodare, Julian, 'How Archbishop Spottiswoode Became an Episcopalian', *Renaissance and Reformation / Renaissance et Réforme* 30 (2007), pp. 83-103.
- Goodare, Julian, *State and Society in Early Modern Scotland* (Oxford: Oxford University Press, 1999).

- Goodare, Julian, 'The Admission of Lairds to the Scottish Parliament', *The English Historical Review* 116 (2001), pp. 1103-1133.
- Goodare, Julian, 'The Framework for Scottish Witch-Hunting in the 1590s', *The Scottish Historical Review* 81 (2002), pp. 240-250.
- Goodare, Julian, *The Government of Scotland, 1560 - 1625* (Oxford: Oxford University Press, 2004).
- Goodare, Julian, 'The Scottish Parliament and its Early Modern "Rivals"', *Parliaments, Estates and Representation* 24 (2004), pp. 147-172.
- Goodare, Julian, 'The Scottish Parliament of 1621', *The Historical Journal* 38 (1995), pp. 29-51.
- Goodare, Julian, 'The Scottish Witchcraft Act', *Church History* 74 (2005), pp. 39-67.
- Goodare, Julian, ed., *The Scottish Witch-Hunt in Context* (Manchester: Manchester University Press, 2002).
- Goodare, Julian, and Lynch, Michael eds., *The Reign of James VI* (East Linton: Tuckwell Press, 2000).
- Goodare, Julian, and MacDonald, Alasdair A., eds., *Sixteenth-Century Scotland: Essays in Honour of Michael Lynch* (Leiden: Brill, 2008).
- Goodare, Julian, Martin, Lauren, and Miller, Joyce, eds., *Witchcraft and Belief in Early Modern Scotland*, (Basingstoke: Palgrave Macmillan, 2008).
- Gordon, Anne, *Hearts upon the Highway: Gypsies in South-East Scotland* (Galashiels: McQueen Printers, 1980).
- Gordon, Eleanor 'Irregular Marriage: Myth and Reality', *Journal of Social History* 47 (2013), pp. 507-525.
- Gorski, P. S., *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago: University of Chicago Press, 2003).
- Graham, Michael F., *The Blasphemies of Thomas Aikenhead: Boundaries of Belief on the Eve of Enlightenment* (Edinburgh: Edinburgh University Press, 2008).
- Graham, Michael F., *The Uses of Reform: 'Godly Discipline' and Popular Behavior in Scotland and Beyond* (Leiden: Brill, 1996).
- Graham, W. Fred, ed., *Later Calvinism: International Perspectives* (Kirksville, Mo.: Sixteenth Century Journal Publishers, 1994).
- Grant, Alasdair C., 'Scotland's "Vagabonding Greekes, 1453-1688', *Byzantine and Modern Greek Studies* 46 (2022), pp. 81-97.

- Green, Roger, *Scottish Latin Authors in Print up to 1700* (Leuven: Leuven University Press, 2012).
- Green, Thomas M., *The Spiritual Jurisdiction in Reformation Scotland: A Legal History* (Edinburgh: Edinburgh University Press, 2019).
- Grosjean, Alexia, and Murdoch, Steve, eds., *Scottish Communities Abroad in the Early Modern Period* (Leiden: Brill, 2005).
- Groundwater, Anna, 'The chasm between James VI and I's vision of the orderly "Middle Shires" and the "wickit" Scottish Borderers between 1587 and 1625', *Renaissance and Reformation / Renaissance et Réforme* 30 (2006), pp. 105-132.
- Groundwater, Anna, *The Scottish Middle March, 1573-1625: Power, Kinship, Allegiance* (Woodbridge, Suffolk: Boydell, 2010).
- Hancock, Ian, *We Are the Romani People* (Hatfield: University of Hertfordshire Press, 2002).
- Hall, Kim F., *Things of Darkness : Economies of Race and Gender in Early Modern England* (Ithaca, N.Y.: Cornell University Press, 1995).
- Harris, Bob, Macdonald, Alan R., eds., *Scotland: The Making and Unmaking of the Nation c.1100-1707. Volume 2: Early Modern Scotland: c. 1500-1707* (Dundee: Dundee University Press, 2007).
- Hawes, Derek, and Perez, Barbara, *The Gypsy and the State: The Ethnic Cleansing of British Society* (Bristol: Policy Press, 1995).
- Hazlett, William Ian P., ed., *A Companion to the Reformation in Scotland, c.1525-1638: Frameworks of Change and Development* (Leiden: Brill, 2021).
- Head, Randolph C., 'Documents, Archives, and Proofs around 1700', *The Historical Journal* 56 (2013), 909-930.
- Henderson, Lizanne, *Witchcraft and Folk Belief in the Age of Enlightenment: Scotland, 1670-1740* (Basingstoke: Palgrave Macmillan, 2016).
- Henderson, Lizanne, and Cowan, Edward J., *Scottish Fairy Belief: A History, From the Fifteenth to the Nineteenth Century* (East Linton: Tuckwell, 2001).
- Heng, Geraldine, *The Invention of Race in the European Middle Ages* (Cambridge: Cambridge University Press, 2018).
- Hepburn, William, *The Household and Court under James IV* (Woodbridge: The Boydell Press, 2023).
- Herrup, Cynthia, 'Law and Morality in Seventeenth Century England', *Past and Present* 106 (1985), pp. 102-123.

- Herrup, Cynthia, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1989).
- Heslop, Oliver, *Northumberland Words*, vol. i (London: Kegan Paul, Trench, Trübner & Co., 1892).
- Higgs, Edward, *The Information State in England: The Central Collection of Information on Citizens since 1500* (Basingstoke: Palgrave Macmillan, 2004).
- Hindle, Steve, *The State and Social Change in Early Modern England, c. 1550–1640* (Basingstoke: Palgrave, 2000).
- Hitchcock, David, ‘A Typology of Travellers: Migration, Justice, and Vagrancy in Warwickshire, 1670–1730’, *Rural History* 23 (2012), pp. 21-39.
- Hitchcock, David, ‘“Punishment Is All the Charity that the Law Affordeth Them”: Penal Transportation, Vagrancy, and the Charitable Impulse in the British Atlantic, c.1600-1750’, *New Global Studies* 12 (2018), pp. 195-215.
- Hitchcock, David, *Vagrancy in English Culture and Society, 1650–1750* (London: Bloomsbury, 2016).
- Houghton-Walker, Sarah, *Representations of the Gypsy in the Romantic Period* (Oxford: Oxford University Press, 2014).
- Hoyland, John, *A Historical Survey of the Customs, Habits and Present State of Gypsies* (York: printed for the author, 1816).
- Hudson, Nicholas, ‘From “Nation” to “Race”: The Origin of Racial Classification in Eighteenth-Century Thought’, *Eighteenth Century Studies* 29 (1996), pp. 247-264.
- Hug, Tobias B., *Impostures in Early Modern England: Representations and Perceptions of Fraudulent Identities* (Manchester: Manchester University Press, 2009).
- Hunter, Michael, *The Occult Laboratory: Magic, Science, and Second Sight in Late Seventeenth-Century Scotland* (Rochester, NY: Boydell and Brewer, 2001).
- Hunter, William, *Biggar and the House of Fleming: An Account of the Biggar District, Archaeological, Historical and Biographical* (Edinburgh: William Paterson, 1867).
- Hyman, Elizabeth Hannan, ‘A Church Militant: Scotland, 1661-1690’, *The Sixteenth Century Journal* 26 (1995), pp. 49-74.
- Iyengar, Sujata, *Shades of Difference: Mythologies of Skin Color in Early Modern England* (Philadelphia: University of Pennsylvania Press, 2005).
- Jackson, Clare, ‘“Assize of Error” and the Independence of the Criminal Jury in Restoration Scotland’, *Scottish Archives* 10 (2004), pp. 1-25.

- Jackson, Clare, 'Compassing Allegiance: Sir George Mackenzie and Restoration Scottish Royalism', in Justin Champion, John Coffey, Tim Harris, and John Marshall eds., *Politics, Religion and Ideas in Seventeenth- and Eighteenth-Century Britain: Essays in Honour of Mark Goldie* (Martlesham: The Boydell Press, 2019), pp. 121-140.
- Jackson, Clare, 'Latitudinarianism, secular theology and Sir Thomas Browne's influence in George Mackenzie's *Religio Stoici* (1663)', *The Seventeenth Century* 29 (2014), pp. 73-94.
- Jackson, Clare, *Restoration Scotland, 1660-1690: Royalist Politics, Religion and Ideas* (Woodbridge: the Boydell Press, 2003).
- Jenkins, Brian P., *Rethinking Ethnicity*, second edition (London: SAGE publications, 2008).
- Kaplan, Benjamin J., *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Cambridge, Mass.: Harvard University Press, 2007).
- Kassell, Lauren, "'All Was This Land Full Fill'd of Faerie,'" or Magic and the Past in Early Modern England', *Journal of the History of Ideas* 67 (2006), pp. 107-122.
- Kennedy, Allan, 'Crime and Punishment in Early-Modern Scotland: The Secular Courts of Restoration Argyllshire, 1660-1688', *International Review of Scottish Studies* 41 (2016), pp. 1-36.
- Kennedy, Allan, 'Deviance, Marginality and the Highland Bandit in Seventeenth-Century Scotland', *Social History* 47 (2022), pp. 239-64.
- Kennedy, Allan, *Governing Gaeldom: The Scottish Highlands and the Restoration State, 1660-1688* (Leiden: Brill, 2014).
- Kennedy, Allan, 'State Formation, Criminal Prosecution and the Privy Council in Restoration Scotland', *English Historical Review* 135 (2020), pp. 29-62.
- Kennedy, Chloë, 'Criminal Law and Religion in Post-Reformation Scotland', *The Edinburgh Law Review* 16 (2012), pp. 178-197.
- Kidd, Colin, *British Identities before Nationalism: Ethnicity and Nationhood in the British Atlantic World, 1600-1800* (Cambridge: Cambridge University Press, 1999).
- Kidd, Colin, *The Forging of Races: Race and Scripture in the Atlantic World 1600-2000* (Cambridge: Cambridge University Press, 2006).
- Kilday, Anne-Marie, 'Hurt, Harm and Humiliation: Community Responses to Deviant Behaviour in Early Modern Scotland' in Judith Rowbotham, Marianna Muravyeva, and David Nash eds., *Shame, Blame, and Culpability: Crime and Violence in the Modern State* (Abingdon, 2014), pp. 124-140.

- Kirk, John M., and Ó Baoill, Dónall, eds., *Travellers and Their Language* (Belfast: Queen's University Press, 2002).
- Kinsley, James, ed., *The Poems and Songs of Robert Burns*, vol. i (Oxford: Oxford University Press, 1968).
- Knauer, Georg Nicolaus, 'The Earliest Vocabulary of Romani Words (c. 1515) in the *Collectanea* of Johannes ex Grafig, a Student of Johannes Reuchlin and Conrad Celtis', *Romani Studies* 20 (2010), pp. 1–15.
- Knowles, James, *Politics and Political Culture in the Court Masque* (Basingstoke: Palgrave Macmillan, 2015).
- Koslofsky, Craig, 'Knowing Skin in Early Modern Europe, c. 1450–1750', *History Compass* 12 (2014), pp. 794–806.
- Koslofsky, Craig, 'Superficial Blackness?: Johann Nicolas Pechlin's *De Habitu et Colore Aethiopum Qui Vulgo Nigritae* (1677)', *Journal for Early Modern Cultural Studies* 18 (2018), pp. 140-158.
- Kotljarchuk, Andrej, 'State, Experts, And Roma: Historian Allan Etzlerand Pseudo-Scientific Racism in Sweden', *Scandinavian Journal of History* 45 (2020), pp. 615-639.
- Krause, Thomas, 'Networking across the North Sea: The Influence of German Civilian Authors on Sir George MacKenzie's "Laws and Customs of Scotland on Matters Criminal"' *Edinburgh Law Review* 22 (2018), pp. 368-379.
- Langley, Chris R., *Cultures of Care: Domestic Welfare, Discipline and the Church of Scotland, c. 1600–1689* (Leiden: Brill, 2020).
- Langley, Chris R., *Worship, Civil War and Community, 1638–1660* (Abingdon: Routledge, 2017).
- Langley, Chris R., Macmillan, Catherine E., and Newton, Russell, eds., *The Clergy in Early Modern Scotland* (Woodbridge: The Boydell Press, 2021).
- LaPerle, Carol Mejia, 'An Unlawful Race: Shakespeare's Cleopatra and the Crimes of Early Modern Gypsies', *Shakespeare* 13 (2017), pp. 226-238.
- Larner, Christina, *Witchcraft and Religion: The Politics of Popular Belief* (Oxford: Blackwell, 1985).
- Law, Ian, and Kovats, Martin, *Rethinking Roma: Identities, Politicisation and New Agendas* (Basingstoke: Palgrave Macmillan, 2018).
- Leneman, Leah, and Mitchison, Rosalind, 'Clandestine Marriage in the Scottish Cities 1660-1780', *Journal of Social History* 26 (1993), pp. 845-861.

- Leneman, Leah, and Mitchison, Rosalind, 'Acquiescence in and Defiance of Church Discipline in Early-Modern Scotland' *Records of the Scottish Church History Society* 25 (1993), pp. 19-39.
- Levack, Brian P., *The Formation of the British State: England, Scotland, and the Union, 1603–1707* (Oxford, 1987).
- Levack, Brian P., 'The Prosecution of Sexual Crimes in Early Eighteenth-Century Scotland', *The Scottish Historical Review* 89 (2010), pp. 172-193.
- Levitin, Dmitri, *Ancient Wisdom in the Age of the New Science* (Cambridge: Cambridge University Press, 2015).
- Lieberman, Victor, 'Ethnicity and Power in Early Modern Europe and Asia', in John L. Brooke, Julia C. Strauss, and Greg Anderson eds., *State Formations: Global Histories and Cultures of Statehood* (Cambridge: Cambridge University Press, 2018).
- Little, Patrick, 'A Fraudster in Cromwellian Scotland', *Scottish Historical Review* 91 (2012), pp. 335-345.
- Lives of the Scottish Poets*, vol. iii (London: Thomas Boys, 1822).
- Lockhart, J. G., *Memoirs of the Life of Sir Walter Scott, Bart.*, 7 vols. (Edinburgh: Robert Cadell, 1837–8).
- Lockhart, J. G., *Memoirs of the Life of Sir Walter Scott, Bart.: A New Edition Complete in One Volume* (Edinburgh: Robert Cadell, 1850).
- Loewenstein, David, and Mueller, Janel, eds., *The Cambridge History of Early Modern English Literature* (Cambridge: Cambridge University Press, 2003).
- Loomba, Ania, 'Race and the Possibilities of Comparative Critique', *New Literary History* 40 (2009), pp. 501-522.
- Lucas, Joseph, *The Yetholm History of the Gypsies* (Kelso: J. & J.H. Rutherford, 1882).
- Lucassen, Leo, 'Between Hobbes and Locke. Gypsies and the Limits of the Modernization Paradigm', *Social History* 33 (2008), pp. 423-441.
- Lucassen, Leo, and Willems, Wim, 'The Weakness of Well-Ordered Societies: Gypsies in Western Europe, the Ottoman Empire, and India, 1400–1914', *Review - Fernand Braudel Center for the Study of Economies, Historical Systems, and Civilizations* 26 (2003), pp. 283-313.
- Lucassen, Leo, Willems, Wim, and Cottaar, Annemarie, *Gypsies and Other Itinerant Groups: A Socio-historical Approach* (Basingstoke: Macmillan, 1998).
- Lumsden, Alison, 'Walter Scott and *Blackwood's*: Writing for the Adventurers' *Romanticism* 23 (2017), pp. 215-223.

- Lynch, Michael, 'Queen Mary's Triumph: The Baptismal Celebrations at Stirling in December 1566', *The Scottish Historical Review* 69 (1990), pp. 1-21.
- Lynch, Michael, ed., *The Early Modern Town in Scotland* (London: Routledge, 1987).
- MacCoinnich, Aonghas, *Plantation and Civility in the North Atlantic World: The Case of the Northern Hebrides, 1570-1639* (Leiden: Brill, 2015).
- MacDonald, Alan R., 'Consultation and Consent under James VI', *Historical Journal* 54 (2011), pp. 287-306.
- MacDonald, Alan R., 'Deliberative Processes in Parliament c.1567-1639: Multicameralism and the Lords of the Articles', *Scottish Historical Review* 81 (2002), pp. 29-51.
- MacDonald, Alan R., *The Jacobean Kirk, 1567 - 1625: Sovereignty, Polity, and Liturgy* (Aldershot: Ashgate, 1998).
- MacDonald, Alasdaie A., Lynch, Michael, and Cowan, Ian B., eds., *The Renaissance in Scotland: Studies in Literature, Religion, History and Culture Offered to John Durkan* (Leiden: Brill, 1994).
- Macdonald, Fiona A., *Missions to Gaels: Reformation and Counter-Reformation in Ulster and the Highlands and Islands of Scotland* (Edinburgh: John Donald, 2006).
- Macdonald, Stuart, *The Witches of Fife: Witch-Hunting in a Scottish Shire, 1560-1710* (East Linton: Tuckwell, 2002).
- Macinnes, Allan, *Union and Empire: The Making of the United Kingdom in 1707* (Cambridge: Cambridge University Press, 2007).
- Macintosh, Gillian H., "'Royal Supremacy Restored?'" Scottish Parliamentary Independence in the Restoration Era, 1660–88', *Parliaments, Estates and Representation* 34 (2014), pp. 151-166.
- Mackenzie, John M., and Devine, T. M., eds., *Scotland and the British Empire* (Oxford: Oxford University Press, 2011).
- Mackie, Erin, *Rakes, Highwaymen, and Pirates: The Making of the Modern Gentleman in the Eighteenth Century* (Baltimore: John Hopkins University Press, 2009).
- MacLeod, Daniel, 'Making Time Protestant in Early-Modern Glasgow', *Reformation & Renaissance Review* 20 (2018), pp. 168-184.
- MacRitchie, David, *Ancient and Modern Britons: A Retrospect*, vol. i (London: Kegan Paul, Trench & Co., 1884).
- MacRitchie, David, 'Irish Tinkers and their Language', *Journal of the Gypsy Lore Society* 1 (1889), pp. 350-357.

- MacRitchie, David, *Scottish Gypsies under the Stewarts* (Edinburgh: David Douglas, 1894).
- Maidment, James, *Scottish Ballads and Songs* (Edinburgh: Thomas George Stevenson, 1859).
- Makey, Walter, *The Church of the Covenant, 1637-1651* (Edinburgh: John Donald, 1979).
- Malcolmson, Cristina, *Studies of Skin Color in the Early Royal Society: Boyle, Cavendish, Swift* (Farnham: Ashgate, 2013).
- Marsh, Adrian, ed., *Gypsies and the Problem of Identities: Contextual, Constructed and Contested* (London: I.B. Taurus, 2006).
- Marushiakova, Elena, and Popov, Vesselin, 'Roma Labelling: Policy and Academia', *Slovenský Národopis/Slovak Ethnology* 66 (2018), pp. 385-418.
- Mason, Roger A., 'Renaissance and Reformation: The Sixteenth Century', in Jenny Wormald ed., *Scotland: A History* (Oxford: Oxford University Press, 2005).
- Mason, Roger A., 'Usable Pasts: History and Identity in Reformation Scotland', *The Scottish Historical Review* 76 (1997), pp. 54-68.
- Mason, Roger A., ed., *Scots and Britons: Scottish Political Thought and the Union of 1603* (Cambridge: Cambridge University Press, 1994).
- Matras, Yaron, *I Met Lucky People: the Story of the Romani Gypsies* (London: Allen Lane, 2014).
- Matras, Yaron, 'Johann Rüdiger and the study of Romani in 18th Century Germany', *Journal of the Gypsy Lore Society* 9 (1999), pp. 89-116.
- Matras, Yaron, *Romani: A Linguistic Introduction* (Cambridge: Cambridge University Press, 2002).
- Matras, Yaron, *Romani in Britain: the Afterlife of a Language* (Edinburgh: Edinburgh University Press, 2010).
- Matras, Yaron, 'Scholarship and the Politics of Romani Identity: Strategic and Conceptual Issues', in *European Yearbook of Minority Issues* 10 (2013), pp. 209-247.
- Matthews, Jodie, *The Gypsy Woman: Representations in Literature and Visual Culture* (London: Bloomsbury, 2018).
- Matthews, Jodie, 'Where are the Romanies? An Absent Presence in Narratives of Britishness', *Identity Papers: A Journal of British and Irish Studies* 1 (2015), pp. 79-90.
- Matthews, William, 'The Egyptians in Scotland: The Political History of a Myth', *Viator* 1 (1970), pp. 289-306.

- Maxwell-Stewart, Hamish, 'Transportation from Britain and Ireland, 1615-1875', in Clare Anderson ed., *A Global History of Convicts and Penal Colonies* (London: Bloomsbury, 2018), pp. 183-210.
- Mayall, David, *English Gypsies and State Policies* (Hatfield: University of Hertfordshire Press, 1995).
- Mayall, David, *Gypsy Identities 1500-2000: From Egipcians and Moon-Men to the Ethnic Romany* (London: Routledge, 2004).
- Mayall, David, 'The Making of British Gypsy Identities, c. 1500-1980', *Immigrants and Minorities* (1992), pp. 21-41.
- McCallum, John, 'Charity doesn't Begin at Home: Ecclesiastical Poor Relief beyond the Parish, 1560-1650', *Journal of Scottish Historical Studies* 32 (2012), pp. 107-126.
- McCallum, John, *Poor Relief and the Church in Scotland, 1560-1650* (Edinburgh: Edinburgh University Press, 2018).
- McCallum, John, *Reforming the Scottish Parish: the Reformation in Fife 1560-1640* (London: Ashgate, 2010).
- McCallum, John, ed., *Scotland's Long Reformation: New Perspectives on Scottish Religion, c. 1500-c.1660* (Leiden: Brill, 2016).
- McCormick, Andrew, *The Tinkler-Gypsies of Galloway* (Dumfries: J. Maxwell & Sons, 1906).
- McDonagh, Josephine, *Literature in a Time of Migration: British Fiction and the Movement of People, 1815-1876* (Oxford: Oxford University Press, 2021).
- McIlvenna, Una, *Singing the News of Death: Execution Ballads in Europe 1500-1900* (Oxford: Oxford University Press, 2022).
- Meikle, Maureen, *A British Frontier? Lairds and Gentlemen in the Eastern Borderlands* (East Linton: Tuckwell Press, 2004).
- Mendizabal, Isabel, et al., 'Reconstructing the Population History of European Romani from Genome-wide Data', *Current Biology* 22 (2012), pp. 2342-2349.
- Mentzer, Raymond A., Moreil, Françoise, and Chareyre, Philippe, eds., *Dire l'interdit: The Vocabulary of Censure and Exclusion in the Early Modern Reformed Tradition* (Leiden: Brill, 2010).
- Miller, Joyce, 'Cantrips and Carlins: Magic, Medicine, and Society in the Presbyteries of Haddington and Stirling, 1600 - 1688' (unpublished doctoral thesis, University of Stirling, 1999).

- Mitchison, Rosalind, *The Old Poor Law in Scotland: The Experience of Poverty, 1574–1845* (Edinburgh, 2000).
- Moore, Peter, *Carolina's Lost Colony: Stuarts Town and the Struggle for Survival in Early South Carolina* (Columbia, South Carolina: The University of South Carolina Press, 2022).
- Moorjani, Priya *et al.* 'Reconstructing Roma History from Genome-Wide Data', *PLoS ONE* 8 (2013), e58633.
- Morgan, Gwenda, and Rushton, Peter, *Banishment in the Early Atlantic World: Convicts, Rebels and Slaves* (London: Bloomsbury, 2013).
- Morgan, John, "'Counterfeit Egyptians": The Construction and Implementation of a Criminal Identity in Early Modern England', *Romani Studies* 26 (2016), pp. 105-128.
- Mori, Jennifer, 'Magic and Fate in Eighteenth-Century London: Prosecutions for Fortune-Telling, c. 1678–1830', *Folklore* 129 (2018), pp. 254-277.
- Morrill, John, ed., *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1989).
- Murdoch, Steve, ed., *Scotland and the Thirty Years War* (Leiden: Brill, 2001).
- Murdoch, Steve, and Mackillop, Andrew, eds., *Fighting for Identity: Scottish Military Experiences c.1550-1900* (Leiden: Brill, 2002).
- Nash, Andrew, 'From Realism to Romance: Gender and Narrative Technique in J.M. Barrie's "the Little Minister"', *Scottish Literary Journal* 26 (1999), pp. 77-92.
- Ndiaye, Noemie, 'Black Roma: Afro-Romani Connections in Early Modern Drama (and Beyond)', *Renaissance Quarterly* 75 (2022), pp. 1266-1302.
- Ndiaye, Noemie, 'Race and Ethnicity: Conceptual Knots in Early Modern Culture', in Nicholas Hudson ed., *The Cultural History of Race in the Reformation and Enlightenment, 1550-1760* (London: Bloomsbury Press, 2021), pp. 111-126.
- Netzloff, Mark, "'Counterfeit Egyptians" and Imagined Borders: Jonson's *The Gypsies Metamorphosed*' *ELH* 68 (2001), pp. 763-793.
- Netzloff, Mark, 'The State and Early Modernity', *Journal for Early Modern Cultural Studies* 14 (2014), pp. 149-154.
- Newman, Simon P., *Freedom Seekers: Escaping from Slavery in Restoration London* (London: University of London Press, 2022).
- Newman, Simon P., "'In Great Slavery and Bondage": White Labor and the Development of Plantation Slavery in British America', in Ignacio Gallup-Diaz, Andrew Shankman and David

- J. Silverman eds., *Anglicizing America: Empire, Revolution, Republic* (Philadelphia: University of Pennsylvania Press, 2015), pp. 59-82.
- Nirenberg, David, *Communities of Violence: Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1996).
- Nord, Deborah Epstein, *Gypsies and the British Imagination, 1807-1930* (New York: Columbia University Press, 2006).
- Normand, Lawrence, and Roberts, Gareth, eds., *Witchcraft in Early Modern Scotland* (Exeter: University of Exeter Press, 2000).
- Norton, David, 'English Bibles from c. 1520 to c. 1750', in Euan Cameron ed., *The New Cambridge History of the Bible* (Cambridge: Cambridge University Press, 2016), pp. 305-344.
- Ó Ciardha, Éamonn, and Ó Siochrú, Micháel, eds., *The Plantation of Ulster: Ideology and Practice* (Manchester: Manchester University Press, 2012).
- Okely, Judith, *The Traveller-Gypsies* (Cambridge: Cambridge University Press, 1983).
- Olsen, Karin, and Veenstra, Jan R., eds., *Airy Nothings: Imagining the Otherworld of Faerie from the Middle Ages to the Age of Reason* (Leiden: Brill, 2014).
- Omond, George W. T., *The Lord Advocates of Scotland: From the Close of the Fifteenth Century to the Passing of the Reform Bill*, volume i (Edinburgh: David Douglas, 1883).
- Orr, Julie, *Scotland, Darien and the Atlantic World, 1698-1700* (Edinburgh: Edinburgh University Press, 2018).
- Ostendorf, Ann, "'An Egiptian and Noe Xtian Woman': Gypsy Identity and Race Law in Early America'. *Journal of Gypsy Studies* 1 (2017), pp. 5-15.
- Ostendorf, Ann, 'Louisiana Bohemians: Community, Race, and Empire', *Early American Studies* 19 (2021), pp. 659-698.
- Ostendorf, Ann, 'Racializing American "Egyptians": Shifting Legal Discourse, 1690s–1860s', *Critical Romani Studies* 2 (2019), pp. 42-59.
- Oxford English Dictionary* (Oxford: Oxford University Press, 2019).
- Parish, Helen, ed., *Superstition and Magic in Early Modern Europe: A Reader* (London: Bloomsbury, 2015).
- Pettegree, Andrew, *Reformation and the Culture of Persuasion* (Cambridge: Cambridge University Press, 2005).
- Piasere, Leonardo, 'Pour une histoire des auto-dénominations romanès', *Anuac* 8 (2019), pp. 85-118.

- Pittock, Murray, ed., *The Reception of Sir Walter Scott in Europe* (London: Continuum, 2006).
- Podolinská, Tatiana Zachar, and Škobla, Daniel, “‘Why Labelling Matters’. On Social Construction of Roma/Gypsies in Europe’, *Slovenský Národopis/Slovak Ethnology* 66 (2018), pp. 378–384.
- Pokorny, Erwin, ‘The Gypsies and their Impact on Fifteenth-Century Western European Iconography’, in Jaynie Anderson ed., *Crossing Cultures: Conflict, Migration, and Convergence* (Melbourne: The Miegunyah Press, 2009), pp. 597–601.
- Pollard, Sidney, *Marginal Europe: The Contribution of Marginal Lands since the Middle Ages* (Oxford: Clarendon, 1997).
- Power, Gerald, ‘Gypsies and Sixteenth-century Ireland’, *Romani Studies* 24 (2014), pp. 203-210.
- Pratt, Mary Louis, *Imperial Eyes: Travel Writing and Transculturation* (London: Routledge, 1992).
- ‘Preface’, *Journal of the Gypsy Lore Society* 1 (1888), p. 1
- Pugliatti, Paolo, and Serpieri, Alessandro, eds., *English Renaissance Scenes: From Canon to Margins* (Bern: Peter Lang, 2008).
- Pym, Richard J., ‘Law and Disorder: Anti-Gypsy Legislation and its Failures in Seventeenth Century Spain’, in Richard J. Pym ed., *Rhetoric and Reality in Early Modern Spain* (Woodbridge: Tamesis, 2006), pp. 41-56.
- Pym, Richard J., ‘Lives at the Margin: Spain's Gypsies and the Law in the Late Sixteenth and Early Seventeenth Centuries’, in Rodrigo Cacho Casal and Caroline Egan eds., *The Routledge Hispanic Studies Companion to Early Modern Spanish Literature and Culture* (Abingdon: Routledge, 2022), pp. 553-567.
- Pym, Richard J., *The Gypsies of Early Modern Spain, 1425-1783* (Basingstoke: Palgrave Macmillan, 2007).
- Raffe, Alasdair, *The Culture of Controversy: Religious Arguments in Scotland, 1660-1714* (Woodbridge: The Boydell Press, 2012).
- Raffe, Alasdair, ‘Confessions, Covenants, and Continuous Reformation’, *Association Etudes Epistémè* (2017). <https://doi.org/10.4000/episteme.1836>.
- Raffe, Alasdair, *Scotland in Revolution, 1685–1690* (Edinburgh: Edinburgh University Press, 2018).
- Ramsay, Rhona, ‘Who Made the Turreted Brooches of Argyll? Nacken and Elite Silver Craftwork’, *Scottish Historical Review* 100, pp. 455-468.
- Randall, Dale B. J., *Jonson's Gypsies Unmasked* (Durham, N.C.: Duke University Press, 1975).

- Rea, Allison Louise, 'Sinners, Deviants, Criminals: Social Control in Glasgow and Aberdeen, 1593-1626' (unpublished doctoral dissertation, University of Guelph, 1998).
- Read, John, 'Scottish Alchemy in the Seventeenth Century', *Chymia* 1 (1948), pp. 139-151.
- Reid, Steven J., 'A Latin Renaissance in Reformation Scotland? Print Trends in Scottish Latin Literature, c. 1480–1700', *The Scottish Historical Review* 95 (2016), pp. 1-29.
- Rekola, Tuula, 'Drawing Distinctions within Complex Margins: "Gypsies" in the Borderland of the Swedish Kingdom, c. 1743-1809' (unpublished doctoral thesis, European University Institute, 2018).
- Reynolds, Bryan, *Becoming Criminal: Transversal Performance and Cultural Dissidence in Early Modern England* (Baltimore: Johns Hopkins University Press, 2002).
- Richardson, Kristina, *Roma in the Medieval Islamic World: Literacy, Culture, and Migration* (New York: Bloomsbury, 2021).
- Richie, Pamela E., 'Mary de Guise and the Three Estates, 1554-1558', in Keith M. Brown and Ronald J. Tanner eds., *Parliament and Politics in Scotland, 1235-1560* (Edinburgh: Edinburgh University Press, 2004), pp. 179-202.
- Ridder-Patrick, Jane, 'Astrology in Early Modern Scotland ca. 1560-1726' (unpublished doctoral thesis, University of Edinburgh, 2012).
- Roper, Lyndal, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press, 1989).
- Rohl, Darrell J., 'The Chorographic Tradition and Seventeenth- and Eighteenth-Century Scottish Antiquaries', *Journal of Art Historiography* 5 (2011), pp. 1-18.
- Saul, Nicholas, *Gypsies and Orientalism in German Literature and Anthropology of the Long Nineteenth Century* (London: Modern Humanities Research Association and Maney Publishing, 2007).
- Saul, Nicholas, and Tebbutt, Susan, eds., *Role of the Romanies: Images and Counter Images of 'Gypsies'/Romanies in European Cultures* (Liverpool: Liverpool University Press, 2004).
- Schuchard, Marsha Keith, *Restoring the Temple of Vision: Cabalistic Freemasonry and Stuart Culture* (Leiden: Brill, 2002).
- Schultz, Jenna M., *National Identity and the Anglo-Scottish Borderlands, 1552–1652* (Martlesham: The Boydell Press, 2019).
- Scott, Walter, *Guy Mannering*, ed. P. D. Garside (Edinburgh: Edinburgh University Press, 1999).
- Scott, Walter, *Quentin Durward*, ed. J. H. Alexander and G. A. M. Wood (Edinburgh: Edinburgh University Press, 2001).

- Scott, Walter, *The Letters of Sir Walter Scott*, 12 vols., ed. Herbert Grierson (London: Constable, 1932-1937).
- Scott, Walter, ed., *Minstrelsy of the Scottish Border*, vol. iii (Edinburgh: Ballantyne & Co., third edition, 1806).
- Sebastiani, Silvia, *The Scottish Enlightenment: Race, Gender, and the Limits of Progress* (New York: Palgrave Macmillan, 2013).
- Selling, Jan, *Romani Liberation: A Northern Perspective on Emancipatory Struggles and Progress*, trans. Dana Schlitter (Budapest: Central European University Press, 2022).
- Shapiro, Barbara J., 'Testimony in Seventeenth-Century English Natural Philosophy: Legal Origins and Early Development', *Studies in History and Philosophy of Science* 33 (2002), pp. 243-263.
- Shaw, Dougal, 'St. Giles' Church and Charles I's Coronation Visit to Scotland', *Historical Research* 77 (2004), pp. 481-502.
- Shire, Helena Minnie, *Song, Dance and Poetry of the Court of Scotland Under King James VI* (Cambridge: Cambridge University Press, 1969).
- Simson, James, *The Scottish Churches and the Gipsies* (New York: [s.n.], 1887).
- Simson, Walter, *A History of the Gipsies: with Specimens of the Gipsy Language*, ed. James Simson (London: Samson Low, Son, and Marston, 1865).
- [Simson, Walter], 'Notices concerning Scottish Gypsies', *Blackwood's Edinburgh Magazine* 1 (1817), pp. 43-58, 154-161, 615-620.
- Simpson, Andrew R. C., and Wilson, Adelyn L. M., *Scottish Legal History, Volume 1: 1000-1707* (Edinburgh: Edinburgh University Press, 2017).
- Sinclair, Alexander, *Sketch of the History of Roslin & its Possessors* (Irvine: M. Dick, 1856).
- Smith, Abbott Emerson, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Chapel Hill: University of North Carolina Press, 1947).
- Smith, Justin E. H., *Nature, Human Nature, and Human Difference: Race in Early Modern Philosophy* (Princeton: Princeton University Press, 2015).
- Snow, W. G. S., *The Times, Life and Thought of Patrick Forbes, Bishop of Aberdeen, 1618-1635* (London: S.P.C.K., 1952).
- 'Some Account of Billy Marshall, Gypsy Chief', *Blackwood's Edinburgh Magazine* 1 (1817), pp. 462-465.

- Sorenson, Janet, 'Vulgar Tongues: Canting Dictionaries and the Language of the People in Eighteenth-Century Britain', *Eighteenth-Century Studies* 37 (2004), pp. 435-454.
- Spicer, Andrew, "'Accommodating of Thame Selfis to Heir the Worde": Preaching, Pews and Reformed Worship in Scotland, 1560-1638', *History* 88 (2003), pp. 405-422.
- Spinelli, Alessandro Giuseppe, 'Gli Zingari nel Modenese', *Journal of the Gypsy Lore Society* 3 (1909), pp. 42-56.
- Spurlock, R. Scott, *Cromwell and Scotland: Conquest and Religion 1650-1660* (Edinburgh: John Donald, 2007).
- Stanmore, Tabitha, 'Magic as a Useful Category of Historical Analysis', *History, the Journal of the Historical Association* 106 (2021), pp. 200-220.
- Steiner, Stephan, *Combating the Hydra: Violence and Resistance in the Habsburg Empire, 1500–1900* (West Lafayette, Indiana: Purdue University Press 2023).
- Steiner, Stephan, 'The Enemy Within: 'Gypsies' as EX/INternal Threat in the Habsburg Monarchy and in the Holy Roman Empire, 15th-18th Century', in Eberhard Crailsheim and María Dolores Elizalde eds., *The Representation of External Threats from the Middle Ages to the Modern World* (Leiden: Brill, 2019), pp. 131-154.
- Stephen, Jeffrey, *Defending the Revolution: The Church of Scotland 1689-1716* (Farnham: Ashgate, 2013).
- Stevenson, David, *The Origins of Freemasonry: Scotland's Century, 1590–1710*. (Cambridge: Cambridge University Press, 1988).
- Stewart, Laura A. M., 'Petitioning in early seventeenth-century Scotland, 1625–51', *Parliaments, Estates and Representation* 38 (2018), pp. 307-322.
- Stewart, Laura A. M., 'Poor Relief in Edinburgh and the Famine of 1621-24', *International Review of Scottish Studies* 30 (2005), pp. 5-41.
- Stewart, Laura A. M., 'Power and Faith in Early Modern Scotland', *The Scottish Historical Review* 92 (2013), pp. 25-37.
- Stewart, Laura A. M., *Rethinking the Scottish Revolution: Covenanted Scotland, 1637-1651*, (Oxford: Oxford University Press, 2016).
- Stewart, Laura A. M., and Nugent, Janay, *Union and Revolution: Scotland and Beyond, 1625-1745* (Edinburgh: Edinburgh University Press, 2021).
- Stewart, Michael, 'Roma and Gypsy "Ethnicity" as a Subject of Anthropological Inquiry', *Annual Review of Anthropology* 42 (2013), pp. 415–432.

- Stewart, Michael, 'Nothing About Us Without Us, or the Dangers of a Closed-Society Research Paradigm', *Romani Studies* 27 (2017), pp. 125–146.
- Stewart, Michael, and Rovid, Marton, eds., *Muti-Disciplinary Approaches to Romany Studies* (Budapest: Central European University Press, 2010).
- Stell, Geoffrey, 'The Earliest Tolbooths: A Preliminary Account', *Proceedings of the Society of Antiquaries of Scotland* 111 (1981), pp. 445-453.
- Stewart, Laura A. M., and Nugent, Janay, *Union and Revolution: Scotland and Beyond, 1625-1745* (Edinburgh: Edinburgh University Press, 2021).
- Stoler, Ann Laura, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton: Princeton University Press, 2010).
- Strauber, Roni, and Vago, Raphael, eds., *The Roma—A Minority in Europe: Historical, Political and Social Perspectives* (Budapest, Central European University Press, 2007).
- Summerfield, Thea, and Busby, Keith, eds., *People and Texts: Relationships in Medieval Literature* (New York: Rodopi, 2007).
- Suntrup, Rudolph, and Veenstra, Jan R., eds., *Building the Past — Konstruktion der eigenen Vergangenheit* (Frankfurt am Main: Peter Lang, 2006).
- Taylor, Becky, *Another Darkness, Another Dawn: A History of Gypsies, Roma and Travellers* (London: Reaktion Books, 2014).
- Taylor, Becky, and Hinks, Jim, 'What field? Where? Bringing Gypsy, Roma and Traveller History into View', *Cultural and Social History* 18 (2021) pp. 629-650.
- Thimmel, Manuel Priego, Bernhardt, Karl, and Monreal, Annette, 'On the Indic Language and Origin of the Gypsies' (unpublished thesis: University of Manchester, 1996).
- Thomas, Andrea, 'Renaissance culture at the court of James V, 1528-1542' (unpublished doctoral thesis, University of Edinburgh, 1997).
- Thomas, Andrea, *Princelie Majestie: The Court of James V of Scotland, 1528-1542* (Edinburgh: John Donald, 2005).
- Thompson, Jason, *Wonderful Things: A History of Egyptology*, vol. i (Cairo: American University in Cairo Press, 2015).
- Timbers, Frances, *'The Damned Fraternitie': Constructing Gypsy Identity in Early Modern England, 1500–1700* (Abingdon: Routledge, 2016).
- Todd, Margo, 'Fairies, Egyptians and Elders: Multiple Cosmologies in Post-Reformation Scotland', in Bridget Heal and Ole Peter Grell eds., *The Impact of the European Reformation: Princes, Clergy, and People* (Aldershot: Ashgate, 2008).

- Todd, Margo, 'Profane Pastimes and the Reformed Community: The Persistence of Popular Festivities in Early Modern Scotland', *Journal of British Studies* 39 (2000), pp. 123-156.
- Todd, Margo, *The Culture of Protestantism in Early Modern Scotland* (Yale and London: Yale University Press, 2002).
- Tokely, A. V., *The Kirk Yetholm Gypsies*, (Hawick: Hawick Archaeological Society, 2004).
- Tremlett, Annabel, 'Bringing Hybridity to Heterogeneity in Romani Studies', *Romani Studies* 19 (2009), pp. 147-168.
- Trumpener, Katie, 'The Time of the Gypsies: A "People Without History" in the Narratives of the West', *Critical Inquiry* 18 (1992), pp. 843-884.
- Tulloch, Graham, *A History of the Scots Bible* (Aberdeen: Aberdeen University Press, 1989).
- Vesey-Fitzgerald, Brian, *The Gypsies of Britain: an Introduction to their History* (London: Chapman & Hall, 1944).
- Verweij, Sebastiaan, *The Literary Culture of Early Modern Scotland: Manuscript Production and Transmission, 1560–1625* (Oxford : Oxford University Press, 2017).
- Wagner, Joseph, 'The Scottish East India Company of 1617: Patronage, Commercial Rivalry, and the Union of the Crowns', *The Journal of British Studies* 59 (2020), pp. 582–607.
- Wagner, Sydnee, 'Outlandish People: Gypsies, Race, and Fantasies of National Identity in Early Modern England' (unpublished doctoral dissertation, The City University of New York, 2020).
- Walker, David M. *A Legal History of Scotland*, vols. 3-5 (Edinburgh: T & T Clark, 1995, 1996, 1999).
- Walsham, Alexandra, *Charitable Hatred: Tolerance and Intolerance in England, 1500–1700* (Manchester: Manchester University Press, 2006).
- Walsham, Alexandra, *The Reformation of the Landscape: Religion, Identity, and Memory in Early Modern Britain and Ireland* (Oxford: Oxford University Press, 2011).
- Wasser, Michael, 'Defence Counsel in Early Modern Scotland: A Study Based on the High Court of Justiciary', *The Journal of Legal History*, 26 (2005), pp. 183-201.
- Wasser, Michael, 'The Privy Council and the Witches: The Curtailment of Witchcraft Prosecutions in Scotland, 1597-1628', *The Scottish Historical Review* 82 (2003), pp. 20-46.
- Wasser, Michael, 'Violence and the Central Criminal Courts in Scotland, 1603–1638' (unpublished doctoral dissertation: Columbia University, 1995).

- Wellstood, Frederick Christian, 'A Contribution to French Gypsy History', *Journal of the Gypsy Lore Society* 3 (1910), pp. 201-204.
- Wellstood, Frederick Christian, 'Some French Edicts against the Gypsies', *Journal of the Gypsy Lore Society* 5 (1912), pp. 313-316.
- Wheeler, Roxann, *The Complexion of Race: Categories of Difference in Eighteenth-Century British Culture*, (Philadelphia: University Pennsylvania Press, 2000).
- Whetstone, Ann E., 'The Reform of the Scottish Sheriffdoms in the Eighteenth and Early Nineteenth Centuries', *Albion* 9 (1977), pp. 61-71.
- White, Jason, 'State Power, Local Autonomy, and War in Scotland, 1625–9', *Journal of Scottish Historical Studies* 36 (2016), pp. 143-164.
- Whitford, David, *The Curse of Ham in the Early Modern Era: The Bible and the Justifications for Slavery* (Farnham and Burlington, VT: Ashgate, 2009).
- Whyte, Donald, *Scottish Gypsies and Other Travellers: A Short History* (Alfreton: Robert Dawson, 2001).
- Wilgus, D. K., 'Fiddler's Farewell: The Legend of the Hanged Fiddler', *Studia Musicologica Academiae Scientiarum Hungaricae*, pp. 195-209.
- Wilkinson, A. B., *Blurring the Lines of Race and Freedom : Mulattoes and Mixed Bloods in English Colonial America* (Chapel Hill and London: University of South Carolina Press, 2020).
- Williams, Eric, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1994 [1944]).
- Williamson, Elia, and McGavin, John J., 'Crossing the Border: The Provincial Records of Southeast Scotland', in Audrey Douglas and Sally-Beth MacLean eds., *REED in Review: Essays in Celebration of the First Twenty-Five Years* (Toronto: University of Toronto Press, 2006), pp.157-177.
- Willems, Wim, *In Search of the True Gypsy: From Enlightenment to Final Solution*, trans. Don Bloch (London: Frank Cass, 1997).
- Williams, Janet Hadley, ed., *Stewart Style: Essays on the Court of James V* (East Linton: Tuckwell press, 1996).
- Williamson, Arthur H., *Scottish National Consciousness in the Age of James VI* (Edinburgh: John Donald, 1979).
- Wilson, John J., *The Annals of Penicuik: Being a History of the Parish and of the Village* (Edinburgh, T & A Constable, 1891).

- Wingfield, Emily, *The Trojan Legend in Medieval Scottish Literature* (Cambridge: D.S. Brewer, 2014).
- Wiseman, Susan J., ‘Making “Gypsies” in the English Reformation? Laws, Words and Texts (1530-1621)’ in *Proceedings of the British Academy* 246 (2022), pp. 181-200.
- Woodcock, Henry, *The Gipsies* (Alford, [s.n.], 1865).
- Wormald, Jenny, ‘Bloodfeud, Kindred and Government in Early Modern Scotland’, *Past & Present* 87 (1980), pp. 54-97.
- Wormald, Jenny, *Court, Kirk, and Community: Scotland 1470 - 1625* (Edinburgh: Edinburgh University Press, 1981).
- Yates, Frances A., *The Rosicrucian Enlightenment* (Boston: Routledge and Kegan Paul, 1972).
- Young, John R., ‘The Scottish Parliament and the War for the Three Kingdoms, 1639–1651’, *Parliaments, Estates and Representation*, 21 (2001), pp. 103-123.
- Zalar, Vita, ‘Essentialism and Constructivism in Romani Studies: Symptoms of Conflicting Time Regimes’, in *Methodenvielfalt in der Geschichtswissenschaft: Tagungsband zur 8. Doktorandentagung des Doktoratskollegs für Mitteleuropäische Geschichte an der Andrassy Universität Budapest* (Vienna: New Academic Press, 2022), pp. 241-265.
- Zetterberg, J. Peter, ‘The Mistaking of “the Mathematicks” for Magic in Tudor and Stuart England’, *The Sixteenth Century Journal* 11 (1980), pp. 83-97.
- Zimmermann, Reinard, and Reid, Kenneth, eds., *A History of Private Law in Scotland* (Oxford: Oxford University Press, 2000).

### **Websites**

- Records of the Parliament of Scotland [RPS] — <https://www.rps.ac.uk/>
- The Scotland, Scandinavia and Northern European Biographical Database [SSNE] — <https://www.st-andrews.ac.uk/history/ssne/>
- The Survey of Scottish Witchcraft — <https://witches.hca.ed.ac.uk/>