

Women Before The Kirk:
Godly Discipline in Canongate, 1640-1650

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By

Alice Glaze

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Abstract

The burgh of Canongate, situated next to Edinburgh, was deeply affected by the British Civil Wars (1638-49). The Canongate kirk session records, the parish-based bureaucratic and disciplinary records of the Reformed (Presbyterian) Kirk, provide a detailed portrait of daily life in Canongate during that tumultuous period. The records are particularly revealing of early modern gender history as they show how both men and women interacted with the local kirk, and reveal key social trends in the burgh, especially relating to sex and marriage. Illicit sex and its issue – adultery, fornication and illegitimacy – were a common and serious concern for the Reformed Kirk, and their persecution was more of a national preoccupation than in England or other parts of Europe. This concern is reflected in the large number of fornication and adultery cases that came before the Canongate kirk session between 1640 and 1650. The marital partnership, as the economic and social cornerstone of early modern society, was also an important issue in Canongate, and the kirk session records provide a glimpse at the nature and significance of marriage in the parish. Scotland's kirk session records offer one of few windows into the daily lives of early modern women, and they allow us to see some of the many ways in which women were active agents in the kirk's system of 'godly discipline'. Through the Canongate kirk session records, therefore, it is possible to glean understanding about Scottish women's lives in relation to one of the most rigorous disciplinary systems of early modern Europe.

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This work is dedicated to the people of Canongate c.1640-1650,
for unwittingly allowing intimate aspects of their lives to be made public.
I have tried to write with their dignity in mind.

It is also dedicated with love to the youngest Scottish descendent of my acquaintance,
Ellis McLeod.

“He who the sword of heaven will bear
Should be as holy, as severe:
Pattern in himself to know,
Grace to stand, and virtue go:
More, nor less to others paying
Than by self-offences weighing.”
III.ii.223-28

“They say best men are moulded out of faults,
And for the most become much more the better
For being a little bad”
V.i.432-44

-William Shakespeare, *Measure for Measure*

“Holyrood! companion in glory and misfortune! What changes have passed over thee!
. . . A romance and a tragedy, in stone and lime, of all that is most fascinating in Scottish
history!”

-John Mackay, *History of the Burgh of Canongate*, 163.

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Introduction: Historiography of Social Discipline in Canongate

Early modern religious discipline has become a complex and multifaceted subject of historical study.¹ In this sub-discipline, scholars examine the histories of individual ‘confessions’, what would today be known as religious denominations or faiths. They study these confessions as they developed distinctive ideologies and established methods of consolidation and control throughout the sixteenth and seventeenth centuries.² The study of this process, known as confessionalism, began as an ecclesiastical master narrative before shifting under the influence of social history in the 1960s and 1970s.³ Confessionalism was part of a larger cultural movement known now as confessionalization, which also included state formation and social discipline. Historians, influenced by the German scholar Gerhard Oestreich, have provided this concept of social discipline with new theoretical bases.⁴ For Oestreich, the rise in church discipline

¹ Judith Pollman calls the history of Calvinist discipline alone “a minor scholarly industry”; see Judith Pollman, “Off the Record: Problems in the Quantification of Calvinist Church Discipline,” *Sixteenth Century Journal* 33 (Summer 2002): 425.

² Gordon DesBrisay, “Post-Confessionalization(s): Rethinking the Study of Early Modern European Religion for the Twenty-First Century” (commentary presented at the annual international meeting of the American Historical Association, Chicago, January 8, 2000); see R. Po-Chia Hsia, *Social Discipline in the Reformation: Central Europe 1550-1750* (London and New York: Routledge, 1989).

³ Eusebius, bishop of Caesarea in the fourth century CE, is considered the first Christian ecclesiastical historian. Christians, although no longer a persecuted people even at the publishing of his *Ecclesiastical History*, accepted and adopted Eusebius’ stylistic blueprint of a heroic narrative of martyrs for centuries after his death, and in some respects this style is still alive in the histories of Christianity written today. Critical church historiography was founded in the mid-eighteenth century, stemming from the rise of rationalism and an increased freedom for critical biblical scholarship. See R.A. Markus, “Church history and early church historians,” in *The Materials, Sources and Methods of Ecclesiastical History*, ed. Derek Baker (Oxford: Ecclesiastical History Society, 1975), 1; James E. Bradley and Richard A. Muller, *Church History: An Introduction to Research, Reference Works, and Methods* (Grand Rapids, Michigan: William B. Eerdsman, 1995), 13. This historiography remained largely blind to critiques of gender, race and class until the rise of social history.

⁴ ‘Discipline’ in this sense therefore encompasses the doctrines and processes confessions undertook to ensure their congregations’ pure beliefs and actions, through education and formal means of correction. See Ute Lotz-Heumann, “Imposing church and social discipline,” in *The Cambridge History of Christianity, volume 6: Reform and Expansion 1500-1660*, ed. R. Po-Chia Hsia (Cambridge: Cambridge University Press, 2007), 244-60. For examples of new theoretical bases, see Gerhard Oestreich, *Neostoicism and the early modern state*, ed. Brigitta Oestreich and H.G. Koenigsberger, translated by David McLintock (Cambridge: Cambridge University Press, 1982); Heinz Schilling, “‘History of Crime’ or ‘History of Sin’? – Some Reflections on the Social History of Early Modern Church Discipline,” in *Politics and Society in*

was merely one consequence of a great secular shift in early modern society toward absolutism and stricter, more hierarchical forms of disciplining.⁵ Confessions supported this shift, and used it to ensure doctrinal uniformity, but were ultimately controlled by the state.⁶ Recent historians have refuted Oestreich's model's top-down simplicity and place a greater emphasis on congregational input and even control over their own discipline.⁷ Heinz Schilling especially calls for a distinction to be made between ecclesiastical and criminal discipline based on their differing goals and processes. Martin Ingram, however, argues that the two types of discipline are "inextricably intertwined", and any distinction would be a fallacy.⁸ Such social history has often been analysed through quantitative analysis, although the sometimes unreliable nature of church records can create problems of accurate representation.⁹ Another common approach to the study of social discipline has been to compare how ecclesiastical doctrine became reality, exploring for example the transition from Calvin's beliefs on social discipline into the institutionalisation of discipline in Calvinism as a doctrine.¹⁰ Gender historians have also contributed significantly to this historiography by complicating its traditionally male-centred

Reformation Europe: Essays for Sir Geoffrey Elton on his Sixty-Fifth Birthday, ed. E.I. Kouri and Tom Scott (London: Macmillan Press, 1987), 289; Randolph C. Head, "Catholics and Protestants in Graubunden: Confessional Discipline and Confessional Identities without an Early Modern State?" *German History* 17, no.3 (1999): 321-2. Martin Ingram names 'social disciplining' as one of a few "controversial" "broad conceptualizations" applied to early modern Europe; see Martin Ingram, "History of Sin or History of Crime? The Regulation of Personal Morality in England 1450-1750," in *Institutions, Instruments and Agents of Social Control in Early Modern Europe*, ed. Heinz Schilling (Frankfurt: Vittorio Klostermann, 1999), 88.

⁵ Oestreich, 268.

⁶ Oestreich, 158, 268; Lotz-Heumann, 246.

⁷ Ingram, "History of Sin or History of Crime?", 93; Philip Benedict, *Christ's Churches Purely Reformed: A Social History of Calvinism* (New Haven and London: Yale University Press, 2002).

⁸ See Schilling, "'History of Crime' or 'History of Sin'?", Ingram, "History of Sin or History of Crime?", 94.

⁹ See Ronald A. Marchant, *The church under the law: justice, administration and discipline in the diocese of York 1560-1640* (Cambridge: Cambridge University Press, 1969); Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 8.

¹⁰ See Alastair Duke, "Perspectives on international Calvinism," in *Calvinism in Europe, 1540-1620*, ed. Andrew Pettegree, Alastair Duke and Gillian Lewis (Cambridge: Cambridge University Press, 1994).

perspective.¹¹ These approaches have aided in deepening scholars' understanding of the past as the study of early modern social discipline continues to shift under the influence of new historiographic trends.

Very little historiographic study has been focussed on social discipline in the burgh of Canongate specifically, perhaps because of its proximity to Edinburgh.¹² The scholars who have examined the parish have, however, remarked on how “advanced” and “well-organized” the Canongate kirk session was in reforming its community, in its early implementation of catechism before communion, its administrative division of the parish into quarters each supervised by one elder and one deacon, and its active role as peacemaker for its parishioners.¹³ This is especially significant, perhaps, considering how dramatic a shift the Reformation was in Scotland.¹⁴ Beyond these scant direct references, the Canongate can also be implicitly considered within the broader national narrative of social discipline. Scotland succeeded in establishing a system of considerable strength that spread across the country and meshed inextricably with the Scottish secular

¹¹ Merry Wiesner points out that this shift to a broader focus on society still often excluded women although the omission is slowly being corrected; see Merry E. Wiesner, *Gender, Church and State in Early Modern Germany* (London and New York: Longman, 1998), 33. For one study of women, authority and early modern social discipline, see Barbara B. Diefendorf, “Discerning Spirits: Women and Spiritual Authority in Counter-Reformation France,” in *Culture and Change: Attending to Early Modern Women*, ed. Margaret Mikesell and Adele Seeff (Newark and London: University of Delaware Press, 2003).

¹² Laura Stewart remarks that the middle decades of the seventeenth century “in particular prov[e] something of a black hole”. See Stewart, *Urban Politics and British Civil Wars: Edinburgh, 1617-53* (Leiden: Brill, 2006), 2. Some histories specifically of the Canongate include John Mackay, *History of the Burgh of Canongate* (Edinburgh: Seton & MacKenzie, 1879); Ronald Selby Wright, *The Kirk in the Canongate: A Short History from 1128 to the Present Day* (Edinburgh: Oliver and Boyd, 1956); and E. Patricia Dennison, *Holyrood and Canongate: a thousand years of history* (Edinburgh: Birlinn, 2005).

¹³ Michael F. Graham, “Social Discipline in Scotland, 1560-1610,” in *Sin and the Calvinists: Morals, control and the consistory in the Reformed tradition* (Kirksville, Mo., U.S.A.: Sixteenth Century Journal Publishers, 1994)143 and 154; Leslie M. Smith, “Sackcloth for the Sinner or Punishment for the Crime? Church and Secular Courts in Cromwellian Scotland,” in *New Perspectives on the Politics and Culture of Early Modern Scotland*, ed. John Dwyer, Roger A Mason, and Alexander Murdoch (Edinburgh: John Donald, 1982), 124.

¹⁴ Todd calls it “a genuinely radical shift, by any measure a cultural revolution”; see Todd, 1-2.

disciplinary system.¹⁵ Historians of early modern Scotland have therefore often emphasised, like Oestreich, the importance of state support in ‘godly’ or church-based discipline. This was especially evident during the turbulent Civil War period (1638-49). Seventeenth-century Scottish disciplinary law reflected Reformed beliefs, and “sins in the eyes of God became crimes in the eyes of the State.”¹⁶ Magistrates were required to be present at Canongate kirk sessions, since church cases could bring secular wrong-doings to light, and many church sentences required delinquents to be ‘warded’ in the Tolbooth as part of their punishment. In fact, the Canongate kirk session presented a petition to the presbytery in December of 1649 declaring that they needed more magistrates to sit in session, since they were a necessary part of the disciplinary process.¹⁷ The kirk session elders and the burgh councillors were often from the same elite families, if not the same men themselves: three quarters of the Canongate elders served on the burgh council.¹⁸ Some historians therefore argue that one cannot discern between crime and sin in Scotland.¹⁹ The country, as the only nation-wide Calvinist confession and lasting over two centuries, has proven a unique subject for the study of godly discipline.

Ten years ago, Elizabeth Ewan called on Scottish gender historians to study early modern women’s involvement in the church and the negotiation of religion, gender and

¹⁵ Bruce Lenman, “The Limits of Godly Discipline in the Early Modern Period with Particular Reference to England and Scotland,” in *Religion and Society in Early Modern Europe, 1500-1800*, ed. Kaspar von Greyerz (London: George Allen & Unwin, 1984), 129.

¹⁶ Benedict, 482-84; Lesley M. Smith, 123.

¹⁷ See National Archives of Scotland (NAS), *Canongate Kirk Session Records (CKSR)* CH2/122 volume 4, December 18, 1649.

¹⁸ Walter Makey, “The Elders of Stow, Liberton, Canongate and St. Cuthberts in the Mid-Seventeenth Century,” *Scottish Church History Society Records* 8 (1970), 163.

¹⁹ Lenman, 125; Makey, “Elders of Stow,” 167.

sexuality.²⁰ So far, there are only a scant few examples of scholars using the rich kirk session records of a parish like the Canongate to analyse how women negotiated the severely gendered religious space and moral delineations of the Scottish kirk.²¹ Interest in the history of women's sexuality in Britain has nonetheless increased in the last twenty years, due partly to its connections with emerging disciplines such as women and gender studies and urban history.²² It is clear, however, that large geographical, temporal and social gaps remain in Scottish women's history. The few female historical figures who have survived in public memory, such as Mary, Queen of Scots and Flora Macdonald, are portrayed as "romantic and doomed", hardly seeming worthy of serious study.²³ A similarly romantic figure from the 1640s is Jenny Geddes, the supposed inciter of the Edinburgh Prayer Book Riots of 1637, who some doubt even existed.²⁴ Hugh MacDiarmid's quip that "Scottish women of any historical interest are curiously rare" aptly conveys the prevailing gender gap in Scottish historiography.²⁵

²⁰ Elizabeth Ewan, "A realm of one's own? The place of medieval and early modern women in Scottish history," in *Gendering Scottish History: An International Approach*, ed. Terry Brotherstone, Deborah Simonton and Oonagh Walsh (Glasgow: Glasgow Cruithne Press, 1999), 25.

²¹ Some examples include Michael F. Graham, *The Uses of Reform: "godly discipline" and popular behavior in Scotland and beyond, 1560-1610*, Studies in medieval and Reformation thought, v. 58 (Leiden; New York: E.J. Brill, 1996); Leah Leneman and Rosalind Mitchison, *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 1998); and Gordon DesBrisay, "Twisted by Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns," in *Twisted Sisters*, ed. Rona Ferguson and Yvonne Galloway Brown (East Linton: Tuckwell Press, 2002).

²² Leneman and Mitchison, *Sin in the City*, 1-2.

²³ Esther Breitenbach, Alice Brown, and Fiona Myers, "Understanding Women in Scotland," *Feminist Review* 58 (Spring 1998): 45; see also Margaret Bain, "Scottish Women in Politics," in *Chapman*, vol. 6 (Summer 1980), 4.

²⁴ See Martyn Bennett, *The Civil Wars in Britain and Ireland 1638-1651* (Oxford: Blackwell, 1997) 4; Raphael Samuel and Paul Thompson have discussed the glee Western historians seem to experience in "puncturing" their own myths. See Samuel and Thompson, eds., *The Myths We Live By* (London and New York: Routledge, 1990), 4.

²⁵ Bain, 9.

Thankfully, historians have begun to fill in such gaps in Scottish women's history.²⁶ Rosalind Mitchison and Leah Leneman have done extensive work on sexuality in early modern Scotland.²⁷ Their studies give important context for illegitimacy and fornication rates in the Canongate, although they consciously "keep clear" of the tumultuous mid-seventeenth century, given the breakdown of many records during the Civil Wars period.²⁸ Ewan also cited Rosalind Marshall's *Virgins and Viragos* as a marker for the beginning of the "serious historical study" of Scottish women.²⁹ The book is a good example of the kind of detailed study one can and should do concerning women wealthy and educated enough to keep diaries and write and receive letters. It also works well as a formula that those who end up in the kirk sessions for fornication did or could not follow, given that their "material circumstances [could] put a considerable strain on [their] chastity".³⁰ Many of these studies of early modern Scottish women paint a relatively positive picture of 'the common people', especially common women's lives, whether they study them directly or not. Margo Todd and Michael Graham, for example, both state that the Reformed disciplinary system erased any sexual double standard.³¹ This position, although tempting, disregards the inherent economic and social gender power dynamic of the period. Todd and Graham's arguments, however, remain vital parts

²⁶ This has been accomplished in tandem with an increased interest in studying Scottish women's contemporary experiences. See Breitenbach et al.

²⁷ Leneman and Mitchison's *Sin in the City* and *Girls in Trouble: Sexuality and Social Control in Rural Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 1998) are two of their major works on the subject.

²⁸ Leneman and Mitchison, *Sin and the City*, 1f.

²⁹ Ewan, "A realm of one's own," 23. See Rosalind K. Marshall, *Virgins and Viragos: A History of Women in Scotland from 1080 to 1980* (Chicago: Academy, 1983).

³⁰ Leneman and Mitchison, *Sin in the City*, 5. See, for example, Marshall's statement on page 74 that "Poorer people who had no property to worry about had always been much more at liberty to marry whom they pleased", without consideration for economic factors that could bar marriage.

³¹ Todd, 18f; Michael F. Graham, "Women and the Church Courts in Reformation-Era Scotland," in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 196. For a response to this argument, see Gordon DesBrisay, "Twisted By Definition," and Bernard Capp, "The Double Standard Revisited: Plebian Women and Male Sexual Reputation in Early Modern England," *Past and Present* 162 (February 1999): 70-100.

of current thought on Scottish women's history. Historians of gender and sexuality must continue to explore the lives of early modern women and men in Scotland in order that a clearer and more complete understanding of their lives be made.

This project will attempt to help fill a research gap in early modern Scottish women's sexuality and its relation to the Reformed kirk. The study of early modern social discipline has evolved considerably since its beginnings as an ecclesiastical master narrative, and this study is indebted to those who have shaped this historiography. In examining the sin of fornication, for example, I am acknowledging the relationship it has to crime in the early modern psyche as well as its relationship with ecclesiastical discipline, and so I am following the historiographic traditions of Oestreich and his critics. Seventeenth-century Scotland, as a hotbed of religious fervour and political turmoil, is especially conducive to the study of social discipline, although little has been done in reference to Canongate, the monarchical seat of Scotland. The works of feminist and gender historians are crucial in the interpretation of social discipline's impact on common people, especially women, who bore the brunt of many disciplinary policies concerning pre-, non- and extra-marital sexual relations. This study, then, hopes to bring together different historiographic and methodological streams in order to examine marriage and sexuality, basic but often hidden aspects of life, within the Canongate parish in the mid-seventeenth century.

The Canongate kirk session records reveal how negotiation was at the heart of the parish, as a community defined by its relationship with God. The elders of the kirk session took both the letter and intent of their Reformed Kirk doctrine into account, as well as the particular circumstances of the parishioners before them, when making their

decisions each week. Negotiation was also present in the marriage process, between the couples desiring to have their banns proclaimed, and the kirk elders ensuring that the morality of the couple was sound. As well, women brought before the kirk session were able to negotiate a form of agency, and even find protection, within a system of ‘godly discipline’ which, for all its discriminatory aspects, was intended to lead those who cooperated to communal reconciliation and spiritual absolution. My first chapter will outline the demographics, administration and ecclesiastical layout of the Canongate parish. It will then outline the importance of the Canongate kirk session and its records, as well as the impact of the British Civil Wars on the burgh. The second and third chapters concern how the kirk session dealt with the issues of marriage and sexual sin, respectively. In Chapter Two, I will discuss the social, economic and religious importance of marriage in Canongate, its trends throughout the decade, and its strong ties to the kirk’s emphasis on community peacekeeping. The third chapter will discuss fornication and adultery as important social concerns in the kirk session records. Together, these chapters provide a revealing snapshot, set against the backdrop of civil war, of some of the ways in which early modern Scottish townswomen negotiated their way through marriage and household formation, licit and illicit sexuality, and godly discipline.

Chapter One: The Canongate Parish and Its Kirk Session Records

The parish of Canongate is situated in the city of Edinburgh, which was, in the early modern period, the largest urban centre in Scotland. Edinburgh was probably second in population only to London on the British mainland.¹ At this time, Canongate was independent of bordering Edinburgh, and in 1640 held a population of between four and five thousand people, roughly equal to the burgh of Leith, two miles away and the main port town in the area (See Map 1).² The topography of the area shaped urban life in Edinburgh and Canongate considerably.³ The two burghs, constrained in the north and south by ridge and water, were laid along “the spine of a tail-like ridge” that ran from Edinburgh Castle down to the Abbey of Holyrood in one long street broken only by the Netherbow Gate that divided the two urban centres (see Map 2).⁴ As with any other early modern town, the population was crowded into close quarters by modern standards, and the people of the two burghs lived and worked in close proximity and interaction with

¹ Although it had only one-tenth the population of London, Helen Dingwall argues that Edinburgh played a similar role to the English capital, both being dominant urban bases in their respective regions; other historians compare the Scottish capital with English provincial capitals such as York and Norwich. See Helen M. Dingwall, *Late Seventeenth-Century Edinburgh: A Demographic Study* (Aldershot, England: Scolar Press, 1994), 21; Paul Slack, “Great and good towns 1540-1700,” in *The Cambridge Urban History of Britain*, ed. Peter Clark, vol. 2, 3 vols. (Cambridge: Cambridge University Press, 2000), 349.

² This is, like all early modern population records, an approximation. E. Patricia Dennison places the population of the Canongate at less than 4,000 while Leah Leneman and Rosalind Mitchison approximate almost 5,000; Dingwall marks the population of the Canongate in the 1690s between 4,200 and 5,500. See Dennison, *Holyrood and Canongate: a thousand years of history* (Edinburgh: Birlinn, 2005), 93; Leneman and Mitchison, *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 1998), 10; and Dingwall, *Late Seventeenth-Century Edinburgh*, 21. Edinburgh at this time had a population of between 23,000 and 25,000. One must also account for the transient and vagrant populations. See Dingwall, *Late Seventeenth-Century Edinburgh*, 13-21 for her calculations; Walter Makey, “Edinburgh in the Mid-Seventeenth Century,” in *The Early Modern Town in Scotland*, ed. Michael Lynch (London: Croom Helm, 1987), 206. See also Makey’s comparison between Leith and Edinburgh, 192-95. The Leith population estimate is from Leneman and Mitchison, *Sin in the City*, 11.

³ E. Patricia Dennison and Michael Lynch, “Crown, Capital, and Metropolis: Edinburgh and Canongate: The Rise of a Capital and an Urban Court,” *Journal Of Urban History* 32, no. 1 (2005): 22-43.

⁴ Dennison and Lynch, 26. Canongate got its name from this proximity to Holyrood Abbey: the name means ‘the gait (walk or road) of the canons (clergymen)’.

each other. This political and physical geography significantly affected Canongate's political, economic and religious history during the Civil Wars.

The topographical unity of the two burghs belied the staunch administrative independence of Canongate from the larger metropolis. Scotland operated under a feudal-like administrative system in the seventeenth century, consisting of regalities, or semi-autonomous hereditary fiefs, able to hold court, make bylaws, elect officials and form merchant and craft guilds.⁵ This was often seen as a “promotion” or reward for settlements already succeeding in trade.⁶ The Abbey of Holyrood, with its surrounding township of Canongate, was granted Burgh of Regality status by David I in the twelfth century, a status that was re-emphasized in 1587.⁷ This title was reiterated in December of 1639 in association with the city of Edinburgh, although the city did not officially subsume the smaller burgh until 1856. The Burgh of Canongate originally included large tracts of land including part of Leith, enabling port access, although this was revoked by the time Leith became a burgh of barony of its own right in 1636.⁸ Canongate reinforced its burghal autonomy in its status as the official royal residence in Holyrood Palace. This was certainly a prestigious position, although the visitations from the monarch sometimes disrupted daily life considerably.⁹ The burgh also held its own trade rights, which included being able to take full advantage of Edinburgh markets and allowing burgesses

⁵ Leslie M. Smith, “Sackcloth for the Sinner or Punishment for the Crime? Church and Secular Courts in Cromwellian Scotland,” in *New Perspectives on the Politics and Culture of Early Modern Scotland*, ed. John Dwyer, Roger A. Mason, and Alexander Murdoch (Edinburgh: J. Donald, 1982), 117; Alan Dyer, “Small market towns 1540-1700,” in *The Cambridge Urban History of Britain*, ed. Peter Clark, vol. 2, 3 vols. (Cambridge: Cambridge University Press, 2000), 449.

⁶ Grenville Astill, “General Survey 600-1300,” in *The Cambridge Urban History of Britain*, ed. D.M. Palliser, vol. 1, 3 vols. (Cambridge: Cambridge University Press), 44.

⁷ George Smith Pryde, *The Burghs of Scotland, A Critical List* (Oxford: Oxford University Press, 1965), 37, 60. See also William Mackay MacKenzie, *The Scottish Burghs* (Edinburgh: Oliver and Boyd, 1949), 130.

⁸ Dennison, 6; Pryde, 69.

⁹ NAS, CKSR CH2/122 volume 3, 17 August 1641; 24 August 1641; 7 September 1641, 19 November 1644.

the freedom from paying market dues in Scotland, although Canongate eventually established its own market as well.¹⁰ There was a strict social hierarchy established between the superior middlemen, or merchants, and the craftsmen of the incorporated trades, namely bakers, hammermen, wrights, weavers, tailors and cordiners.¹¹ The burgh was run by a burgh council, largely merchants.¹² These systems and social groups formed the administrative backbone of Canongate society.

Despite the administrative hold the merchants had on the burgh, Canongate, more than any other greater Edinburgh-area parish, was a craftsmen's town, with more than fifty per cent of its households belonging to craftsmen, and with comparatively few merchants or gentry.¹³ Most of the labour in the town was directly or indirectly in service to Holyrood Palace and the production and trade of luxury goods.¹⁴ Although only half the Canongate households employed one or more servants, there were in total over 300 servants, many of them women, employed by 365 households.¹⁵ The general population of early modern Canongate also likely had more women than men, possibly by a significant number.¹⁶ The fact that many of the servants in Canongate would be young, unmarried women from outside the parish and therefore without social or economic

¹⁰ This was a feature in Canongate's charter of erection unique to that burgh. See Dennison, 6.

¹¹ Walter Makey, "The Elders of Stow, Liberton, Canongate and St. Cuthberts in the Mid-Seventeenth Century," *Scottish Church History Society Records* 8 (1970), 163; Laura Stewart argues that although this hierarchy did exist, the true distinction was between burgesses and non-burgesses; see Stewart, *Urban Politics and the British Civil Wars: Edinburgh, 1617-53* (Leiden: Brill, 2006), 27.

¹² Makey, "Elders of Stow," 163-4.

¹³ According to the Poll Tax of 1694, Canongate had twenty-six of greater Edinburgh's 332 gentry, and seven of 372 merchants. Dingwall, *Late Seventeenth-Century Edinburgh*, 290-1. 'Greater Edinburgh' in this instance refers to Edinburgh's eight parishes (College Kirk, Greyfriars Kirk, Lady Yester, New Kirk, Old Kirk, Tolbooth Kirk, Tron Kirk and West Kirk), Canongate and South and North Leith.

¹⁴ Makey, "Elders of Stow", 158, 163.

¹⁵ Dingwall, *Late Seventeenth-Century Edinburgh*, 45, 292; Dingwall, "The Power Behind the Merchant? Women and the Economy in Late Seventeenth-Century Edinburgh," in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 153-4.

¹⁶ For instance, in the 1690s, the male:female ratio in Edinburgh was 76:100. See Dingwall, "The Power Behind the Merchant," 153.

support networks created an economically, socially and sexually unstable situation. Female servants often worked for ten or so years, from their mid-teens until their marriage, usually in their mid-twenties, and so it is hardly surprising that over ninety percent of unwed mothers were servants.¹⁷ The town's elite could not help but notice these correlations, and implicitly or explicitly condemned these women as "carriers of a socially corrosive sexuality".¹⁸ Gender and social status were therefore central issues in Canongate society, which significantly affected its disciplinary system.

* * * * *

The religious culture of the Canongate parish was part of a greater movement occurring across early modern Europe. Driven by the Protestant Reformation and the Council of Trent, both Protestant and Catholic confessions delineated and implemented stringent disciplinary reforms concerning doctrine and Christian practice both inside and outside the church yard. This concern for greater religious control over parishioners affected areas of society as diverse as education, poor relief, neighbourhood relations and sexuality.¹⁹ Social or 'godly' discipline in the early modern context was focussed around Jesus' teaching on the manner in which his disciples should reform each other, found in

¹⁷ R.A. Houston, "Age at marriage of Scottish women, c.1660-1770," *Local Population Studies* 43 (1990): 64; Gordon DesBrisay, "Wet Nurses and Unwed Mothers in Seventeenth-Century Aberdeen," in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 213.

¹⁸ Gordon DesBrisay, "Twisted by Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns," in *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400*, ed. Rona Ferguson and Yvonne Galloway Brown (East Linton: Tuckwell Press, 2002), 138. See, for instance, NAS CKSR CH2/122 volume 3, 13 July 1647, an act requiring all servants from away seeking employment in the parish to provide good character references.

¹⁹ The study of sexuality and gender in a historical context is, of course, problematic, especially concerning what Leila Rupp calls same-sex sexuality; see Leila J. Rupp, "Toward a Global History of Same-Sex Sexuality," in *The Feminist History Reader*, ed. Sue Morgan (London and New York: Routledge, 2006), 260-270. Since there are no cases in the Canongate kirk session records between September 1640 and September 1650 that explicitly concern same-sex sexuality, the issue will not be discussed. For a study of gender identity in fornication cases, see Chapter 3. A good introduction to the issues of feminism, gender, and sexuality in a historical context is *The Feminist History Reader*, ed. Sue Morgan (London and New York: Routledge, 2006).

Matthew 18, specifically verses 15-20.²⁰ This passage formed the basis of the church disciplinary system for many confessions; it was a common belief that, according to Matthew 18, “discipline was maist necessar in the Kirk . . . without trew discipline, na rightlie reformed kirk; and without the right and perfyt discipline, na right and perfyt kirk”.²¹ Confessions differed not only in their methods and intensity of discipline, but also in deciding who was under the church’s disciplinary authority. Some, like the Calvinists of the Dutch Republic, believed that only those who voluntarily gave themselves to a confession could be disciplined by that confession, while others, like Scottish Reformers, believed the entire community was under the church’s scrutiny. This debate was apparent between and within all confessions, and dovetailed into the debate concerning the support needed or desired by the church courts from the civil courts.²² Discipline was thus a fundamental aspect of faith, both in terms of the confession’s theological purity and, more practically, in keeping order in the community, and was a widespread concern across early modern Europe.

Calvinism’s policy of community discipline was a powerful social and political force in Scottish society. The Scottish Reformed kirk, once established in 1560,

²⁰ “Moreover if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother. But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established. And if he shall neglect to hear them, tell it unto the church: but if he neglect to hear the church, let him be unto thee as an heathen man and a publican. Verily I say unto you, Whatsoever ye shall bind on earth shall be bound in heaven: and whatsoever ye shall loose on earth shall be loosed in heaven. Again I say unto you, That if two of you shall agree on earth as touching any thing they shall ask, it shall be done for them of my Father which is in heaven. For where two or three are gathered together in my name, there am I in the midst of them.” Matt. 18: 15-20 *King James Version*.

²¹ From *The Diary of Mr James Melvill, 1556-1601* (Edinburgh: Bannatyne Club, 1829), v. 34, 188-9. See Kenneth R. Davis, “No discipline, no church: An Anabaptist contribution to the Reformed Tradition,” *Sixteenth Century Journal* 13 (1982): 45, and Geoffrey Parker, “The ‘Kirk By Law Established’ and the Origins of ‘The Taming of Scotland’: St Andrews 1559-1600,” in *Perspectives in Scottish Social History: essays in honour of Rosalind Mitchison*, ed. Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 1, for a couple of many confessional examples.

²² Parker, 2.

encouraged a rigorous, constant scrutiny of one's own and others' adherence to the faith.²³ The reformers, seeing Scotland as a new Israel of chosen people, strove to create and sustain a unified national church under Calvinist principles.²⁴ Although debate exists concerning the speed and intensity with which these reforms were accepted and established across the country, scholars agree that they took root more readily in urban lowland parishes.²⁵ Discipline steadily increased in the latter half of the sixteenth century as a system of interlocking, interdependent ecclesiastical courts gained its footing and was able to process more and a wider variety of cases each year.²⁶ The parish-based courts, called kirk sessions, were the cornerstone of ecclesiastical rule as well as crucial resources in the civil justice system, with three quarters of all cases followed through to a

²³ Gordon Donaldson, *Scottish Church History* (Edinburgh: Scottish Academic Press, 1985); James Kirk, *Patterns of Reform: Continuity and Change in the Reformation Kirk* (Edinburgh: T&T Clark, 1989); Stewart, 12; Philip Benedict, *Christ's Churches Purely Reformed: A Social History of Calvinism* (New Haven and London: Yale University Press, 2002), 152. The Scottish system was more punitive-based than other Calvinist traditions, such as those in France, the Netherlands and Germany. See Judith Pollman, "Off the Record: Problems in the Quantification of Calvinist Church Discipline," *Sixteenth Century Journal* 33, no. 2 (Summer 2002), 424.

²⁴ Allan I. Macinnes, *The British Revolution, 1629-1660* (Basingstoke and New York: Palgrave Macmillan, 2005), 4; Arthur H. Williamson, "The Jewish Dimension of the Scottish Apocalypse: Climate, Covenant and World Renewal," in *Menasseh ben Israel and his world*, ed. Y. Kaplan, H. Mechoulam and R.H. Popkins (Leiden: Brill, 1989). In fact, this rigour was at times seen to be so egalitarian as to be anti-aristocratic and even revolutionary. See Michael F. Graham, "Equality before the Kirk? Church Discipline and the Elite in Reformation-Era Scotland," *Archive for Reformation History* 84 (1993): 289-309, 290-1.

²⁵ Two eminent scholars argue that the establishment of Presbyterianism in Scotland was neither quick nor stable. See Michael Lynch, "From Privy Kirk to Burgh Church: An Alternative View of the Process of Protestantisation," in *Church, Politics and Society: Scotland, 1408-1929*, ed. Norman Macdougall (Edinburgh: John Donald, 1983), and "Preaching to the Converted? Perspectives on the Scottish Reformation," in *The Renaissance in Scotland: Studies in Literature, Religion, History and Culture offered to John Durkan*, ed. A.A. MacDonald, Michael Lynch and Ian B. Cowan (Leiden: Brill, 1994); James Kirk, *Patterns of Reform*.

²⁶ Michael F. Graham, "Social Discipline in Scotland, 1560-1610," in *Sin and the Calvinists: Morals, control and the consistory in the Reformed tradition* (Kirksville, U.S.A.: Sixteenth Century Journal Publishers, 1994), 130-133; Parker, 15. These went from the parish-level kirk sessions to the regional presbytery courts, representing and governing ten to twenty parishes, to the national General Assembly. Cases were referred to higher courts based on their seriousness. See Ute Lotz-Heumann, "Imposing church and social discipline," in *Reform and Expansion 1500-1660*, ed. R. Po-Chia Hsia, vol. 6, *The Cambridge History of Christianity* (Cambridge: Cambridge University Press, 2007), 256; Graham, "Equality," 289-90; Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 11-13. By the early seventeenth century, three-quarters of Scotland's eleven hundred parishes had kirk sessions. See L. Smith, 119.

clear conclusion.²⁷ The kirk sessions usually first tackled social problems that were the most easily proven, such as fornication, adultery and other sexual offences, before broadening their persecutory base. Sexual offences remained common in late sixteenth- and early seventeenth century kirk session records, generally representing almost sixty percent of kirk session records.²⁸ This focus on sexual offences may actually have indicated the weakness of the kirk session to control anything less easy to prove.²⁹ After all, as Geoffrey Parker points out, “either a girl was pregnant and single or she was not”.³⁰ The Calvinist disciplinary system was intensely involved in the lives of its members, and the Scottish kirk took a particularly strict form of that doctrine in its religious practice. The ecclesiastical courts became the religious disciplinary bases for the community they served.

Where Matthew 18 may have been seen as a metaphorical guideline for some, for the Reformed Kirk it was a clear blueprint of how to establish its institutions and carry out its disciplinary process, from the confrontation of the sinner by an elder to the tribunal in front of the presbytery’s court.³¹ For example, the rules surrounding the prosecution of fornication were as comprehensive as they were strict: like many early modern justice systems, defendants were considered guilty until proven innocent, and the

²⁷ L. Smith, 119, 121, 123, 128; Graham, “Equality”, 297.

²⁸ Graham, “Social Discipline,” 136; Parker, 9.

²⁹ Graham, “Social Discipline,” 137. Fornication cases most often began with the discovery of such a pregnancy, rather than by confession.

³⁰ See Parker, 11. Other sexual offences, such as incest and bestiality, were rare. There were no mentions of either case in Canongate during this study period.

³¹ The length of the process and the necessity of gathering all pertinent members of the community together for each step of the process were two “serious weaknesses” of this system. See L. Smith, 126. For a comparative description of the Dutch Calvinist disciplinary process, see Pollman, 428.

elders delegated to the investigation could be “remorseless” and “indefatigable”.³² The proper procedure for a fornication penance began with the confession of the sin, usually when a single woman was noticed to be pregnant, or after the birth of her child.³³ If the child’s father did not come forward, she would be asked to name him so that he could be called to confess as well and agree to pay child support, a process that could often become mired with declarations of honour and oaths of innocence. Both confessions were necessary for the child to be baptized, but not mandatory for the fornication penance of the confessed partner. Once confession was made, the couple were to each pay a fine of £10 Scots or find cautioners, reliable citizens who could swear that the penitents³⁴ would pay their fine and sit their penance.³⁵ Penitents unable to pay or find caution faced the possibility of imprisonment, whipping or banishment, and women specifically faced the shaming rituals of head shaving, branding or being ducked in the harbour.³⁶ Women were also more likely to be unable to pay the fine due to the gender gap in wages.³⁷ If the couple declared that fornication occurred under promise of marriage, and especially if the couple had already undergone marriage proclamation or were retroactively confessing

³² For instance, by interrogating a woman about the identity of the father of her child while she was in labour, and withholding the help of a midwife if she was not compliant. See L. Smith, 127-8. This occurred in Canongate in April of 1650. See NAS, *CKSR CH2/122*, volume 4, 9 April 1650.

³³ It is impossible, based on the records, to know if a confession was voluntary or came about from pressure from an individual’s family or church.

³⁴ I am hesitant, from a scholarly as well as theological stance, to readily declare my subjects ‘sinners’, as the kirk session did, a convention that other scholars, such as Todd, follow. I am, however, comfortable in labeling all those who underwent kirk discipline as ‘penitents’ (although whether they were truly penitent or not is of course unknowable), and so this is the term I will use for the duration of the work.

³⁵ DesBrisay, “Twisted by Definition,” 142. This was a quarter of the price legislated by Parliament in 1567, although it was amended to £10 in 1649; the actual price demanded varied from parish to parish; for Canongate, see chapter 3. Act Against Fornication (Scotland), 24 Car. 1.

³⁶ DesBrisay, “Twisted by Definition,” 142. Burning on the cheek was threatened twice and delivered once for women who returned to the parish after being banished. NAS, *CKSR CH2/122*, volume 3, 25 August 1640; 28 October 1645; 19 January 1647. Banishment was a more common punishment, especially for women without proper employment recommendations; see Chapter 3.

³⁷ Male servants were normally paid between £20 and £40 Scots per annum, depending on their type of employ, and women could expect between £6 and £16, plus clothing, food and lodging. See Dingwall, *Late Seventeenth-Century Edinburgh*, 45; DesBrisay, “Twisted by Definition,” 142.

after their marriage, their penance could be lightened. The standard penance for fornication was to spend three Sundays on the stool of repentance at the front of the kirk, where the minister preached on the penitent's sins and the congregation prayed for their soul. Adultery was treated more seriously: the fine was quadrupled and penitents usually appeared barefoot and wearing only sackcloth, for twenty-six Sundays. They were sometimes placed at the front of the church, and sometimes, usually the last weeks, at the front doors, so that everyone filed past them on their way into and out of the kirk.³⁸ Accusations and confessions of fornication and adultery were therefore not to be taken lightly.

Scotland excelled in its church courts' rigour in investigation and prosecution.³⁹ For Scottish Calvinists the purity of the Lord's Table for communion was of especial concern: unrepentant sinners polluted the Lord's Table and the community as a whole. Communal discipline was therefore considered more important than self-discipline, especially during times of social turmoil and potential divine wrath, such as the Civil Wars.⁴⁰ This is possibly because Scotland's Reformed church had a national base, and so was able to be more "thorough" than other Reformed traditions.⁴¹ Unlike in France, for example, where Huguenots struggled to break free of existing systems of discipline and battle the dominant doctrine, in Scotland reformers were able to focus on sin, "the enemy

³⁸ Dennison describes this process in the Canongate, although without citation. See Dennison, 85-6; Gordon DesBrisay, "Twisted by Definition," 141.

³⁹ For instance, the kirk sessions processed far more disciplinary cases per year per tribunal than the Spanish Inquisition from a much smaller population base. Parker, 18.

⁴⁰ Lotz-Heumann, 249-254; Davis, 45; Philip S. Gorski, *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago and London: Chicago University Press, 2003), 124.

⁴¹ L. Smith, 130; see also S. A. Burrell, "The Covenant Idea as a Revolutionary Symbol: Scotland, 1596-1637," *Church History* 27, no. 4 (December 1958), 343.

within”, although this did not negate a constant fear of ‘popery’ in their midst.⁴² By 1640, when the Civil Wars were gaining momentum and apocalyptic fervour was intensifying, Calvinism, with its disciplinary ideology and processes, had become an integral part of early modern Scotland.

* * * * *

Both the issues faced by the Canongate kirk session and the manner in which it processed these issues were altered by the Civil Wars, as the community reacted to social stresses and political manoeuvring.⁴³ The Civil Wars themselves are difficult to describe succinctly, since they involve over a decade of political and religious factions and manoeuvring across three kingdoms and beyond. Traditional Anglo-centric historiography of the Civil Wars has claimed “political and religious polarisation” and “cultural alienation from the court” in England led the English Parliament to rise against the king. However, this narrow and simplified view disregards Ireland and Scotland’s crucial involvement in the causes of the Wars.⁴⁴ As well, to say that the Wars only affected the three Stuart kingdoms denies the various factions’ international backing.⁴⁵

⁴² Michael F. Graham, *The Uses of Reform: "godly discipline" and popular behavior in Scotland and beyond, 1560-1610*, Studies in medieval and Reformation thought, v. 58 (Leiden; New York: E.J. Brill, 1996), 3. The Canongate records reveal only eight people accused of “willful papacy” during the decade. See NAS, CKSR CH2/122, volume 3, 18 August 1640; 25 August 1640; 03 November 1640; 11 May 1641; 15 March 1642; 22 March 1642; 19 July 1642; 9 August 1642; 25 January 1648; volume 4, 18 December 1649.

⁴³ There are many good studies of the British Civil Wars available. Some helpful for my own familiarization were: John Kenyon and Jane Ohlmeyer, eds., *The Civil Wars: A Military History of England, Scotland and Ireland 1638-1660* (Oxford: Oxford University Press, 1998); Charles Carlton, *Going to the Wars: The Experience of the British Civil Wars, 1638-1651* (London and New York: Routledge, 1992); and Martyn Bennett, *The Civil Wars in Britain & Ireland 1638-1651* (Oxford: Blackwell, 1997). David L. Smith’s *A History of the Modern British Isles: 1603-1707 The Double Crown* (Oxford: Blackwell, 1998) provides a good general overview of the century.

⁴⁴ Macinnes, 4. As Macinnes explains, this disconnect between English versus Scottish, Irish and Welsh perceptions of British history is found in the fact that the latter three nations were greatly affected by the British dynasty in terms of population, wealth and government, while the English “were only augmented by a tenth with the addition of a British dimension.” See Macinnes, 1.

⁴⁵ Jane Ohlmeyer, “The Civil Wars in Ireland,” in *The Civil Wars: A Military History of England, Scotland and Ireland 1638-1660*, ed. John Kenyon and Jane Ohlmeyer (Oxford: Oxford University Press, 1998), 93-

Placing dynasty, religion and nationality in historical context shows that the root causes of the British Civil Wars began long before the first official shots were fired at Edgehill in October of 1642,⁴⁶ but instead can be traced as far back as the unification of the crowns of England and Wales, Ireland and Scotland in 1603 with the ascendancy of James Stuart, the VI of Scotland and I of England (r.1603-1625). With this uniting of the crowns, the monarch became, more than ever before, “the keystone in an arch of government” that stabilised social structures across its kingdoms; the monarch’s personality in this situation was “crucial”.⁴⁷ Beyond their association with James, however, the Stuart kingdoms were hardly united. Each had different religious cultures, social structures and apparatuses for governing, to name only a few basic aspects. Under James’ son, Charles I (r.1625-1649), and especially under his decade of personal rule beginning in 1629, the already unstable situation in the three kingdoms began to disintegrate.⁴⁸ Charles had many good qualities, although few lending themselves to good rulership.⁴⁹ He alienated and angered many with his strong but at times conflicting policies and actions, especially concerning religion, until war seemed to be the only course of action. This conflict was driven, for both Charles and his opponents, by the goal of religious uniformity across the Stuart kingdoms.

4; Steve Murdoch, “Scotland, Scandinavia and the bishops’ wars, 1638-40,” in *The Stuart Kingdoms in the Seventeenth Century*, ed. Allan I. Macinnes and Jane Ohlmeyer (Dublin: Four Courts Press, 2002).

⁴⁶ This is according to Anglo-centric historiography. Some Scottish historians claim the Trot of Turriff in 1639 as the true first official shots.

⁴⁷ John Kenyon and Jane Ohlmeyer, “The Background to the Civil Wars in the Stuart Kingdoms,” in *The Civil Wars: A Military History of England, Scotland and Ireland 1638-1660*, ed. John Kenyon and Jane Ohlmeyer (Oxford: Oxford University Press, 1998), 3; David L. Smith, *A History of the Modern British Isles*, 15.

⁴⁸ D. Smith, 5.

⁴⁹ David Stevenson, *The Scottish Revolution, 1637-1644: the Triumph of the Covenanters* (Newton Abbot, David & Charles, 1973), 52.

In Scotland, the political culture of the late 1630s was dominated by the powerful and incendiary idea of the covenant, embodied by the National Covenant, drafted in 1638. The National Covenant was a re-affirmation of the legal autonomy of the Reformed kirk in the face of Charles' attempts to conform Scottish liturgy and church structure to the English model.⁵⁰ Although a revolutionary symbol, the National Covenant itself was ensconced in vague, conservative and dull language.⁵¹ This dullness was, in fact, both carefully crafted and one of the strengths of the document, as it therefore seemed not revolutionary but a call to stability and the preservation of the old religious and political hierarchies in the face of heretical religious 'innovation' of Charles' counsellors.⁵² The Covenant was used as a banner around which many, whether their motivations were purely religious or not, chose to rally, as suspicion increased among the Scots concerning Charles' religious intentions for their country.⁵³ Indeed, many moderates, if they had known the true radical meanings behind the conservative language, may not have signed it.⁵⁴ The Covenant was, for example, used to justify military opposition to the king, given its suggestion that Scotland, like Israel, was a nation marked by God's grace and united

⁵⁰ John Buchan and George Adam Smith, *The Kirk in Scotland* (London: Hodder and Stoughton, 1930), 39. One Covenanter described Anglican liturgy as "dog's vomit" and born from "the Antichrist's foul womb". See Samuel Rutherford in Roger Mason, "The Aristocracy, Episcopacy and the Revolution of 1638," in *Covenant, charter and party: traditions of revolt and protest in modern Scottish history*, ed. Terry Brotherstone (Aberdeen: Aberdeen University Press, 1989), 12-13. John Morrill argues that the Stuarts' aims were less geared toward outright conformity and more toward congruity; the intentions themselves, however, seem less important here than how those intentions were perceived. See John Morrill, "A British Patriarchy? Ecclesiastical imperialism under the early Stuarts," in *Religion, culture and society in early modern Britain: Essays in honour of Patrick Collinson*, ed. Anthony Fletcher and Peter Roberts (Cambridge: Cambridge University Press, 1994), 225.

⁵¹ Mason, 13.

⁵² David Stevenson, *The Covenanters: The National Covenant and Scotland* (Stirling: The Saltire Society, 1988), 35; Mason, 17-18.

⁵³ See Burrell. The idea of the covenant in Scottish history, Burrell explains, goes back to far earlier times. See also Stevenson, *The Scottish Revolution*, 42-55.

⁵⁴ Mason, 14.

in a pious cause under persecution.⁵⁵ In a time of social turmoil, such a document was sure to lend confidence to the cause. Covenanters dreamed not only of a united, religiously pure Scotland under the banner of the Reformed Kirk, but of Reformed unity across the Stuart Kingdoms. Like Charles, therefore, the Covenanters strove for British unity, but the two forces were driven in opposing directions and would inevitably clash in the Civil Wars.

Militarily unprepared for war in the mid-1630s, although brimming with religious conviction, the Scottish Covenanters entered the “ever-accelerating vortex of death and destruction” of the Civil Wars.⁵⁶ They moved from military success to success until the mid-1640s, when conflicts in Ireland demanded their attention and surging English royalist support threatened the Covenanters’ defeat.⁵⁷ They signed a second Covenant, the Solemn League and Covenant, with the English parliamentarians in 1643, in which the two parties declared that the king had incited the war and it was their religious duty to oppose him. In this agreement, the Parliamentarians promised to introduce the Reformed Kirk to England, and in return gained a strong ally. To this end, the Covenanters gave Charles to the English Parliamentarians in 1646 when he surrendered to the Scots; God’s kingdom demanded an obedience above that owed to Charles. The Covenanters remained a significant agent in the Civil Wars up to and beyond the final defeat of their armies at Cromwell’s hand at Dunbar at the end of the decade.

Canongate was directly affected by the actions of the Civil Wars, largely due to its proximity to Edinburgh. The first reading of Charles’ new Scottish Prayer Book in

⁵⁵ Stevenson, *The Scottish Revolution*, 44-5, and Williamson, *passim*.

⁵⁶ Edward M. Furgol, “The Civil Wars in Scotland,” in *The Civil Wars: A Military History of England, Scotland, and Ireland, 1638-1660*, ed. John Kenyon and Jane Ohlmeyer (Oxford and New York: Oxford University Press, 1998), 41, 50.

⁵⁷ Stevenson, *The Covenanters*, 50-52.

1637 that incited riots and tipped Scotland into the Covenant revolution took place in St. Giles' Cathedral, barely half a mile from Canongate. The National Covenant was first signed in Edinburgh's Greyfriars kirk, less than a mile away. Considering the significant economic and social integration of the two burghs, those momentous occasions would have been impossible to ignore. Edinburgh was considered the "organizational heart of resistance" to the king throughout the decade, and Canongate, a known haven to those in Edinburgh desiring proper Reformed liturgy, was certainly caught up in the fervour.⁵⁸ Much of the military action either directly or indirectly affected the nation's capital, and soldiers of different alliances were a repeated occurrence in Edinburgh and Canongate. At least fourteen different regiments, many with hundreds, if not thousands of men, marched through or wintered in the capital between 1639 and 1650.⁵⁹ One aspect of the Civil Wars that greatly affected the Canongate and therefore deserves special consideration is the Engagement of 1648. The Engagement embodied a pact formed between moderate Covenanters and English royalists after the former's alliance with the English Parliamentarians turned sour. The Engagement promised to restore the king to power in order to calm Scotland's fear of annexation by England. Although the movement had broad appeal, attracting 780 fighting men from Leith and Canongate, the staunch supporters of the kirk rejected it, fearing that it had abandoned the intent of the Covenants, especially concerning the establishment of the Reformed Kirk in England.⁶⁰ The army of the Engagers, suffering from bad leadership, no supplies and inclement weather, was defeated at Winwick by Cromwell in August of 1648. This proved to be the

⁵⁸ Stewart, *Urban Politics and the British Civil Wars*, 307; 193.

⁵⁹ See Edward M. Furgol, *A Regimental History of the Covenanting Armies, 1639-1651* (Edinburgh: J. Donald Publishers, 1990).

⁶⁰ Stewart, *Urban Politics and the British Civil Wars*, 280.

hardliner faction who had opposed the Engagement that the Covenants must be restored and the armies and society purged of Engagers before victory could be achieved. They were pitiless in their derision and punishment of the Engagers, and Oliver Cromwell, on whom the faction was dependent, was stationed in Canongate through September and October of 1648 as the call for the public repentance of Engagers began.⁶¹ The Wars therefore affected the Canongate parishioners in very tangible ways.

The mid-1640s presented a series of crises for the people of Canongate beyond those created by the Civil Wars. Crop failure spread famine across Scotland in 1644 and 1645. This was a frequent concern: a generation earlier, between 1621 and 1624, famine had devastated the countryside, considered “one of the most important demographic events” of seventeenth-century Scotland.⁶² Another had followed quickly on its heels in 1634-5, across the north, where

Multitudes dee in the opin fields and there is none to burie thame . . . The picture of death is seene in the faces of manie. . . Manie ar reduced to that extrmitie that they ar forced to steale and thereafter are execute; and some have desperatlie run in the sea and drowned thamesellffes; so great is the famine there that people of meane estait have nothing and those of greater ranke have nothing that they can spare.⁶³

As with the past famines, Edinburgh, as the nation’s the capital, became the focus of both blame and entreaty for relief.⁶⁴ However, the famine of the 1640s, although not as harsh

⁶¹ Furgol, “Civil Wars in Scotland,” 63-64; Stewart, *Urban Politics and the British Civil Wars*, 282. I follow Stewart’s use of the term ‘faction’ to describe the Covenanters opposed to the Engagement. Over eighty men in the Canongate parish alone confessed to having participated in the Engagement.

⁶² Laura Stewart, “Poor Relief in Edinburgh and the Famine of 1621-24,” *International Review of Scottish Studies* 30 (2005): 5.

⁶³ *Register of the Privy Council of Scotland* (Edinburgh: H.M. General Register House, 1904), second series, v, 284-5.

⁶⁴ Stewart, “Poor Relief in Edinburgh,” 28. The famine of 1621 was seen by some as a divine rebuke for the Articles of Perth.

as those of the previous decades, was also exacerbated by the plague quarantines set up by many towns.⁶⁵

Bubonic plague erupted in lowland Scotland in the spring of 1645. For the Scots, the plague or ‘pest’ was the “scurge and punischmet of the maist [j]ust God . . . the Hea[v]ine quhilk [which] is the admirable instrument of God blawis that contagioun vpone the face of the Earth”.⁶⁶ Although unaware of the connection between the disease and the migration and health of fleas and rats, three centuries of plague experience told the Scots to beware ships and migrants in times of the plague.⁶⁷ The Scottish ruling bureaucracies were, like in other aspects of life, zealous in their preventative measures, especially compared to England. Towns threatened to institute the death penalty on those who broke quarantine, and demanded certificates of health for travellers desiring to enter a town.⁶⁸ The effects on Scotland’s economy, already under strain from the war, was significant, since traditionally, in times of plague, all contact with England, the Low Countries, Germany and France were either forbidden or delayed until each ship and passenger could be inspected for sickness.⁶⁹ Edinburgh and Leith, well-equipped since the late fifteenth century for plague prevention, became suspicious of ships from England beginning in the fall of 1644 and initiated their plague offensive measures.⁷⁰ Quarantine and cold weather kept the plague from spreading that winter, but come the spring the

⁶⁵ Michael Flinn et al, *Scottish population history from the 17th century to the 1930s* (Cambridge: Cambridge University Press, 1977), 138.

⁶⁶ Gilbert Skeyne, *Tracts by Dr Gilbert Skeyne, Medicinar to his Majesty*, Bannatyne Club, (n.l.: J. Hughes, 1860), 5

⁶⁷ Flinn et al, 133-4, 137.

⁶⁸ Charles F. Mullett, “Plague Policy in Scotland, 16th-17th Centuries,” *Osiris* 9 (1950): 437, 450.

⁶⁹ Mullett, 447-8.

⁷⁰ Aberdeen implemented similar measures when the same strain hit the town two years later. See Gordon DesBrisay, E. Patricia Dennison and H. Lesley Diack, “Life in the Two Towns,” in *Aberdeen Before 1800: A New History*, ed. E. Patricia Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 79-90.

central belt of Scotland was hit with the worst outbreak it had ever experienced.⁷¹ The fact that the country was starving, heavily taxed and at war likely had much to do with the strength with which plague gripped the population.⁷² It devastated the Canongate parish, committing “unparalleled ravages” and killing two thousand people, half the population.⁷³ The capital region as a whole was badly hit. Between nine and twelve thousand people died in Edinburgh, Leith and Canongate, one quarter to one third of the total number of plague deaths that year. These numbers show that Canongate was likely worse hit than Edinburgh, given their relative populations; the reason for this is unclear. In total, around twenty per cent of Scotland’s urban population died of the outbreak.⁷⁴ The fact that the Canongate kirk session records continued to give a regular, detailed register of parish life throughout the turbulent decade of the 1640s makes it an even more interesting subject of study.

One cannot understand the Canongate parish without examining its extant records, the most complete and prominent being the Canongate kirk session records (see Figures 1 and 2).⁷⁵ This study is based on the kirk session records from August 1640 until September 1650, comprising just over three hundred pages of unpublished manuscript.⁷⁶

⁷¹ Flinn et al, 137.

⁷² Flinn et al, 127.

⁷³ The surprisingly rounded number is suspicious, but no other record can be found. NAS, CKSR CH2/122 volume 3, 3 March 1646. Ronald Selby Wright, *The Kirk in the Canongate: A Short History from 1128 to the Present Day* (Edinburgh: Oliver and Boyd, 1956), 43; Flinn et al, 133.

⁷⁴ Flinn, 149. Sadly, Scotland had no Samuel Pepys to give a human face and details to the plague. See Mullett, 435.

⁷⁵ Not included are baptisms, funerals, and, between 1645 and 1650, marriages (although proclamations are still included). These are found in their appropriate Registries, kept separate from the main business of the kirk session.

⁷⁶ The temporal parameters of this study were determined not only from the dates of the Civil Wars but also from the manuscript’s own limits. The start date marks the beginning of a new microfilm reel and the end date was determined by the invasion of Cromwell’s army, when the records were abandoned for a year, a feat that even the plague outbreak could not achieve. See Dennison, 93. Canongate was one of just over two hundred kirk sessions with at least partial records extant from between 1626-1650. See Parker, 7. Although the major primary source used is the kirk session records, various printed primary sources proved very

The Canongate kirk session and minister's register provided a consistent and often detailed record of daily life in the parish.⁷⁷ Kirk session records also were among the few sets of records in early modern Scotland that regularly included women, and so provide an ideal opportunity for studying how women and men negotiated with the Reformed Kirk during a turbulent, fractured period. The records also acted as a public transcript, but where hidden transcripts can be gleaned.⁷⁸ Almost everyone in the parish would come before the kirk session at least once, whether for marriage proclamation, poor relief, election to the session, disciplining, or any number of other reasons.⁷⁹ These appearances are given at least a cursory notation in the register, although omissions could occur based on what is of interest to the session or to the clerk himself. Clerks were a major factor in the comprehensiveness of their records. At times clerks became possessive of the records and would not return them to the session.⁸⁰ Sometimes clerks were simply rushed, and names and other facts were left blank to be filled in later. The temperament and attentiveness of the clerk also had much to do with the types and details of records left.⁸¹

helpful, including: Francis J. Grant, *Parish of Holyroodhouse or Canongate, register of marriages, 1564-1800*, vol. 46 (Edinburgh: Scottish Records Society, 1915); Marguerite Wood, *Book of records of the ancient privileges of the Canongate* (Edinburgh: Scottish Records Society, 1955); James D. Marwick and Marguerite Wood, *Extracts from the records of the Burgh of Edinburgh* (Edinburgh: Printed for the Scottish Burgh Records Society, 1869); Hew Scott and D. F. Macdonald, *Fasti ecclesiae scoticanae; the succession of ministers in the Church of Scotland from the reformation* (Edinburgh: Oliver and Boyd, 1915); and the Acts of Parliament delineating the civil punishments for fornication and adultery.

⁷⁷ Some historians consider kirk session records “without doubt the most interesting, most amusing, and most human of all the sources for the study of crime in early modern Scotland,” and, it follows, for the study of sin. See Patrick Rayner, Bruce Lenman and Geoffrey Parker, eds., *Handlist of Records for the Study of Crime in Early Modern Scotland (to 1747)* (London: List and Index Society, 1977), 147.

⁷⁸ See James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990).

⁷⁹ Todd, 11.

⁸⁰ See Todd, 16-17. A similar even occurred in Canongate when long-standing elder and treasurer, Robert Erskeine, retired in February of 1650 and kept “the whole writts belonging to the session . . . ane box together wt the 4 communion cupis and ane box qrin [wherein] is kept the national covenant and also another little box for punds [consignment on marriage proclamation] keiping and ane box . . . for keiping the poores money” until the kirk session promised to pay him the £304 he was owed. See NAS, *CKSR* CH2/122 volume 4, 12 February 1650.

⁸¹ Todd, 17-18.

These factors are some of the problems that can arise when dealing with kirk session records. Problems of decay and water damage are also common.⁸² The Canongate register is, comparatively speaking, remarkably well-recorded and detailed, enough to pass an examination from the presbytery in June 1649 with only a few minor areas for improvement.⁸³ For these reasons, and since cautious quantitative data is a necessary foundation for qualitative research, I have endeavoured on some basic quantifiable data despite some scholars' warnings against it.⁸⁴ The records of the Canongate kirk session are therefore a crucial if biased lens used to understand life in the parish.

⁸² This occurred between 1640 and 1642 in the Canongate kirk session records, although not enough to fully inhibit transcription. See Figure 1.

⁸³ NAS, *CKSR CH2/122* volume 4, 8 June 1649: "The qlk day the presbyterie of Edn [Edinburgh] being convened visiting the kirk of halyroodhous haveing perused the sessiones booke approve the ministeris and elderis in their vigilance and cair in everie poynt of discipline and in their zeale against all offenderis and approves their sessione booke except in some escapes for the rectifieing in tyme comeing". These 'escapes' include not deferring to the magistrates on civil matters and allowing public repentance to occur on days other than Sunday. No mention is made of the session clerk, the prime agent in the fastidiousness of record-keeping, according to Todd, 16-18.

⁸⁴ Todd, 16 and Pollman, although she concedes that Scottish records were likely less "discreet" than Dutch Calvinist ones, 438. In this cautionary use of quantitative data, I follow William Makey, Michael Graham and Gordon DesBrisay. See William Makey, "Elders of Stow"; Michael Graham, *Uses of Reform*, especially 2; Gordon DesBrisay, "Wet Nurses" and "Twisted by Definition".

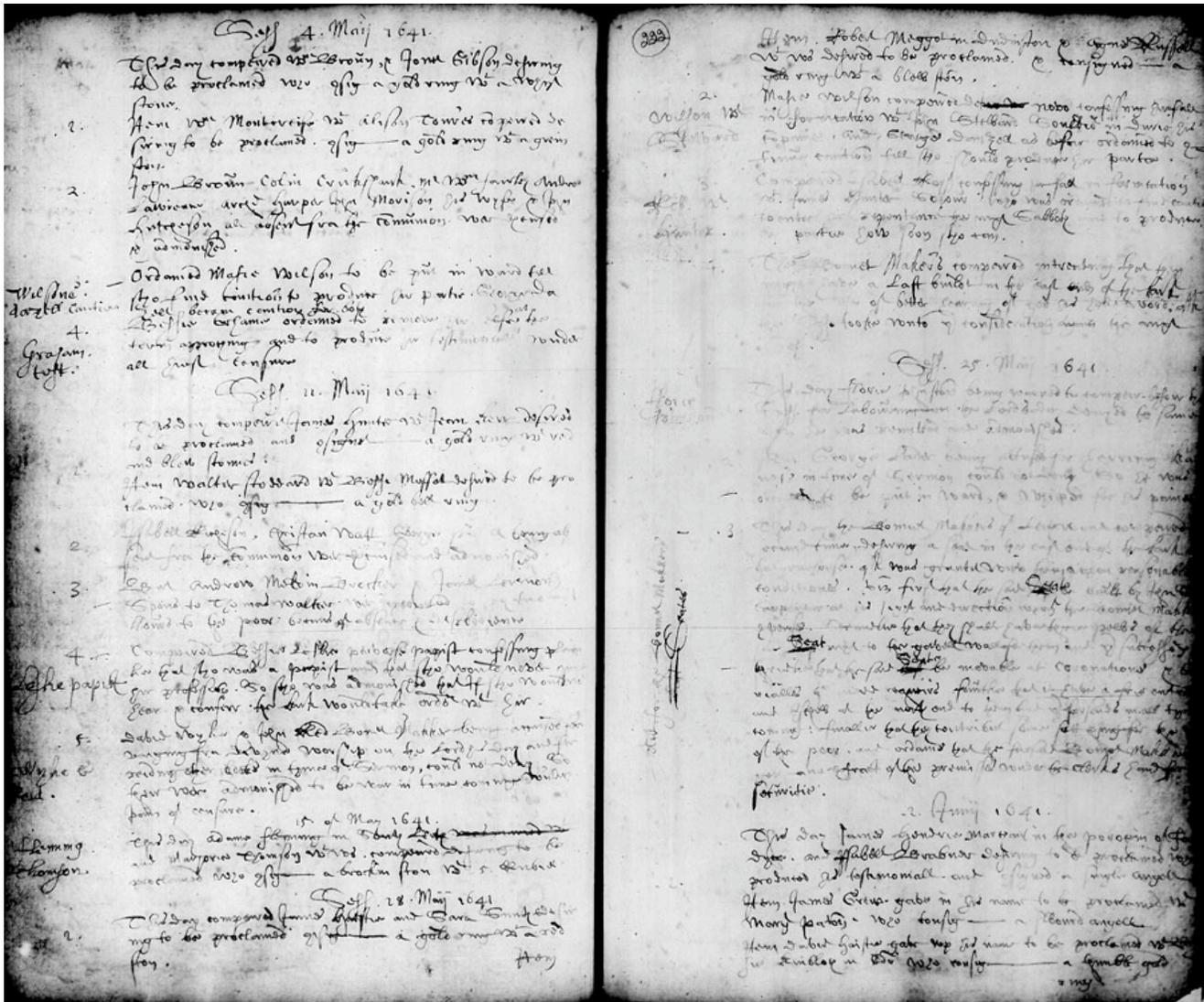


Figure 1: Canongate Kirk Session Records, CH2/122 volume 3, 4 May to 2 June 1641, showing water damage that affected some of the records. Copyright National Archives of Scotland.

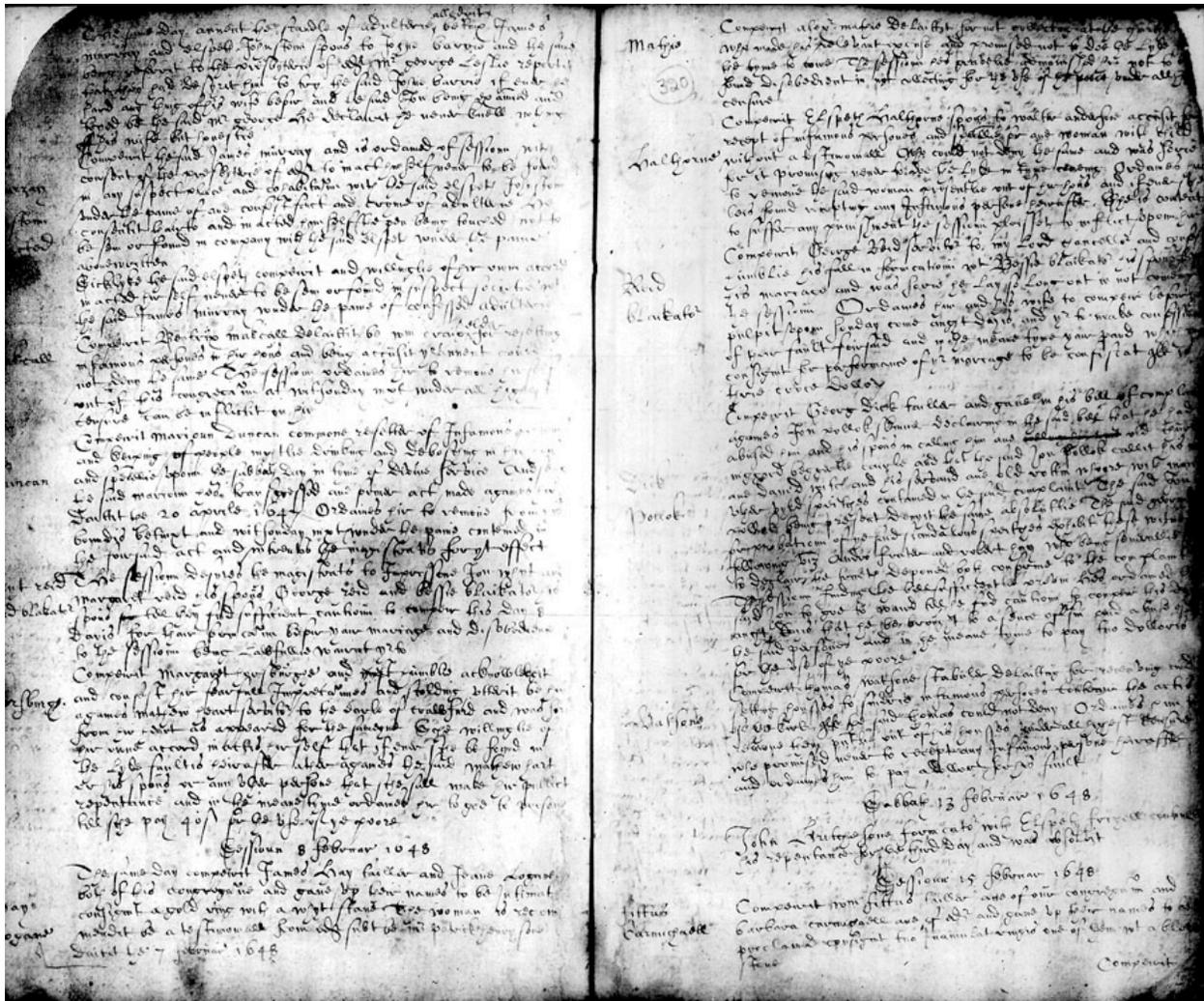


Figure 2: Canongate Kirk Session Records, CH2/122 volume 3, 1 to 15 February, 1648, a clearer selection from the records. Copyright National Archives of Scotland.

The Canongate Kirk Session Records and the British Civil Wars

Despite the disruptive nature of the British Civil Wars, the Canongate Kirk Session Records continued to yield valuable data, as can be seen with the case of Janet Blair. In the spring of 1650, Janet Blair was determined to finish her fornication penance. Although the Canongate kirk session records in the summer of 1650 were punctuated with the fear-filled phrase “no sessioun kept . . . because of the English armie aproaching”, Jonet stubbornly returned every Sunday to sit the penance for her fornications with John Gibb and George Hume. She was finally forgiven on 4 August, a few weeks before the Scots were crushed by Cromwell at Dunbar.⁸⁵ Perhaps she was worried about the army’s approach, or the state of her soul, or perhaps she had finally scraped together enough money to pay her fine. In any case, she was one of only a few people who sought to have their sins publicly absolved in the summer of 1650, in anticipation of the Cromwellian invasion and eventual occupation of Scotland. The rest of church life, according to the records, ground to a halt. The bickering of the incorporated trades, the complaints of sexual slander that had risen in recent years, even marriage declarations had slowly been silenced as the parish measured the steady approach of the enemy. They had endured a decade of uncertainty, of economic crisis, plague and famine as well as war, and yet they knew, as Cromwell drew nearer, that it could get worse. The people of Canongate had been significantly affected by the last ten years, in ways that are present in both the records and their absences.

⁸⁵ NAS, *CKSR* CH2/122 volume 4, 30 June 1650; 7 July 1650; 14 July 1650; 21 July 1650; 28 July 1650; 4 August 1650.

Collections and Fasts

Canongate parish records reveal the prevalence of the Civil Wars, first, through standard methods of community involvement by the congregation as a whole: collection drives and fasts. The church held drives for funds and supplies for the soldiers periodically throughout the decade. Blankets and clothes were collected for the soldiers in August of 1640, possibly linked to the siege on the Covenanters in Edinburgh Castle. In December 1644, after months of Montrose's campaign through the north-east of Scotland, the parish held another collection drive, donating seventy-two stands, or complete sets of new clothes, thirty-five stands of old clothes, twenty-five pairs of new hose, forty pairs of old hoise, thirty-five pairs of old boots, nine pairs of shoes, and sixty-two sarks (men's shirts).⁸⁶ Considering the poor harvests, the preciousness of clothes in winter and the small size of the parish, it was a considerable contribution. Near the end of the Wars, the congregation raised over eighty pounds Scots to help those wounded by Cromwell's army at nearby Musselburgh, as the Scottish army prepared to face Cromwell again at Dunbar.⁸⁷

Fasts were a more common method of commemoration and community involvement. Although Reformed churches did not prohibit the eating of meat on Fridays or during Lent, fasting was still a frequent feature of life in seventeenth-century Scotland. Reformers depended on fasting for "when extraordinary calamities betokened the need to implore God to divert his wrath", bringing the congregation together around a single

⁸⁶ NAS, *CKSR* CH2/122 volume 3, 18 August 1640; 3 December 1644; Mairi Robinson, ed.; *The Concise Scots Dictionary* (Aberdeen: Aberdeen University Press, 1985), "Stand (n)", "Sark".

⁸⁷ NAS, *CKSR* CH2/122 volume 4, 11 August 1650. The kirk session records did not include the amounts of the weekly collections, and so it is difficult to understand whether this was a significant contribution or not. However, compared with other special collection drives, such as for the plague of 1645 and for refugees, possibly from the Wars, it seems average. See NAS, *CKSR* CH2/122 volume 3, 23 September 1642; 1 October 1645; volume 4, 28 August 1649.

issue.⁸⁸ However, in Scotland, at least, these fasts were not solely tragic, if always solemn, events. A series of celebratory fasts, “for the happie agreement betuixt the king and his subjectis” and for the “good succes of ane happie harvest” were held in the summer and early fall of 1646, for instance, and again to celebrate the sitting of Parliament in November.⁸⁹ Another fast celebrated the success of the Covenanting armies in the north-east in 1647.⁹⁰ There were also a series of fasts at the end of the decade, one likely for the coronation of Charles II in February of 1649, and others to bring success to the Covenanter commissioners in Holland as they negotiated the Treaty of Breda with Charles II in the spring of 1650.⁹¹ The Canongate congregation also celebrated heartily when “the thanksgiving sermone was made for the overthrow of James Grahame,” the earl of Montrose, with the singing of psalms.⁹² Fasts and collection drives were tangible ways in which the congregation as a group could feel connected to and even in control of events that surrounded them in such a tumultuous and unpredictable time.

Soldiers

Soldiers from various regiments became part of daily life in Canongate in a multitude of ways. In October of 1648, as the Engagers returned and disbanded, soldiers as a group inundated the parish to the point of impeding the elders’ kirk work.⁹³ Soldiers came forward for years afterward confessing their involvement with the “late unlawfull Ingagement” and publicly subscribed to the Covenant. Men continued to confess even up

⁸⁸ Benedict, 496.

⁸⁹ NAS, *CKSR* CH2/122 volume 3, 5 July 1646; 20 September 1646; 13 November 1646.

⁹⁰ NAS, *CKSR* CH2/122 volume 3, 4 April 1647.

⁹¹ NAS, *CKSR* CH2/122 volume 3, 18 February 1649, 22 February 1649; volume 4, 7 April 1650. The reason for the February fast were not specified; it was recorded that “the causes yrof was [sic] red from pulpit”.

⁹² NAS, *CKSR* CH2/122 volume 4, 15 May 1650.

⁹³ NAS, *CKSR* CH2/122 volume 3, 3 October 1648.

to the days when the Canongate was preparing for the battle of Dunbar in August of 1650.⁹⁴

Soldiers, both local and from away, integrated themselves into the kirk records individually as well, often in socially disruptive roles. In 1646, a serving girl complained of soldiers forcing her to sell them drink against her will, and in 1649, a captain was almost excommunicated for murdering another captain within the parish.⁹⁵ As was expected of them by a suspicious society, the soldiers also wreaked havoc on the virtue of local girls. Twelve soldiers were implicated in fornication and adultery cases, nine of them officers.⁹⁶ In many of these cases, it was the woman who went through the repentance process, as the men were often not available, either away fighting or merely more able to avoid discipline. One such example concerned a woman named Elizabeth Lumsden. Lumsden first appeared in April 1649 confessing that she had followed Captain James Hamilton to England, had “keipit cohabitation wt him almost ane yeir” and had miscarried their child after she had returned to the Canongate. The captain being nowhere to be found, the case was referred to the presbytery, possibly under suspicion of abortion.⁹⁷ Lumsden reappeared in December of 1649 confessing a relapse with Captain Hamilton, who was now suspected to be married, making Lumsden’s case far more serious. The case was then put on hold until March when the presbytery confirmed, it

⁹⁴ NAS, CKSR CH2/122 volume 1 October 1648 until 25 August 1650, *passim*.

⁹⁵ NAS, CKSR CH2/122 volume 3, 1 September 1646; volume 4, 25 November 1649.

⁹⁶ NAS, CKSR CH2/122 volumes 3 and 4: Lt. William Guthrie: 19 January 1641; John Steward, soldier: 28 May 1641; Capt. William Steward: 3 January and 7 February 1643; Capt. James Oystoir: 25 July 1643; Lt. Col. James Cunningham: 28 January and 18 February 1645 (see Furgol’s *Regimental History*, 143, for a reference to Cunningham); Glen Reid, soldier: 9 July 1646; Capt. Patrick Campbell: 29 June 1647, 25 December 1649, 1 January, 8 January and 10 February 1650; Lt. Col. James Innes: 25 June 1648 and 2 July 1650; Capt. James Hamilton: 3 April, 10 April, 20 November and 4 December 1649, 12 March, 19 March, 24 March and 12 May 1650; Col. Jon Home: 10 April, 1 May, 15 May, 20 May, 27 May, 3 June and 25 September 1649, 16 June and 2 July 1650; John Hamilton, soldier: 28 August and 16 October 1649; Capt. William Moffet: 26 March and 2 April 1650.

⁹⁷ NAS, CKSR CH2/122 volume 3, 3 April 1649; 10 April 1649.

seems, that he was unmarried. Lumsden could then complete her repentance for their two cases of fornication, totalling six Sundays of penance. The case was closed in May 1650, thirteen months after the first confession.⁹⁸

Not all soldiers abandoned their lovers, however. In 1647, Captain Patrick Campbell sent a testimonial from France confessing his fall in fornication with Margaret Black and promising to undergo penance when he returned. Such a letter would be invaluable to Black, as it confirmed her child's father, and she was able to undergo penance and be absolved.⁹⁹ Campbell confessed in person on Christmas Day 1649, three years after the actual incident.¹⁰⁰ Still other cases were more straightforward. Colonel John Home (or Hoome) confessed his fall in fornication with Margaret Cokburne in April of 1649. Cokburne confessed the next month, and finished her penance by early June. Home did not begin his repentance until June of 1650, and was absolved after his second appearance; it was implied that the couple were married by this point, although the Canongate marriage records contain no mention of them.¹⁰¹ Soldiers were therefore enmeshed in the Canongate kirk session records' fornication cases and other cases of social destabilisation.

Less commonly, soldiers appeared in the court records as stabilising elements of the community. There were only four marriages explicitly involving soldiers, all but one

⁹⁸ NAS, *CKSR* CH2/122 volume 4, 4 December 1649, 12 March 1650, 19 March 1650, 24 March 1650, 12 May 1650.

⁹⁹ NAS, *CKSR* CH2/122 volume 3, 29 June 1647.

¹⁰⁰ This was quite possibly soon after he arrived in the town, given his plea to be granted a day to find a cautioner. NAS, *CKSR* CH2/122 volume 4, 25 December 1649. He never completed his penance, and Black soon became entangled in further kirk penances concerning an alleged fornication case that had taken place fourteen years earlier. NAS, *CKSR* CH2/122 volume 4, 8 January 1650, 10 February 1650.

¹⁰¹ NAS, *CKSR* CH2/122 volume 3, 10 April until 27 May 1649, *passim*; volume 4, 25 September 1649, 16 June 1650, 2 July 1650. Considering the variety of ways a couple could be considered married in seventeenth-century Scotland, this is not unusual. See Chapter 2.

of them without rank, that book-ended the decade.¹⁰² The one soldier of rank who was married in the Canongate during this time, Lieutenant William Oliphant, was “in the frensh Regiment”, and so may have either been French or served in the French army, as many Scottish men did in the late 1630s.¹⁰³ Soldiers also were involved as witnesses in cases, implying at least a passing reputation in the community. The captains of Edinburgh Castle were, between late 1645 and spring of 1646, often used as witnesses for the marriage proclamations involving the Canongate and the West Kirk parish, rather than the parish minister.¹⁰⁴ A Lieutenant Colonel bought and four months later sold a pew, implying that he had enough money to buy a respectable place in the kirk, although apparently not the stability to keep it. A captain became the ruling elder of the kirk session elders in 1649, and a colonel left a substantial sum of money to the poor after his death in 1646.¹⁰⁵ The war therefore not only brought instability and destruction to the Canongate but also elements of social harmony. The fact that soldiers showed up so often in a record explicitly dedicated to parochial matters shows the prevalence of the Civil Wars in the daily life of the Canongate between 1640-1650.

There is significant comparative work to be done in the historiographic issue of social discipline of women and men during the Civil Wars. It lies at an intersection of military history, social history, religious history, urban history and the history of gender and sexuality. This study will seek to open an important area of research to deeper

¹⁰² NAS, *CKSR* CH2/122 volume 3, 23 November 1641, 19 November and 1 December 1642, 23 January 1649; volume 4, 22 January 1650.

¹⁰³ NAS, *CKSR* CH2/122 volume 3, 19 November and 1 December 1642; Furgol, *Regimental History*, 2.

¹⁰⁴ No reason was given for this fact; according to the *Fast Ecclesiae Scoticae*, the West Kirk’s minister was not demitted until 1649. See *Fasti*, volume 1, 95; NAS, *CKSR* CH2/122 volumes 3 and 4, 28 May 1650; 27 January 1646, 3 February, 17 March and 4 May 1646.

¹⁰⁵ NAS, *CKSR* CH2/122 volume 3, 6 July and 23 November 1643; 9 January 1649; 24 November 1646. In the Canongate, the “ruling elder” referred to the elder who represented the session to the presbytery or synod rather than the elder who kept order in the session. See Makey, “Elders of Stow,” 165.

analysis of both early modern Scottish women's lives and the relationship between Scotland's strict religious policy and practice in the turbulent Civil Wars. The Canongate parish is often overlooked by scholars, but it is worthy of study as a burgh struggling through the Wars. The burgh's topography and demographics lend themselves easily to more study. Social discipline in the parish was meticulously recorded and the strict Calvinist doctrine was carefully followed through in the penitence process. Young women in the Canongate, the largest demographic of the parish and yet without any formal power in church, politics or society, suffered under the harsh policies of all three. Their lives were further burdened by the Civil Wars as the local men left to fight while the town was hit by waves of soldiers. How both men and women in Canongate negotiated this period is the subject of the next chapters.

Chapter Two: Affection, Economy and Reputation: Marriage in Canongate

It was remarkably, even deceptively easy to get married in early modern Scotland. Scottish civil law made it “blindingly simple” to enter into lawful marriage, requiring only that couples agree that they were married for it to be so.¹ In medieval Scotland, drawing from the Germanic tradition, nuptials had two phases: the betrothal ceremony and the giving away of the bride. During the betrothal, the couple agreed upon the dowry and sealed the contract by joining hands, sometimes through a pierced stone; this was called ‘hand-fasting’.² The giving away of the bride was a celebration of the marriage, once these economic considerations had been cemented. In Reformation-era Scotland, this process had changed slightly. The marriage process could either be ‘regular’ or ‘irregular’: regular marriage abided by kirk policy and process, irregular did not. The regular marriage process was public and publicly sanctioned. First, the couple was recorded in the kirk session marriage registry as desiring ‘to be proclaimed’, or to have their banns read. For this to occur they had to prove themselves virtuous, either by character reference or by repute, and put forward a consignment of jewellery or money. Their banns were then proclaimed for three Sundays, and then they exchanged their consent in front of the congregation.³

¹ T.C. Smout, “Scottish Marriage, Regular and Irregular,” in *Marriage and Society: Studies in the Social History of Marriage*, ed. R.B. Outhwaite (New York: St. Martin's Press, 1981), 205.

² See A.E. Anton, “Handfasting in Scotland,” *Scottish Historical Review* 37 (1958): 90-1. See also Agnes S. Arnorsdottir, “Property and Virginity: Change in the contract of Marriage in the Middle Ages,” *Internationalisation in the history of Northern Europe: report of the Nordsaga '99 Conference, University of Tromsø* (2000): 17-21. For a comparative case, see Solvi Sogner, “Marriage and the early modern state: the Norwegian case,” in *Marriage and Rural Economy: Western Europe Since 1400*, ed. Isabelle Devos and Liam Kennedy (Turnhout: Brepols, 1999).

³ Smout traces a trend of weddings as increasingly private affairs between the seventeenth and nineteenth centuries; see Smout, 213. In Canongate in the 1640s, marriage was an unquestionably public act, with private or irregular marriages discouraged by kirk session act multiple times during the decade. See NAS, CKSR CH2/122 volume 3, 21 December 1641, and volume 4, 4 December 1649. It was still to be sombre, however; see, for instance, the General Assembly act against “promiscuous danceing at weddings”, NAS, CKSR CH2/122 volume 4, 24 February 1650. *The First Book of Discipline* encouraged that the banns be

Irregular marriage was more complicated and, because of its unsanctioned nature, more difficult to track down through kirk records. There were three types of irregular marriage, established in medieval times, that remained intact in Scottish law. In the mid-seventeenth century, these marriages were “simultaneously illegal and valid”.⁴ They were illegal in that they technically went against the Scottish Parliamentary Acts of 1641 and 1649 stating that marriage could only occur before a member of the Reformed Kirk clergy. The dates of the acts are significant, since they mark the years when hard-line Covenanters were most powerful; Canongate, as a Covenanter stronghold, would almost certainly have enforced these acts. Even the Covenanters, however, could not nullify the validity of irregular marriages, which were no less legally binding than regular marriages. If a couple were of legal age, which was twelve for women and fourteen for men, and beyond the legal levels of blood relations that would invalidate the marriage as incest, and if they freely declared themselves married, then they were married, according to the older Scottish laws. This was called *per verba de presenti*, or ‘by declaration about the current situation’. However, even vocalising the union was superfluous. Merely acting as a married couple, as confirmed by one’s neighbours or friends, was enough to be declared married by ‘habit and repute’.⁵ These irregular forms of marriage plagued the Reformed Kirk.

read on consecutive Sundays, “for avoiding of dangers” such as premarital sex. James K. Cameron, ed., *First Book of Discipline* (Edinburgh: St. Andrew Press, 1972), 195. For a description of a Reformed wedding ceremony, see Rosalind K. Marshall, *Virgins and Viragos: A History of Women in Scotland from 1080 to 1980* (Chicago: Academy, 1983), 83-4.

⁴ Smout, 205. Regular and irregular marriages as categories were not confined to Scotland. These categories were common in the medieval Catholic Church. The Council of Trent then declared in 1563 that Catholic marriages were only valid if performed by clergy. Scottish reformers, disapproving of marriage as a sacrament and fearing that this took power away from the laity, refused to adopt it. See Smout, 211-2.

⁵ See Leah Leneman and Rosalind Mitchison, *Girls in Trouble: Sexuality and Social Control in Rural Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 1998), 53. With thanks to Angela Kalinowski for the Latin translation.

The most dangerous kind of irregular marriage, according to the kirk, was *per verba de futuro subsequente copula*, or marriage ‘by declaration about the future situation followed by sexual intercourse’.⁶ For this reason, the kirk discouraged celebrating betrothals, since the festivities might seem too much like a wedding, and couples might be content to marry irregularly and live in sin. This may indeed have been the mentality of some of the people of the Canongate in the 1640s: between twenty-nine and thirty-two percent of couples were only recorded as desiring to be proclaimed, without returning for the formal marriage.⁷ The motivations for irregular marriages were numerous. Apprentices were barred from regular marriage, and, given that craftsmen headed the majority of Canongate households, this could have been an issue.⁸ Privacy and the lack of parental consent may also have been factors.⁹ Although sex under an irregular marriage would not legally constitute fornication, since the act itself would validate the marriage under the older Scottish laws, it was still against church ordinances.¹⁰ To counteract this, the Scottish kirk instituted the consignment of rings or money as surety of good behaviour between the engagement and the marriage, to be held by the treasurer until the

⁶ Wit thanks to Angela Kalinowski for the Latin translation. A famous, if fictional, case of this type of irregular marriage occurs in Shakespeare’s *Measure for Measure*, between Claudio and Juliet. See especially I.ii.128-38.

⁷ There are many potential reasons for this. For instance, we cannot know how vigilant the clerk was in the recording of marriage announcements. Beginning in October of 1645, marriage announcements were recorded in a different register than the regular kirk session records which held the records of couples desiring to be proclaimed, and this discontinuity led to inconsistencies in the records. See Note to Appendix I, “Incomplete Engagements.”

⁸ See Lawrence Stone, *Uncertain Unions: marriage in England, 1660-1753* (Oxford: Oxford University Press, 1992), 24. The fact that apprentices usually lived with their masters may have made these irregular marriages complicated at best, however.

⁹ Leah Leneman, *Promises, Promises: Marriage Litigation in Scotland 1698-1830* (Edinburgh: NMS Enterprises, 2003), 1.

¹⁰ Anton, 97-8.

couple were married.¹¹ The consignation could be taken back by the church if a child was born suspiciously soon after the marriage.¹²

Marriage and fornication acted together as a diptych in Scottish church life. Diptychs, often used in Catholic and Orthodox art, are hinged panels portraying related but contrasting images, such as the birth and death of Jesus. Similarly, fornication and marriage represented appropriate and inappropriate forms of sexuality in the parish that mirrored one another.¹³ The kirk processes related to each act were, like diptychs, related but contrasting. Each required the couple in question to come before the church for three consecutive Sundays. Each required that the couple give money to the church. As well, each process generally required equal payment and proof of good standing from each partner. These processes, however, arched in opposite directions, one toward the sanctity of marriage, and the other in recognition of a sin against that sanctity. Marriage also offered financial and social security not often available to those being punished for fornication. This chapter explores the first process, that of engagement and marriage, where the kirk attempted to regulate sexuality through social control.

The mid-1640s were a popular time to marry, despite the almost Biblically harsh times of war, plague and famine, or, perhaps more accurately, because of them. Some scholars believe that times of civic chaos such as plague encouraged unregulated sexuality, since “irregular marriage, fornication and adultery temporarily delivered many

¹¹ Smout, 213.

¹² David M. Walker, *A Legal History of Scotland*, vol. 4, *The Seventeenth Century* (Edinburgh: T&T Clark, 1996), 657.

¹³ These issues were captured in William Hogarth’s diptych-like series of images entitled *Industry and Idleness*, especially Plate 6, “The Industrious ’Prentice out of his Time, & Married to his Master’s Daughter,” and Plate 7, “The Idle ’Prentice return’d from Sea, & in a Garret with common Prostitute.” See, for instance, William Hogarth, *Hogarth’s times: A harlot’s progress, The rake’s progress, The four stages of cruelty, Beer Street, Gin Lane, Industry and idleness, Marriage-a-la-mode* (Emmaus, PA: Rodale Books, 1956), 44-5.

from the fear of sudden death”.¹⁴ Others, however, such as historical demographer Michael Flinn, counter that “marriage and conception [were] less likely in the face of a social catastrophe of this magnitude”. Flinn posits that the quick rebound of Scottish baptisms directly after the plague was not due to families being formed by recently widowed and newly married members of the congregation, but rather from immigration from the countryside and from families left intact after the plague “bre[eding] to replace” their deceased children.¹⁵ This argument, however, does not account for the significant number of Canongate parishioners who got married directly after the plague receded. Beginning in October of 1645, as the plague died down for the winter, record-high numbers of parishioners came to the Canongate kirk to be ‘proclaimed’. Over 130 couples approached the Canongate kirk to have their banns read between October 1645 and September 1646, and over 100 were married in that time. These numbers constitute almost a quarter of all engagements and marriages for the decade, and were double or triple the median annual marriage numbers.¹⁶ Some of the individuals in these couples may have been recent inheritors, either orphaned or widowed, now able to afford to start a household.¹⁷

Remarriages after the plague were likely common, although the limits of the records make exact figures difficult to discern. In contrast to the neighbouring burgh of Leith, Canongate widows and widowers were not officially barred from marrying until nine months after their spouse’s death.¹⁸ Of the many Canongate parishioners whose

¹⁴ Charles F. Mullett, “Plague Policy in Scotland, 16th-17th Centuries,” *Osiris* 9 (1950): 444.

¹⁵ Michael Flinn et al, *Scottish population history from the 17th century to the 1930s* (Cambridge: Cambridge University Press, 1977), 148.

¹⁶ 24.7% of all marriages and 22.3% of all engagements. The engagement median was 51 and the marriage median was 31. See Appendix 1: Engagements and Marriages By Year.

¹⁷ With thanks to Gordon DesBrisay for pointing this out.

¹⁸ Flinn et al, 138.

names reappear among the marriage registry throughout the decade, most straddle the pre- and post-plague years of the decade. Giving true significance to this fact is difficult, however, since there were many common given- and surnames. The lack of extant death rolls also makes calculating remarriage statistics difficult. However, it is possible to glean a little from these records, and since the plague devastated the population so dramatically, it is likely that the repeated names represent remarrying couples. For instance, John Law and Isobel Fulls became engaged in October of 1645, just after the plague began to subside. Both likely had been married previously in the decade, Isobel to James Bread in July of 1641, and John to Annabel Taikit in November of 1640.¹⁹ These remarriages, and blended- and reconstituted households, were significant for a society recovering from a population crisis. Marriage was the economic and material cornerstone on which society was built, as well as of great cultural importance. At its heart, however, marriage was the bonding of two people, ideally for life, and offered stability and companionship, important factors in such a turbulent period.

Marriage, however, was not certain to follow once a couple was engaged. For this reason, among others, some wealthier couples signed pre-nuptial contracts.²⁰ There are four cases in the Canongate of engagements turning sour. Alison Symson decided in 1644 that she could not go through with her engagement. She was fined five dollars (£14 10s) “for her inconstancie”.²¹ Another woman, Marjorie Mitchell, took her lover John Murray to the session for renegeing on his promise of marriage and not repaying money he

¹⁹ This couple was picked because their distinct surnames allowed them to be tracked easily through the records.

²⁰ See Elizabeth Ewan, “‘To the longer liver’: provisions for the dissolution of the marital economy in Scotland, 1470-1550,” in *The Marital Economy in Scandinavia and Britain 1400-1900*, ed. Maria Agren and Amy Louise Erickson (Aldershot, UK: Ashgate, 2005), 191-206.

²¹ One (rex) dollar was worth roughly two pounds, eighteen shillings. NAS, *CKSR* CH2/122 volume 3, 19 March 1644.

borrowed from her. Murray denied the promise of marriage, but the session encouraged Mitchell to “persue him” in the secular debt courts, and threatened to imprison him. Murray later had witnesses declare to the court that he was “ane frie man without any publict scandle or promise of mariage to any”.²² Grace Maissonne successfully halted another Canongate marriage, between James Calpie and Marie Leith, presumably due to a prior marriage or promise of marriage.²³ Other engagements dissolved more peaceably, however. Isobel Steill married Thomas Anderson on December 29, 1645, with the explicit recorded consent of John Dooce, with whom she had been proclaimed earlier that year.²⁴ Perhaps because of this, it was not unknown for couples to provide against breaking off engagements in their marriage contracts, if they had them.²⁵

Marriage in seventeenth-century Scotland was most common in early summer and late fall.²⁶ May was traditionally avoided, since it was considered unlucky, and since May was the month when servant and house-rent contracts were renewed, causing a general social upheaval among those in their most marriageable years.²⁷ Winter marriages were “particularly popular” in northern Scotland, after the rush of harvest and fishing season, and so when the rural workforce was at its most “prosperous” and relaxed.²⁸ The youth of the Canongate would almost certainly have been involved in such seasonal rural work, and the Canongate parish followed these national trends. Most engagements occurred in May and October/November, and marriages peaked three to four weeks afterward.²⁹

²² NAS, CKSR CH2/122 volume 3, 25 August 1646; 6 October 1646.

²³ NAS, CKSR CH2/122 volume 3, 22 December 1646; 29 December 1646; 12 January 1647.

²⁴ Francis J. Grant, *Parish of Holyroodhouse or Canongate, register of marriages, 1564-1800.*, vol. 46 (Edinburgh: Scottish Records Society, 1915), 20.

²⁵ See Elizabeth Ewan, “To the longer liver,” 193.

²⁶ Smout, 228.

²⁷ Ibid, 228-9.

²⁸ Ibid, 229.

²⁹ See Appendix 2: Engagements and Marriages By Month.

Certain days of the week were also considered more proper for marriage, although this changed over time. The *First Book of Discipline* required marriage to be on Sunday mornings, but the kirk later encouraged weekday weddings in order to keep the Sabbath sombre; most marriages were on Tuesdays and Thursdays.³⁰ Scotland also conformed to what John Hajnal termed the ‘northern European pattern of marriage’.³¹ These trends held for the decade under review.

The kirk was, of course, preoccupied with how its parishioners entered the bonds of marriage. Certain ideals were helpful, although not necessary, for marriage, according to the *First Book of Discipline*. Affection, for instance, was considered the basis of marriage. The Book held a “rather sympathetic view” of a couple desiring to be married, considering its harshness in other areas: those entering marriage were consistently referred to as “the parties whose hearts are touched”.³² Parental consent was also unnecessary, although strongly encouraged in order to ensure the marriage was economically sound as well as mutually pleasing. A parental “veto” was therefore suggested.³³ Although much scholarly interest leans toward discussing irregular, clandestine or scandalous marriages, we must assume that the “overwhelming majority” of marriages were both regular and entered into with parental consent.³⁴ In the sixteenth and seventeenth centuries, the church changed so often between Episcopal and

³⁰ Smout, 213.

³¹ This comprised service during adolescence, marriage for both parties in their mid- to late- twenties, with about ten percent of women never marrying. Amy Louise Erickson “The marital economy in comparative perspective,” in *The Marital Economy in Scandinavia and Britain 1400-1900*, ed. Maria Agren and Amy Louise Erickson (Aldershot, UK: Ashgate, 2005), 10; R.A. Houston, “Age at marriage of Scottish women, c.1660-1770,” *Local Population Studies* 43 (1990): 64; John Hajnal, “European marriage patterns in perspective,” in *Population in history: essays in historical demography*, eds. D.V. Glass and D.E. Eversley (Chicago: Aldine Publishing, 1965).

³² Smout, 215; Cameron, 192.

³³ Cameron, 192-3; Smout, 213.

³⁴ Smout, 216. Leneman speculates that few seventeenth-century Scots may even have known that marriage could take place outside the policies and restrictions of the kirk. See Leneman, *Promises*, 2.

Presbyterian systems that clandestine marriages, those marriages not approved of by the current church system, may have been more prevalent than the overall trend.³⁵ In 1640s Canongate, however, the Presbyterian kirk remained strong, and so this was not an issue. Although irregular marriage must have been a pertinent concern in Scottish religious culture, few extant sources seem to discuss marriages, regular or irregular.³⁶

Irregular forms of marriage likely seemed foreign and by turns quaint and disturbing to some English visitors. Scotland and England were largely similar in their marriage patterns in the medieval period and into the eighteenth century; the Anglican church was, for instance, as concerned as its northern counterpart with irregular marriage and striking a fair balance between parental consent and the free will of the couple.³⁷ After Hardwicke's Marriage Act of 1753, when irregular marriages became illegal in England, the differences between England and Scotland marital customs became more distinct, and so it is not surprising that irregular marriage became the subject of an informative, self-mocking ballad, "The Tourists' Matrimonial Guide Through Scotland," written by the Scottish judge Lord Neave, instructing Englishmen on the dangers of acting too cavalierly about marriage while in the North:

Ye tourists who Scotland would enter / The summer or autumn to pass,
I'll tell you how far you may venture / To flirt with your lad or your lass;
How close you may come upon marriage, / Still keeping the wind of the law,

³⁵ Walker, 657.

³⁶ One of the few records is largely focused on "unequal" marriages between Presbyterian men and Catholic women. See Thomas Paget, *A Religious Scrutiny concerning Unequall Marriage*, 1650, online via Early English Books Online, <eebo.chadwyck.com> (3 March 2009). English conduct books concerning marriage are more common. See, for instance, William Whately, *A bride-bush or A direction for married persons*, 1623, and William Gouge, *Of domesticall duties*, 1622, via Early English Books Online, eebo.chadwyck.com> (3 March 2009).

³⁷ See Martin Ingram, *Church Courts, Sex, and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987), 132-36; 189-92; Jeremy Boulton, in *Neighbourhood and Society: A London Suburb in the Seventeenth Century* (Cambridge: Cambridge University Press, 1987), shows that, like in Canongate, the London suburb of Southwark had a strong urban kin network, and most people married those who lived in their own parish. See Boulton, *Neighbourhood*, 235.

And not, by some foolish miscarriage, / Get woo'd and married an' a' . . .
Suppose that young Jocky and Jenny / Say 'We two are husband and wife',
The witnesses needn't be many / They're instantly buckled for life.³⁸

This concept horrified English gentry, given its repercussions for inheritance if their children were seduced while vacationing or studying in Scotland.³⁹ It also allowed the small Scottish border towns like Gretna Green to rise to infamy as a place where English lovers could marry without the regular delays and barriers set in place in England.⁴⁰ This policy of irregular marriage remained Scottish law until 1940.

Marriage was not only a religious ceremony or a social rite of passage; the marital partnership held great economic import. Economic considerations were significant in marriage; bad harvests or an economic crisis led to lower marriage rates.⁴¹ Like other aspects of the Scottish economy, Scotland's 'marital economy'⁴² had cultural and legal ties to Scandinavia as much as to England, including legal rights of women entering into and living under a marriage contract.⁴³ Scholars differ as to the fundamental unit of society, whether parish, family, household or married couple.⁴⁴ In this matter, I agree with Amy Louise Erickson that marriage was "the most fundamental relationship" in early modern Northern European society because it was the one "on which all other

³⁸ Smout, 205. The ballad later warns against proposing marriage by letter as well.

³⁹ Smout, 207.

⁴⁰ See, for example, its effect on the Bennet family in Jane Austen's *Pride and Prejudice*, Chapter 47. See Leah Leneman, "Marriage North of the Border," *History Today* (April 2000): 20-25.

⁴¹ Smout, 229.

⁴² Amy Louise Erickson defines the 'marital economy' as the system of negotiation between spouses, their families and friends that established, maintained and dissolved the marriage partnership. See Erickson, 1.

⁴³ Marriage contracts were a significant economic concern in late medieval and early modern Scotland. See Ewan, "To the longer liver," 191-206.

⁴⁴ See, for instance, Elizabeth Ewan and Janay Nugent, "Where is the Family in Medieval and Early Modern Scotland?," Cynthia J. Neville, "Finding the Family in the Charters of Medieval Scotland, 1150-1350," and J.R.D. Falconer, "A Family Affair: Households, Misbehaving and the Community in Sixteenth-Century Aberdeen," in *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent (Aldershot, UK: Ashgate, 2008).

economic activities depend[ed]”.⁴⁵ Marriage signalled a significant milestone in a person’s life, as he or she put an end to the “irresponsibility of youth” and took up the duties of adulthood and household management.⁴⁶ For both men and women, this usually took place in their mid- to late-twenties.⁴⁷ The household was the basic unit of the early modern economy, with women and children working alongside the male head of the household. Although women were expected to work, for instance as brewsters, seamstresses or in other semi-domestic occupations, all their income was subservient to their husbands’.⁴⁸ The household was expected to be an economically autonomous unit, albeit amongst a close network of economic trade. The basis of such a partnership was the couple’s ability to cooperate as well as their ability to participate economically in the community.⁴⁹ This partnership, although founded on cooperation, was not considered equal. The relationship was explicitly compared to other early modern hierarchical institutions like the state or the church, with an emphasis on the symbiotic relationship of protection and obedience.⁵⁰ The health and success of each relationship required active participation, mutual benefit and adherence to a strict theoretical hierarchy.

⁴⁵ Erickson, 3.

⁴⁶ Ingram, *Church Courts, Sex and Marriage*, 128.

⁴⁷ See Ingram, *Church Courts, Sex and Marriage*, 129; Houston, 63-66.

⁴⁸ For examples of women and the Scottish economy, see Elizabeth Ewan, “‘For Whatever Ales Ye’: Women as Consumers and Producers in late Medieval Scottish Towns;” Alastair J. Mann, “Embroidery to Enterprise: the Role of Women in the Book Trade of Early Modern Scotland;” and Helen Dingwall, “The Power Behind the Merchant? Women and the Economy in Late Seventeenth-Century Edinburgh”, in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999). For the issue of subservience, see Walker, 663. This was a policy that became more nuanced in practice. See, for instance, Gordon DesBrisay and Karen Sander Thomas, “Crediting Wives: Married Women and Debt Litigation in the Seventeenth Century,” in *Finding the Family in Medieval and Early Modern Scotland*, ed. Elizabeth Ewan and Janay Nugent (Aldershot, UK: Ashgate, 2008), 85-98.

⁴⁹ Erickson, 3.

⁵⁰ Erickson, 4; Ingram, *Church Courts, Sex and Marriage*, 125.

The marital partnership, however, was also constantly being negotiated, whether explicitly or not.⁵¹ These trends are obvious in the surviving legal and cultural records concerning marriage across early modern Scandinavia and Britain, although with some regional differences.⁵² For instance, in Norway, sexual intercourse itself constituted a promise of marriage.⁵³ In Scotland and England, unlike in Scandinavia, the husband acquired all of the wife's moveable property, as well as its management; in Scotland, her heritable estate, if any, remained her own.⁵⁴ The woman also lost her legal *persona* status once married.⁵⁵ The marriage partnership could, like engagements, also turn sour. Women more often than men instigated the few divorces that occurred in early modern Scotland.⁵⁶ Desertion was a more common outcome, but was also more difficult to prove. In early modern England, up to ten percent of wives could be considered 'deserted'; the same likely holds true in Scotland.⁵⁷ English wives had to wait seven years before declaring themselves legally widowed, and Scottish wives four years.⁵⁸ Of course, the marital partnership did not always end badly; most couples were satisfied with their lot, at least enough not to take significant measures against it. Marriage was, after all, the lynchpin of community life, held great cultural, religious and economic importance and was to be considered with solemnity.

⁵¹ Erickson, 3. Post-nuptial contracts were also possible in Scotland. See Ewan, "To the longer liver."

⁵² The term "early modern" must be used with some flexibility. As Erickson states, in Britain, this term cannot properly be used for the time after 1750; in Scandinavia, the term can be used up until the mid-nineteenth century and beyond. See Erickson, 5.

⁵³ Erickson, 6-7.

⁵⁴ Erickson, 11; Winifred Coutts, "Wife and Widow: The Evidence of Testaments and Marriage Contracts c.1600," in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 177.

⁵⁵ Coutts, 176.

⁵⁶ Walker, 666.

⁵⁷ In England, however, divorce was not an option.

⁵⁸ Walker, 665; Erickson, 15.

The consignment of engagement rings reveals an aspect of the marital economy not often found in kirk session records: a glimpse of the assets available to couples desiring to be married. Engagement and marriage rings were popular valuables mentioned in the Canongate kirk session records. Wedding rings in western culture date back at least to ancient Rome, and engagement rings specifically rose in popularity in the Middle Ages as a symbol of the unbreakable nature of the marital contract.⁵⁹ Although the ritual and symbol of the ring was considered “heathenish” to English Puritans in the seventeenth century, Scottish Presbyterians had no such qualms, especially after their church became firmly established as the national church.⁶⁰ The Canongate kirk session, as with all kirk sessions, adopted the policy of requiring that couples desiring to be married place a deposit of money or valuables in order to ensure that the wedding took place within the allotted time.⁶¹ This deposit, called a ‘pund’, often comprised a ring in the Canongate parish, especially in the early part of the decade, and was carefully detailed in the records before being stored in the ‘pund box’ until the wedding. Because of the Canongate clerks’ fastidiousness in their records, it is possible to glean what kind of rings were common among Canongate parishioners. Not all consignments were equal, of course: poor couples gave less or nothing at all, while the amounts given by the well-to-do were discreetly not mentioned.⁶² The majority of couples, however, gave in a deposit, to be scrutinised, detailed, and hopefully returned.

⁵⁹ Charles Oman, *British Rings 800-1914* (London: B.T. Batsford), 35.

⁶⁰ Oman, 35-7.

⁶¹ Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 270-1.

⁶² For instance, see NAS, *CKSR CH2/122* volume 3, 9 November 1641 and 29 January 1647 for examples of the former, and NAS, *CKSR CH2/122* volume 3, 16 September 1641, 2 July 1641 and 11 and 13 April 1648 for examples of the latter.

The contents of the pund box perhaps should not be surprising given the relative wealth of the community. Gold rings were common: of the 566 engagements where a pund is listed, 444 were rings, and of those, 392 were specified as gold. Moreover, although some were simple hoop or thimble rings, most included precious or semi-precious stones: rubies, garnets, amethysts, sapphires and pearls were often mentioned, as well as unspecified white, green and blue stones. Diamonds, however, the “yardstick for luxurious consumption”, were rare in the Canongate records, with only 15 ring descriptions mentioning them.⁶³ Diamonds were “especially popular” in the Middle Ages and early modern period, although they were also sometimes considered unlucky, as they compromised the “roundness of the ring, ending the infiniteness thereof”.⁶⁴ Given their high value and the meagre income of most young people starting a household, rings were probably handed down family lines. The popular tradition of passing down rings through the maternal line was likely carried out in Canongate, considering that some engagement rings bear inscriptions of initials not belonging to either party.⁶⁵ Beginning in 1645, however, two trends emerged: the rings that were recorded were more and more often adorned with coloured threads as well as or instead of jewels, and more couples began submitting money rather than valuables. The reason for this is unclear, but perhaps was due to wartime frugality, a Covenanter tendency to pious minimalism, or to Scotland being cut off from the continental jewel supply during the Wars. Certainly, however, punts remained an important reminder of the material aspects of marriage in Canongate.

⁶³ See Marcia Pointon, “Jewellery in eighteenth-century England,” in *Consumers and luxury: consumer culture in Europe, 1650-1850*, ed. Maxine Berg and Helen Clifford (Manchester: Manchester University Press, 1999), 123.

⁶⁴ Oman, 37-8.

⁶⁵ See Oman, 37, for the popularity of passing rings down from mothers or mothers-in-law. See NAS, CKSR CH2/122 volume 3, 9 March 1647 and 3 October 1648 for some examples of inscribed rings with different initials. A less romantic possibility would be the purchasing of rings through the second-hand market, but this option is impossible to quantify.

Table 1: Marriage punds in Canongate

	Total couples	No pund	Both rings and money	Money	Rings: total	Rings: gold	Rings: diamonds	Rings: other stones	Rings: ribbon
1640-44	221	6	0	21	167	148	5	69	0
1645-50	371	1	6	96	277	244	10	120	22
Total	592	7	6	117	444*	392	15	189	22

*Note: “Rings: total” includes all rings, whether enamelled, thimble, hoop, signet, etc. Many of these may have been gold, but “Rings: gold” only includes those rings listed specifically as gold.

Geography was also an important factor in marriage. Canongate marriages formed a formal network of relations and social ties that spread far beyond the parish limits. The impetus for this mobility was likely employment, as servants migrated to other towns for work.⁶⁶ These geographic ties are reflected in the marriage records: 174 out of 661 engaged or marrying couples, or 26%, included at least one person from outside Canongate, and 6 per cent of the marriages recorded in the kirk session records occurred outside the parish.⁶⁷ Most of these were from nearby towns like Duddingston, Haddington and Musselburgh, to the south and east of Edinburgh and Canongate. Twenty-two people came from Leith, and 140 from Edinburgh (See Map 1). One marriage included someone from Holland, and a few were from towns in northern England, like Durham and Berwick.⁶⁸

* * * * *

In marital partnerships, the reputation and honour of each partner in the community was central, since it affected that partnership’s economic and social standing in the eyes of the greater community. A person’s reputation therefore affected more than

⁶⁶ See Ian D Whyte and Kathleen A. Whyte, “The Geographical Mobility of Women in Early Modern Scotland,” in *Perspectives in Scottish Social History: essays in honour of Rosalind Mitchison*, ed. Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 83-106.

⁶⁷ 42 cases out of a total of 661. These numbers can be compared with another early modern suburb, that of Southwark, near London, where 17% of couples included one person from outside the parish. See Jeremy Boulton, *Neighbourhood*, 234-6.

⁶⁸ See Appendix 3: Non-Canongate Parishioners in Canongate Marriages.

just themselves, especially when that reputation came under suspicion, such as with a defamation accusation.

Slander has become a topic of academic interest within the sub-discipline of early modern Scottish social discipline, not only because it provides some of the most interesting records, but also because it gives useful insight into the lives of the parishioners, in their own words (for better or for worse). Unfortunately, in most church records, including the Canongate kirk session records, the exact phrasing of the insults is not recorded.⁶⁹ Those insults that were recorded, and those that, more generally, would be taken to court, were usually of a sexual nature, since they made suspect the morality of the defendant. When women were brought before the courts, their husbands were often listed as present ‘for their interest’, a legal requirement, since she was technically his responsibility. Ewan points out that this phrase had an added meaning if the wife’s, and therefore the husband’s, sexual reputation was being scrutinised.⁷⁰ The exact wording of the insult was less important than one might think. Sexual insults were simply “by far the most effective weapon against other women, even in quarrels about wholly different issues.”⁷¹ In Scotland, as in England, ‘whore’ was often used as a sort of “shorthand for much wider grievances”.⁷² Women from across the social spectrum were brought forward

⁶⁹ Elizabeth Ewan, “‘Many Injurious Words’: Defamation and Gender in Late Medieval Scotland,” in *History, Literature and Music in Scotland, 700-1500*, ed. R. Andrew McDonald (Toronto: University of Toronto Press, 2002), 165-6. These verbatim records would be omitted completely in the mid-eighteenth century, as notions of propriety and sensibility crept into the court records. See Leah Leneman, “Defamation in Scotland, 1750-1800,” *Continuity and Change* 15, no. 2 (2000): 222.

⁷⁰ Ewan, “Many Injurious Words,” 166.

⁷¹ Bernard Capp, “The Double Standard Revisited: Plebian Women and Male Sexual Reputation in Early Modern England,” *Past and Present* No. 162 (February 1999), paraphrasing Laura Gowing’s *Domestic Dangers: women, words and sex in early modern London* (Oxford: Oxford University Press, 1996); see Capp, 70. Capp points out that male anxiety over sexual reputation, sometimes elided by other scholars, was in fact significant. Capp, 71.

⁷² Laura Gowing, “Language, Power and the Law: Women’s Slander Litigation in Early Modern London,” in *Women, crime and the courts in early modern England*, ed. Jennifer Kermode and Garthine Walker (Chapel Hill: University of North Carolina Press, 1994), 35; see also Leneman, “Defamation,” 226.

in association with defamation cases, although ‘unruly’, poor and unmarried women may have been more closely watched and more quickly brought to trial.⁷³ However, slander, although a popular reason for a woman to be brought before the kirk session, was not as overwhelmingly a woman’s crime, as it came to be in England.⁷⁴ Men even outnumbered female defendants at certain times and places.⁷⁵ Slander in general, however, was an important part of life in Canongate.

In the Canongate kirk session records, there were two ways for a defamation case to come before the court. The first was that a person would be brought before the session to be prosecuted by the elders. This process was fairly straightforward: the slanderer was brought in, the charge was read, and the accused confessed and swore to never commit the same offence again. No one denied a charge under this process, presumably since, as was policy in kirk session prosecutions, a private confession had already taken place.⁷⁶ A second option emerged in 1646 and became commonly used alongside the first: a parishioner came forward with a bill of complaint against another or multiple other parishioners. With the introduction of bills of complaint, defamation cases became much more complicated. Alleged slanderers often denied committing the slander, and the onus was on the subject of slander to prove, with witnesses, that it had occurred.⁷⁷ Defamation cases also increased significantly once the bills of complaint were introduced: of the

⁷³ Ewan, “Many Injurious Words,” 177; Leneman, “Defamation,” 217-8; Tim Meldrum, “‘A women’s court in London’: defamation at the Bishop of London’s consistory court, 1700-1745,” *London Journal* 19 (1994): 1-20; Robert B. Shoemaker, “The decline of the public insult,” *Past and Present* 169, no. 1 (2000), 97-131.

⁷⁴ Ewan, “Many Injurious Words,” 176; Leneman, “Defamation,” 210-11.

⁷⁵ Leneman, “Defamation,” 214-5.

⁷⁶ Gordon DesBrisay, “Twisted by Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns,” in *Twisted Sisters: women, crime and deviance in Scotland since 1400*, ed. Rona Ferguson and Yvonne Galloway Brown, (East Linton: Tuckwell Press, 2002), 141.

⁷⁷ The term ‘defendant’ is ambiguous in this context, since both parties were, in effect, defending their honour. Similarly, the term ‘subject of slander’ has been used in place of ‘victim’ or ‘plaintiff’, since these could also be ambiguous.

eighty-seven cases that occurred during the decade, only twenty-one took place before the first bill of complaint in January of 1646.

People could be brought before the kirk session on the charge of slander for many different reasons. Most cases merely noted ‘abuse’, ‘scolding’, ‘cursing’, ‘swearing’, ‘flytting’, or ‘slander’. Among the insults recorded verbatim, the most common recorded insult directed at women was ‘whore’, at men, ‘dog’.⁷⁸ Women comprised a small majority of alleged slanderers and subjects of slander. There were thirty-four men charged as slanderers, and fifty-four women; thirty-three men were subjects of slander, and thirty-eight women.⁷⁹ More than two-thirds of the women charged with slander were recorded as married, especially in the bills of complaint.⁸⁰ Slander was a concern for both married and unmarried women, for different reasons. Single women were more transitory, and were commonly threatened with banishment when they came before the kirk session. Single women often also had less of an economic and social support network, and their reputation alone determined their credit-worthiness in the community. However, it is difficult to compare the consequences of banishment with that of remaining within the parish for the rest of one’s life once shamed publicly. The good standing of married women also affected their children’s, husbands’ and business’

⁷⁸ See Gowing, “Language, Power and the Law.” The following are all the detailed insults: NAS, *CKSR* CH2/122 volume 3, 17 November 1646 (a woman called a whore and a loon; a man called a bastard dog and a dog’s son); 5 January 1647 (a woman called a thief); 23 March 1647 (a man called a cuckold); 1 June 1647 (a woman called a whore); 17 August 1647 (a woman called a whore); 21 December 1647 (a woman called a common whore); 04 January 1648 (a man called a false knave); 8 February 1648 (a man called an old beggar; a woman called a damned witch; a second woman called a rotten whore); 29 February 1648 (a woman called a wild whore); 29 February 1648 (a woman called a wild whore); 29 February 1648 (a woman called a wild whore); 13 June 1648 (a man called a false knave and a common thief); 22 August 1648 (a woman called a whore, a jade and drunken jade); *CKSR* CH2/122 volume 4, 3 July 1649 (a woman called a common whore and bearer of bastards); 29 August 1649 (a man called a blackened dog and an infamous man); 26 February 1650 (a woman called a whore); 2 July 1650 (a man called an adulterous dog and a consuler with the devil).

⁷⁹ The low numbers for subjects of slander is because some penitents were accused of slandering groups, such as the session, their betters, or merely ‘others’.

⁸⁰ Thirty-eight married women, including one widow, compared to sixteen of unspecified marital status.

reputations, which may have made accusations seem more serious for them than for unmarried women. In either case, a slanderous accusation was not to be treated lightly.

Peacekeeping was at the heart of the Canongate kirk session, and of all defamation cases. The kirk session's goal was that of a true community in Christ, and it strove for that outcome.⁸¹ Although most defamation cases involved married parishioners, some included single people or, in one case, those not even old enough to marry. In late December of 1641, the kirk session deliberated over school boys from Canongate and Edinburgh partaking in “abominable” and “Insolent” “bickering” on the Sabbath, a ruckus that caused the schoolmasters to be admonished and the “ring leaders” brought before the elders, with their fathers providing caution. The Edinburgh youths were eventually determined as the “provokers of the Canongat boyes” and a letter was sent to the Edinburgh town council, that “ordor might be takin for the . . . restraining and cursing of such knaves”.⁸² This was one of the only times that any minor is mentioned in the records.⁸³ Most defamation cases involved adults and did not require petitions to other towns' councils. They were based on insults flung in public, where, in a society built on credit and lending, one's reputation ensured or quashed one's livelihood.⁸⁴

Certain patterns emerge from the defamation cases. There were eight repeat offenders, people who were accused of slander in at least two separate cases through the

⁸¹ 1 Corinthians 12:12-14: “For as the body is one, and hath many members, and all the members of that one body, being many, are one body: so also is Christ. For by one Spirit are we all baptized into one body, whether we be Jews or Gentiles, whether we be bond or free; and have been all made to drink into one Spirit. For the body is not one member, but many.” This is echoing Galatians 3:28: “There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus.” *King James Version*.

⁸² See: NAS, *CKSR* CH2/122 volume 3, 21 December 1641; 28 December 1641; 4 January 1642; 18 January 1642; 5 April 1642.

⁸³ College students, schoolboys and apprentices were proverbially disruptive in early modern Europe, and were accountable under academic and guild-based disciplinary systems, which would explain why they only rarely appear in the kirk's disciplinary records.

⁸⁴ See DesBrisay and Thomson, “Crediting Wives.”

decade; all were women. Elspeth Baillie came before the court twice, the first time in 1648 for mutual “scolding and molesting” with Issoble Williamson; Issoble eventually charged Elspeth with slander, and she craved pardon from the session, as was customary.⁸⁵ Elspeth Baillie was back in 1650, however, for calling the surgeon John Forsyth an “adulterous dog and a consulter with the devil”.⁸⁶ This was one of two witchcraft-related defamation cases in the Canongate for the period studied; both took place near the height of a witch-hunt panic in 1649-50, although neither case was pursued as witchcraft.⁸⁷ There were also six cases where a person accused of slander would return to accuse another parishioner of the same offence, or vice versa. Their marriage partners could also become embroiled in the scandal. In 1646, Grissell Robertson, wife of Moses Clerk, was made one of multiple subjects of slander by James Haistie. The charge was never proven. Two years later, Grissell herself was accused of calling James Haistie’s wife, Margaret Robertson, a “wyld whore” and was to be imprisoned until she confessed. One month later, Margaret and Grissell were back before the session, with Grissell accusing Margaret of calling her a whore. This time Margaret confessed, was told to “sitt down on her kneis and crave the Lordis mercie for her sin off scold and crave the partie offendt pardone which she willinglie did”, and paid three pounds to the poor.⁸⁸ This reconciliation with God, the subject of slander and the community as a whole was a crucial step in defamation cases. The fact that these two women shared a surname and so may have been related by blood makes the case all the

⁸⁵ NAS, *CKSR* CH2/122 volume 3, 22 and 29 August 1648.

⁸⁶ NAS, *CKSR* CH2/122 volume 4, 2 July 1650.

⁸⁷ See also NAS, *CKSR* CH2/122 volume 3, 8 February 1648. Julian Goodare, “Witch-hunting and the Scottish state,” in *The Scottish witch-hunt in context*, ed. Julian Goodare (Manchester: Manchester University Press, 2002), 122. Witchcraft “abounded” in Scotland in 1643 and 1649, according to one scholar, but Canongate was spared from any major (recorded) witchcraft fervour. See John Mackay, *History of the Burgh of Canongate* (Edinburgh: Seton & MacKenzie, 1879).

⁸⁸ NAS, *CKSR* CH2/122 volume 3, 24 March 1646, 29 February 1648 and 28 March 1648.

more intriguing and would make it the more critical to resolve, from the elders' perspective.⁸⁹ There were other cases that involved more than two households. In 1646, Margaret Black was accused of slandering Thomas Anderson and his wife Issoble Steill. Two years later, Issoble was accused of slandering Luke Sterling and his wife Jeane Fergusone; a servant, Margaret Lindsey, also came forward against Issoble. Issoble eventually confessed and repented all.⁹⁰

The focus of the defamation cases was to create peace between warring parties and nowhere was that more important than within the cornerstone of society itself, the marital partnership. Domestic violence was therefore treated very seriously. Husbands had the right, even the duty to keep their households disciplined, with force if necessary, but the elders were ready to rebuke those who they felt were using excessive force.⁹¹ In 1647, Andro Henryson was accused of drunkenness and of beating his wife, the latter of which he denied. He was fined forty shillings and put under extra surveillance, under pain of public repentance if he committed the sins again.⁹² The parameters of domestic abuse were not always what modern scholars would expect. Catherine Scheill was brought before the court on 1 September 1646 for misbehaviour to her husband, Robert MeikleJohn, in "curseing and plagueing him continually and debarring him his owne hous both day and night". She was to make public repentance, under pain of banishment. However, something must have changed the minds of the elders, because two weeks

⁸⁹ Scottish women, like those in France and Scandinavia, kept their maiden names when they married.

⁹⁰ NAS, CKSR CH2/122 volume 3, 24 and 31 March 1646; 29 February and 7 March 1648.

⁹¹ See Susan Dwyer Amussen, "'Being Stirred to Much Unquietness': Violence and Domestic Violence in Early Modern England" *Journal of Women's History* 6, no. 2 (Summer 1994): 70-89; Manon van der Heijden, "Women as victims of sexual and domestic violence in seventeenth-century Holland: criminal cases of rape, incest, and maltreatment in Rotterdam and Delft," *Journal of Social History* 33, no. 3 (Spring 2000): 623-4; Margaret Hunt, "Wife Beating, Domesticity and Women's Independence in Eighteenth-Century London," *Gender & History* 4, no. 1 (March 1994): 10-33.

⁹² See, for example, NAS, CKSR CH2/122 volume 3, 19 January 1647.

later, Catherine and Robert were back in court, at which point they were both admonished to no longer misbehave toward the other, and to “Behave them selves christianlie as becomes married people”.⁹³ In December of 1646, Agnes Jameson was similarly accused of abusing her husband.⁹⁴ Marital discord could also create problems further afield. When Margaret Murray was brought before the court on the charge of drunken scolding, blasphemy and swearing, she confessed that she had been driven to do so because her husband, an officer, “haunted” other women’s company, especially their servant. Both Margaret and her husband were severely admonished.⁹⁵

Given the reconciliatory aims of the kirk session in defamation cases, punishment could be relatively light. If the elders believed that a slanderer was genuinely repentant, especially if they voluntarily confessed and promised never to repeat the act, they were often dismissed without the need for public repentance. Fines, to be given to the poor, were sometimes threatened or required, ranging from 4 shillings to 20 pounds, but most commonly either one dollar (£2 18s) or five pounds.⁹⁶ This seems especially benevolent compared to the complex, public and symbol-laden slander punishments of earlier centuries in Scotland.⁹⁷ However, this did not mean that the cases were all considered sympathetically. In the spring, before the yearly communion, the importance of being one body in Christ was most often stressed. Penitents who seemed less than genuine, or those who refused to reconcile themselves with their neighbours, could find themselves barred

⁹³ NAS, *CKSR* CH2/122 volume 3, 1 and 15 September 1646

⁹⁴ NAS, *CKSR* CH2/122 volume 3, 1 December 1646.

⁹⁵ NAS, *CKSR* CH2/122 volume 4, 25 January 1650.

⁹⁶ See NAS, *CKSR* CH2/122 volume 3, 23 July 1642, 15 November 1642, 28 February 1643, 29 August 1643, 5 March 1644, 31 March 1646, 28 July 1646, 18 August 1646, 13 October 1646, 17 November 1646, 5 January 1647, 23 March 1647, 17 September 1647, 21 December 1647, 4 January 1648, 8 February 1648, 7 March 1648, 8 August 1648, 22 August 1648, 26 December 1648, 6 March 1649; *CKSR* CH2/122 volume 4, 26 February 1650.

⁹⁷ Ewan, “Many Injurious Words,” 173-6.

from the sacraments and so spiritually cut off from the Christian community for an entire year.⁹⁸ The spiritual repercussions of slander and division therefore surpassed its material considerations.

Marriage formed part of the social, economic and religious bedrock of Canongate, as it did across early modern Europe. Grounded in affection, cooperation and negotiation, marriage provided security for parishioners that was especially important in times of crisis like the 1640s. Although certainly powerful, marriage may have been more nuanced than it seemed in prescriptive texts like the *First Book of Marriage*. Not all couples chose to get married regularly, for instance, as seen in the number of couples who did not complete the marriage process in the Canongate kirk session records. These irregular marriages were just one of many ways that Canongate proved representative of national and international trends. The parish followed national seasonal ebbs and flows in marriage rates, revealing the close relationship between the urban and rural workforces. Canongate marriages were bound up in the economy in other ways: the engagement rings that couples gave in as surety provide a window into another aspect of the material nature of marriage. Once married, these couples entered into the hierarchical partnership of the marital economy, whether or not it remained as strictly hierarchical in practice. Certainly, it was based in negotiation, and the partnership provided the core of the economic unit of society, the household. This partnership was interdependent, and nowhere was this more apparent than through the kirk session's defamation cases, as the reputations of both partners were affected by slander accusations against either. This was further proven since married women, forming the majority of both alleged slanderers and subjects of

⁹⁸ See NAS, *CKSR CH2/122* volume 3, 13 March, 3 April and 27 April 1649; *CKSR CH2/122* volume 4, 9 April, 19 April, 23 April and 28 April 1650.

slander, were the legal responsibility of their husbands. This vulnerability, in slander cases and elsewhere was even greater for those without the economic, social and emotional securities of marriage. Those parishioners who were found defying or otherwise eliding the sanctity of marriage by committing fornication or adultery, are the subject of the next chapter.

Chapter Three: The “darling sin of the Nation”: Adultery and Fornication in Canongate

“Whoredome and fornication is the common darling sin of the Nation.”¹ Such was the opinion of a Cromwellian soldier discussing life in occupied Scotland in 1650. Many Scots would have agreed with him, though few would have made so light of the matter.² The persecution of fornication, sex between two unmarried people, and adultery, sex where one or both partners are married to others, was a hallmark of godly discipline for the Reformed kirk in Scotland.³ While fornication elided the sanctity of marriage, adultery violated that sanctity outright, and was theoretically punishable by death in early modern Scottish law. Similar laws were enacted across Europe in the fifteenth and sixteenth centuries during the pan-European moral reformations.⁴ In Scotland, it was stated that “the abominable and filthy vice and crime of adultery has been perniciously and wickedly used within this realm in times bygone by sundry lieges thereof,” and so “all open and manifest committers of adultery . . . shall be punished with all rigour to the death, the woman as well as the man.”⁵ In a society where the marital partnership was the

¹ See *Letters and Papers illustrating the Relations between Charles II and Scotland in 1650*, ed. Samuel Rawson Gardiner (Edinburgh: Scottish History Society, 1894), 136-37.

² See, for instance, *Selections from the Records of the Kirk Session, Presbytery and Synod of Aberdeen* (Aberdeen: Spalding Club, 1846), 122-3, and Leah Leheman and Rosalind Mitchison’s discussion of illegitimacy in Scotland in *Sin in the City: Sexuality and Social Control in Urban Scotland 1660-1780* (Edinburgh: Scottish Cultural Press, 1998), 69-80.

³ Illegitimacy was less of a concern in England; see, for instance, Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987) and Keith Wrightson, “The nadir of English illegitimacy in the seventeenth century,” in *Bastardy and its Comparative History: Studies in the history of illegitimacy and marital nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, ed. Peter Laslett, Karla Osterveen and Richard M. Smith (Cambridge, Massachusetts: Harvard University Press, 1980).

⁴ See Philip Benedict, *Christ’s Churches Purely Reformed: A Social History of Calvinism* (New Haven and London: Yale University Press, 2002), 483, for a list of the Reformed states that adopted this law. The law preceded the Reformation, having roots even in the Hebrew Bible: “If a man commits adultery with the wife of his neighbor, both the adulterer and the adulteress shall be put to death.” (Leviticus 20:10).

⁵ Mary I of Scotland formally passed this death penalty for adultery into law in 1563, which was reinforced by James VI in 1581, who added specifically that death was deserved whether the adulterous relationship produced children or not. See The Acts of Parliament held at Edinburgh on 4 June 1563, 21 Mary, and The Explanation of the Act Touching on the Notorious and Manifest Committers of Adultery, 14 Jac. 6/1.

cornerstone of the community, these laws reinforced the idea that a breach of that partnership represented a serious threat to society itself.⁶

Adultery was also a severe sin in the eyes of the kirk. The *First Book of Discipline* stated that adultery was a sin so grave that it was sure to “provoke the wrath of God . . . not only upon the offenders, but also upon such places as where, without punishment, they are committed”, and that excommunication was therefore necessary to protect the community and, indeed, the entire realm.⁷ In practice, however, adultery was rarely, if ever, punished as a capital offence in Scotland by either church or state.⁸ Most often, penitents for adultery sat at the stool of repentance, much as offenders did for fornication, but for a longer stretch of Sundays: up to twenty-six sabbaths instead of three. The adulterous penitent also usually wore sackcloth to show the gravity of the sin. The fine to pay was usually much higher, up to forty pounds, or four times the standard penalty for fornication. This was a far cry from excommunication and death, but the kirk’s persecution of fornication and adultery was none the less a serious matter.⁹

Because of the gravity of the sin, kirk sessions were advised to proceed with caution in suspected cases of extra-, pre- and non-marital sex¹⁰ that did not result in a tell-tale pregnancy:

when the matter is put to the strictest trial, all that can be proven is but presumptions of guilt or scandalous behavior, and not the act of uncleanness, the same being a work of darkness, and therefore this should oblige the kirk session

⁶ Ingram, *Church Courts, Sex and Marriage*, 125.

⁷ James K. Cameron, ed., *First Book of Discipline* (Edinburgh: St. Andrew Press, 1972), 194, 197.

⁸ In some Reformed states, like Geneva, death was readily used as punishment for adultery, even before it was formally instituted. Benedict, 483.

⁹ There were, for instance, different levels of excommunication that the elders could inflict. See G.D. Henderson, *The Scottish Ruling Elder* (London: James Clarke & Co., 1935), 141.

¹⁰ I am using ‘extramarital’ to refer to sex where at least one partner is bound by marriage to another; ‘pre-marital’ implies an inevitability of marriage, and so I use it only in reference to sex between two partners who married later in the decade studied. ‘Non-marital’ sex is used in reference to sex where neither partner is married and where marriage is not recorded as an option between them.

to be very cautious how to admit the public entering a process without good warrant, where there is not a child in the case, unless the scandal be very flagrant.¹¹

Faced with the gravity and complexity of extramarital sex, the Canongate kirk elders meted out sentences that were rooted in the Christian doctrine of atonement through correct penance. In this way the kirk seemed to follow the intent, rather than the exact letter of the civil and even ecclesiastic laws to which they were bound. The elders were rigorous in their persecution of illicit sex, but they were also responsive to each case's particularities. Through case studies and comparative work, this chapter will show that, representative of early modern Scotland, godly discipline of sexual sins lay at the heart of kirk session work and affected a large portion of the Canongate population. It also, like marriage, involved constant if not always spoken negotiation, in which the penitents were active agents in their own discipline.

The Canongate kirk session processed nine cases of adultery during the 1640s, most involving married men and unmarried women.¹² Three were merely suspected adultery, but these were considered as carefully and the penitents rebuked almost as harshly as in proven adultery cases. In one, that of James Murray and Elspeth Johnstoun, wife to John Barrie, the couple were found together in a locked bedroom. The court eventually threw out the case because the sexual act was not witnessed, the couple denied adultery and the woman's husband swore that "he never knew notheing of his wife but honestie"; James and Elspeth were severely admonished, however, and made to swear not

¹¹ Walter Steuart, *Collections and Observations Concerning the Worship, Discipline and Government of the Church of Scotland* (Edinburgh: Dickson and Elliot, 1773), 249.

¹² For the cases involving married women, see the cases of Helen Young, beginning in NAS, CKSR CH2/122 volume 3, 24 March 1646, and the case of Elspeth Johnstoun, below.

to be seen together again.¹³ In another case, Margaret Kersane sat four of her six Sundays for two falls in fornication, first with John Campbell and secondly with William McNab, before confessing that John Campbell was married.¹⁴ Adultery cases were automatically sent to the Edinburgh presbytery, the ecclesiastical court above the kirk session level, made up of ruling elders and ministers from a number of local parishes. Presbytery ruled that Margaret was to sit five more Sundays, the last in sackcloth, before being ‘received’ back into the community. The elders may have shown this relative leniency because Margaret had already proven her willingness to repent by sitting a month of penance and confessing a graver sin, and because her latest partner, William, had also confessed so that their child could be baptized.¹⁵ William sat his penance in June 1650, one month after Margaret had been absolved, and three years after she had initially confessed.¹⁶

The case of Janet Thomson reveals some of the complications that could emerge from the kirk’s investigation into alleged cases of illicit sex in Canongate. What began as a seemingly straightforward case of fornication suddenly became a much more serious and complex case of adultery, involving deceit, bribery and false accusations. In early October of 1644, Janet came before the kirk session to confess her fall in fornication with William Park. The elders asked Janet, as they asked all female fornication penitents, if she knew of any potential father to her child besides William.¹⁷ She denied the possibility, so they ordered her to verify him as the father at the next session. In this case, the elders may already have had their suspicions. She returned seven weeks later

¹³ NAS, *CKSR* CH2/122 volume 3, 1 February 1648.

¹⁴ John Campbell never came before the kirk session for this charge of adultery.

¹⁵ Kirk policy dictated that a child being baptized had to be presented by the father.

¹⁶ NAS, *CKSR* CH2/122 volume 3, 16 November 1647 until CH2/122 volume 4, 30 June 1650, *passim*. Not all adultery cases were equal, however. In some, like that of George Broderstane and Marion Wallace, the penitents confessed but did not sit their penance, which could be seen as a form of negotiation and resistance in itself. See NAS, *CKSR* CH2/122 volume 3, 10 May to 30 August 1642, *passim*.

¹⁷ This was, however, the only instance explicitly mentioned in the records for the decade studied.

confessing that the father of her child was not William but Adam Gordon, saddler, “housband to Geils Jameson.” Janet then revealed that Geils had come to her privately before her first confession, suspecting that her husband was the father of Janet’s child, and promising to pay a merk and twelve pence, totalling fifteen shillings, if Janet said William was the father. When interrogated, Janet was able to give specific dates and times when the sexual intercourse had occurred.¹⁸ Adam Gordon, when confronted, denied the accusation, and Geils brought in a witness, her servant Janet Makgie, who claimed that she had heard Janet Thomson say the father of her child was William Park. Janet Thomson swore before God that it could only have been Adam, declaring that Geils Jameson had had a witnessed band written up in Edinburgh forcing Janet to swear that Adam was not the father of her child. Geils denied this, saying that both the money she had paid Janet and the band were concerning Janet’s sister in Newcastle, but, throughout December of 1644 and January of 1645, witnesses to the band and eventually the notary himself confessed the contract’s true purpose of covering up Janet and Adam’s adultery. In February of 1645, Janet’s midwife, Janet Wallace, came forward and swore that Janet Thomson told her the father of her stillborn baby was Adam Gordon.¹⁹ On that evidence the kirk session ordered both Janet and Adam to go to the Edinburgh presbytery. Adam’s wife, Geils, not satisfied with this result and determined to protect her and her husband’s interests, brought forward two more servants, Isabell Urquhart and Margaret Sturgeon, who swore that they had asked Janet if Adam was the father of her child and she had denied this, saying that the father was William Park. These surprise witnesses had little effect, however, and the charge of adultery stuck.

¹⁸ NAS, *CKSR* CH2/122 volume 3, 8 October, 26 November and 3 December 1644.

¹⁹ Midwives were bound by law to not aid in a birth until the father of the child was named.

In its entirety, the Thomson/Park/Gordon/Jameson case dragged on for twenty-eight months. Adam Gordon was ordered to appear before the presbytery in April of 1645, but he died, possibly of the plague, before the case was re-opened in September of 1646.²⁰ Janet officially confessed her fall in adultery on 15 September, and was ordered to sit a year of sabbaths in sackcloth, double the usual penance for adultery, on the orders of the presbytery. However, just before her twelfth sitting in January of 1647, she came to the session and “with all humilitie confest her repentance with many teiris and because she gave in her bill to the presbyterie declaring her sorow of heart for her haynous sinne”, the kirk session allowed her to be forgiven after one more appearance.²¹ The fact that she did not finish even a quarter of her designated Sundays of repentance does not mean that the kirk was especially lenient toward her. Rather, the fact that the elders pursued the case for over two years, carefully listening to and recording evidence from witnesses on either side of the story, and pursuing the truth of the matter, shows their fierce commitment to godly discipline. However, the elders were also following the intent, rather than the letter of the law; they determined that Janet had repented to a sufficient degree over her fall, perhaps also taking into consideration that she had obstinately sworn for many months that her sin was adultery rather than fornication, knowing the gravity of that distinction.

The interesting aspect about the case, besides its longevity and its surprise twists of plot, is that it was almost solely negotiated between two women and the kirk session. Geils and Janet carried the entire case, Geils stepping in for her husband, who died long

²⁰ The interactions between Janet Thomson, Geils Jameson and the kirk before this point would be considered a back-stage pre-amble; only once the kirk had certified that the case was adultery could the public process of true confession, penance and absolution begin.

²¹ There was precedence for this negotiation of penance length in other parishes. See Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (New Haven: Yale University Press, 2002), 139.

before the case was closed, at any point when his honour, and by extension her own, might have been seen as suspect.²² William Park never appeared before the kirk session to confirm or deny the allegations against him, perhaps because he was absent from the parish, or perhaps because, in a community of parishioners who lived cheek-by-jowl and were heavily involved in each other's lives, the allegation seemed tenuous even to the elders, with their stringent concern for the truth. In contrast, the case was filled with women: the midwife and the many servants, who played integral roles as witnesses, as well as Janet and Geils, who were central to the case. Janet was very likely a servant and therefore without real social or economic power. The fact that her oaths that Adam was the father of her child were clearly taken seriously shows both the general egalitarianism of the kirk session and the seriousness of such a charge for women, where, like in cases of slander accusation, their creditworthiness, as well as that of their families, were at stake.²³

A second case study shows how adultery could seriously affect more than just the adulterers themselves. In August of 1644, John Cock and Marion Liddell were brought before the kirk session under suspicion of adultery. John was presumably the married party, since there was no mention of a husband of Marion's being involved 'for his interest'. Both John and Marion initially denied the accusation of 'scandalous carriage,' but eventually confessed once the case was proven to the satisfaction of the elders. They were to abstain from each other's presence under pain of Marion entering the house of

²² Geils was never officially reprimanded for her role in the obstruction of godly discipline.

²³ Michael F. Graham, "Equality before the Kirk? Church Discipline and the Elite in Reformation-Era Scotland," *Archive for Reformation History* 84 (1993): 289-309. Not all aspects of gender equality were followed, however. See for instance Gordon DesBrisay, "Twisted by Definition: Women Under Godly Discipline in Seventeenth-Century Scottish Towns," in *Twisted Sisters: Women, Crime and Deviance in Scotland Since 1400*, ed. Rona Ferguson and Yvonne Galloway Brown (East Linton: Tuckwell, 2002).

correction. John Cock's father, John Cock elder, became cautioner for his son, promising one hundred pounds should his son not fulfill his penance.²⁴ The next week, on 20 August 1644, three elders were sent out to ensure that John and Marion were not behaving scandalously, a precaution not usually undertaken and so perhaps revealing the elders' suspicions of the couple. Two witnesses, Marion Fender and Marion Hoom, swore that they had caught Marion and John together, which, again, the two could not deny. John was ordered to appear before the presbytery to address his charges. Throughout the fall and winter, more witnesses came forward stating John and Marion had been seen together, while notices were made in the kirk session records that John had repeatedly failed to appear before presbytery. On 7 January 1645, Marion and John were declared fugitives of the church, having fled to Rotterdam together; John Cock the father was called to pay his one hundred pound fine, and steps were taken toward the couple's excommunications.²⁵ In February and March, three public citations of their sin were proclaimed, and three public admonitions given in to presbytery concerning the "fugitive adulterers". Next, in April, when the couple failed to return, the church began the process of the three public prayers that would lead to Marion and John's excommunication. John Cock the elder came to the session the week after the third public prayer, begging that he might at least write to his son notifying him of his imminent severance from the Christian community. This was eventually granted, two months later, and no more was spoken of the case. It is unclear whether John Cock and Marion Liddell were excommunicated or forgiven, or if they ever returned to Canongate. What is certain is that John Cock's father,

²⁴ This was the standard amount for posting caution for adultery in Canongate.

²⁵ Rotterdam, surprisingly, had a Scottish population of several thousands and an active kirk session, so the anonymity of John and Marion while there is questionable. See Douglas Catterall, "Scots Along the Maas, c.1570-1750," in *Scottish Communities Abroad in the Early Modern Period*, ed. Alexia Grosjean and Steve Murdoch (Leiden: Brill, 2005).

as cautioner, was punished for the sins of his son. He was placed in prison on 24 June 1645 until he was able, two weeks later, to pay the one hundred pound penalty for not being able to produce his son at the kirk session's request.²⁶ Adultery cases were not always as complicated or as long as those of Janet Thomson or John Cock, but these cases show both the kirk session's determination to uncover the truth of every case, and its reluctance to sever its parishioners irrevocably from the community, even those who had committed a grievous sin against that community.

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Fornication cases were usually difficult, dealing as they did with pre- or non-marital sexual relationships brought to the public eye under a shame-based investigation. Nor did many of these cases tidy up by their completion. Only thirty couples (12%) found guilty of fornication married by the end of the decade.²⁷ This was likely representative of elsewhere in Scotland at the time, in contrast to England, where bridal pregnancies were more common.²⁸ In most of these overlap cases, the promise of marriage already had been established before the confession of fornication. For instance, in January of 1642, William Lason and Margaret FINDER confessed their fornication as they declared their engagement and handed in their pund. They were ordered to pay three dollars (£8 14s) to the poor, and were married directly after sitting their final penance, which they sat together.²⁹ In March of 1649, Thomas Crinzeane and Elspeth Mairtene both confessed to fornication under promise of marriage. Thomas willingly stated that he was the father of

²⁶ Imprisonment until the cautioner or penitent was able to pay a fine was a common method of ensuring results in early modern Scotland and in Europe generally.

²⁷ This is a surprisingly low statistic, given the numbers concerned: 236 couples were charged with fornication, and 441 couples were married in the same decade.

²⁸ In Wiltshire, for instance, bridal pregnancies averaged 22%, compared to Canongate's 12%. See Ingram, *Church Courts, Sex and Marriage in England*, 220.

²⁹ NAS, CKSR CH2/122 volume 3, 14 December 1641 and 25 January 1642.

her child, and that he was more than happy to marry her once “it pleases the lord to send better and peaceable tymes”. This was not considered an acceptable excuse for fornication, and so they were to be imprisoned and Thomas was to pay six dollars (£17 8s) for both of them. The couple was absolved by the end of April 1649.³⁰

Non-marital sex was also, perhaps more importantly, a common part of Canongate life. In Canongate, 59% of kirk session discipline records dealt with sexuality, only slightly higher than the national average.³¹ Elders reviewed cases of godly discipline weekly; in almost two thirds of those meetings (64%), new cases or developments were brought to light. Fornication carried significant weight among the elders’ concerns. The results of fornication, although ostensibly a private act, were on display in the kirk most Sundays in the form of fornication and adultery penitents. The stool was occupied by at least one penitent on at least 302 of the 525 Sundays within the study period (57.5 %), quite possibly more; in many of those cases, there were multiple parishioners repenting.³² In 1648, fornication penitents were present on forty-nine Sundays, or 94%.³³ In the course of the decade, almost 500 people, between one eighth and one tenth of the

³⁰ NAS, *CKSR* CH2/122 volume 3, 6 March 1649, 13 March 1649, 25 March 1649, 22 April 1649.

³¹ 803 out of a total of 1346. Other disciplinary categories included public drunkenness or selling drink on the sabbath, failure to attend church, and employing or renting to people without proper character references. For this work, I counted the number of entries rather than the number of cases; sex-based cases tended to have multiple entries per case, unlike other categories of godly discipline, which would inflate my statistics slightly. Michael Graham counts 55% at the kirk session level and 48% at the presbytery level; in the parish of St. Andrews, sexual cases comprised 57.4% of the total kirk session discipline cases. See Michael F. Graham, *The Uses of Reform: "godly discipline" and popular behavior in Scotland and beyond, 1560-1610*, Studies in medieval and Reformation thought, v. 58 (Leiden; New York: E.J. Brill, 1996), 281, and Geoffrey Parker, “The ‘Kirk By Law Established’ and the Origins of ‘The Taming of Scotland’: St Andrews 1559-1600,” in *Perspectives in Scottish Social History: essays in honour of Rosalind Mitchison*, ed. Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 9-10.

³² For example, there are at least two instances of four people repenting on a Sunday; see NAS, *CKSR* CH2/122 volume 3, 13 December 1640 and 29 March 1642. The recorded instances of Sunday fornication penance varied sharply from year to year, possibly from record-keeping habits as much as community trends.

³³ These figures are based on the numbers of penitents who were absolved, and likely underestimate the totals because those who failed to complete their penance are not included. Only during brief periods in 1645-6 and 1649-50 are first and second sittings recorded.

Canongate population in 1640, was brought before the kirk session or otherwise implicated in fornication and adultery cases.³⁴ Almost all of these would be servants, many from out of town.³⁵ This plethora of penitents must certainly reveal something about the common parishioner's views on sex outside of marriage. The punishment on display might even be seen to be counterproductive, as it showcased just how common an issue fornication was. The effect of fornication discipline in Canongate is therefore complicated, but shows that, since a large percentage of the parish was affected by fornication discipline, many parishioners were also active agents negotiating with the kirk session about their own sexuality.

Fornication cases could also become complicated even before penance began, since the cases dealt with the honour of the parishioners, a potentially incendiary issue. Fruitless though it may seem, unmarried women, even when obviously pregnant or nursing, could deny fornication, under the hope that they could evade or at least delay public repentance. One method of denial for penitents when accused of fornication was to swear that they did not know if their co-accused 'was a man or a woman', thereby denying any possible sexual act.³⁶ Two women and one man made such oaths in three separate cases during the 1640s.³⁷ In cases where unwed mothers seemed less than forthcoming, or where paternity was questioned, it was customary to consult the midwife. It was the kirk's official stance, recorded in an Act of the General Assembly, that women

³⁴ 497 people, out of a population of roughly 4000 to 5000 before the plague of 1645, or 2000 to 3000 afterward. It is important to note that not everyone implicated in fornication cases processed in Canongate lived in the parish.

³⁵ See Ian D Whyte and Kathleen A. Whyte, "The Geographical Mobility of Women in Early Modern Scotland," in *Perspectives in Scottish Social History: essays in honour of Rosalind Mitchison*, ed. Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 92, and DesBrisay, "Twisted by Definition," 140-1.

³⁶ This had the added effect of covertly insulting the man- or womanhood of their co-accused.

³⁷ See NAS, *CKSR CH2/122* volume 3, 2 February 1641, 18 March 1645 and 3 July 1649.

in labour always told the truth, and so the testimony of midwives held significant weight.³⁸ Honesty from all the penitents was still not a certainty, however. For instance, in July of 1646, John Caldwell, a servant to the gardener Andro Caldwell, declared to the kirk session that a fellow servant, Jean Campbell, had had carnal dealings with James Crawford, a servant to Sir William Gray. The couple denied the act, but Jean was imprisoned until the matter was settled at the next session meeting. Then, Jean and James both denied fornication, swearing “before God and the whole world” that he had only “cast her doune”. They were to crave pardon on their knees, and James was to pay one dollar (£2 18s) to the poor. John Caldwell, for his abuse of their honour, also craved pardon on his knees and paid two pounds.³⁹

* * * * *

There was more to consider than just the penitents in fornication cases.⁴⁰ Spatial and economic considerations were also important in the process toward proper atonement. One interesting factor in fornication cases was the location of the act itself. Asking probing questions about the place where the sexual act had taken place was one way for the elders to weigh the penitents’ testimonies, and these details reveal interesting points about the nature of fornication in Canongate. The testimonies of penitents like Janet Thomson, for instance, who could be precise about where the sexual act had taken place, especially in cases of disputed paternity, were given serious consideration. As

³⁸ As noted above (page 16, footnote 32), elders were able to withhold midwives’ services if the woman refused to name the father of her child. See Graham, *Uses of Reform*, 283-4. The Act is summarized in the St. Andrews Kirk Session Records. See *Register of the minister, elders, and deacons of the Christian congregation of St. Andrews: comprising the proceedings of the Kirk session and of the Court of the Superintendent of Fife, Fothrik, and Strathearn, part 1, 1559-1600*, ed. David Hay Fleming (Edinburgh: Edinburgh University Press, 1889), 391.

³⁹ NAS, CKSR CH2/122 volume 3, 21 and 28 July 1646.

⁴⁰ One important factor would of course be the number of illegitimate children born during the decade, but due to a lack of extant baptismal records for Canongate, this aspect cannot be studied.

Elizabeth Ewan points out, “Alleged sexual misconduct almost always took place somewhere other than the house, thus adding an extra element to the crime by breaking a convention that sexuality should be confined to the domestic space of a married couple.”⁴¹ Places on the margins between public and private, or around city limits, were therefore common haunts, since they not only offered a sense of privacy not found in the home, they also, on a symbolic level “emphasized the wrongful character of the activity”.⁴² This was true in Canongate as elsewhere. In the cases of Janet Thomson and Adam Gordon, and of Marion Liddell and John Cock, described above, each couple had committed the act of adultery in a cellar, a space bridging private and public.⁴³ Common lovers’ meeting points in Canongate were the nearby port and the crags, the imposing hills south and east of the burgh. In the spring of 1649, Robert Gall, a goldsmith, was accused of treating his servant, Elspeth Thomson, “as his married wife”, and they were ordered by the session to leave each other’s company. Robert and Elspeth were later followed by elders and found “on the craiges together and another tyme convening her[e]in at the port and kissing one another”.⁴⁴ Robert confessed that he wanted to marry Elspeth, but promised to be “frie of her”. The case was referred to presbytery.⁴⁵ Another case involving the crags was that of Margaret Erskeine. Margaret was found guilty of fornication with Robert Burne in the fall of 1648, and fined one dollar (£2 18s). This was a remarkably low sum made suspicious by her likely family connection to the kirk treasurer, Robert Erskeine, who acted as a witness in the case. She sat her penance and

⁴¹ Elizabeth Ewan, “‘Many Injurious Words’: Defamation and Gender in Late Medieval Scotland,” in *History, Literature and Music in Scotland, 700-1500*, ed. R. Andrew McDonald (Toronto: University of Toronto Press, 2002), 172.

⁴² *Ibid*, 172.

⁴³ NAS, *CKSR* CH2/122 volume 3, 10 December 1644 and 31 December 1644.

⁴⁴ NAS, *CKSR* CH2/122 volume 3, 3 April 1649, and volume 4, 19 June 1649.

⁴⁵ NAS, *CKSR* CH2/122 volume 4, 10 July 1649 and 28 August 1649.

was quickly absolved, but was brought back before the court in June of 1649. She was accused of

being in company in a scandalous maner with Robert Burne to whom she had borne a bairne and being demandit what she was doing wt him upon the craiges ansrit that she was following him to get some money fra him for the maintenance of his child and that he ran away from her when he saw her.⁴⁶

Margaret was imprisoned for an undetermined length of time and was to be punished if she was ever found in his company again. The seriousness of the censure for merely attempting to retrieve child support money suggests perhaps dangerous connotations of being on the crags, no matter the purpose, or that the elders felt that she was overstepping her privileges by taking discipline into her own hands.

The spatial dynamics of repentance were also important in kirk discipline. As Margo Todd points out, in terms of church furniture, the pulpit could be considered representative of Presbyterian reform, replacing the altar in Catholic worship, and holding a place of honour in kirks across the nation. The pillar or stool of repentance, however, would certainly be a close second in both physical prominence and symbolic power.⁴⁷ The stool served as a constant reminder of the prevalence of sin amongst the congregation. The stool was usually placed at the front of the kirk, facing the congregation, and elevated. This maximum visibility was key since a penitent needed to be visible in order to be forgiven correctly by the community. Women who hid their faces

⁴⁶ NAS, *CKSR* CH2/122 volume 3, 19 September 1648, 1 October 1648, and volume 4, 12 June 1649.

⁴⁷ Todd, 130-1. The stool of repentance had many names: stools, forms and pillars, which varied in style. Stools and forms were likely lower chairs, to be either stood upon or sat on, while pillars were probably more elevated, for sitting only. Some parishes, like Dundonald, had both high and low stools, reflecting a hierarchy of sins that required a hierarchy of repentance methods. Some pillars were quite high, Elgin's even requiring a ladder to ascend. Indeed, one woman seemed to be physically unable to climb to Dundonald's high stool, and so requested to be allowed to sit her penance on the lower one. Canongate had a pillar of repentance, and although it is no longer extant, it was probably elevated, considering one man asked to be exempt from climbing up it due to his "head impediment", possibly causing vertigo. See Todd, 131-5, 170, and NAS, *CKSR* CH2/122 volume 3, 9 March 1647.

with their plaids, or men who wore feature-concealing hats, were therefore strictly rebuked.⁴⁸ One's distance from the pillar denoted the kind of sin one was repenting. Adulterers, fornicators, drunkards and the like sat on the stool, while those who had married before their ante-nuptial fornication was discovered needed only to kneel beside it.⁴⁹ In other cases, the kirk found a location apart from the pillar that was more fitting, sometimes cruelly so: Margaret Greiff of Elgin, who had "suffered her bairn to be smothered through negligence upon the night", had to pause under the loft that held the parish's schoolchildren, to remind her of the gravity of her sin, before moving on in her penitential procession.⁵⁰

Beyond its location within the kirk, the stool or pillar of repentance was itself imbued with meaning. The very wood of the pillar held powerful associations with sin and repentance. When the wood of the pew of a newly deceased Dalkeith-area man was used to make a new stool of repentance in 1631, his widow promptly took an axe to the stool, dragged the pieces into the kirkyard and set it on fire. She considered the use of his pew as a penitent's stool humiliating and a disgrace to his memory, and the minister agreed.⁵¹ The stool therefore held powerful symbolism. It was a conduit of redemption, or an "avenue of restoration",⁵² and as such was to be taken very seriously. When the English occupied Scotland in the 1650s, the Glasgow kirk session complained that the English were mocking the penitents, which greatly offended the local community.⁵³ By the same token, penitents were to be suitably solemn themselves when repenting; the kirk

⁴⁸ Todd, 148.

⁴⁹ Ibid, 136.

⁵⁰ Ibid, 154-5.

⁵¹ Ibid, 137-8.

⁵² Ibid, 155.

⁵³ Ibid, 133-4.

elders would not tolerate laughing, responding to mockery from the congregation, or putting snuff in one's eyes to produce tears, for instance.⁵⁴ One parish eventually instituted Saturday night rehearsals in order to ensure a proper Sunday morning performance.⁵⁵ The Canongate kirk session took a more direct route, and simply jailed a couple "till they come to a sense of their sinne".⁵⁶

Although the process of penance was to be taken seriously, in Canongate it need not be lengthy. Canongate, like some other urban parishes, allowed penitents to sit their penance on Tuesdays, Thursdays and Fridays as well as Sundays.⁵⁷ This was likely a relief for the penitents, since there would be less of a crowd at the weekday services. However, the Canongate kirk session was rebuked for this concession in June of 1649 when the Edinburgh presbytery ordered the kirk session "that none be admittit to public repentance but on the Lordis day".⁵⁸ Even without condensed penance, penitents could negotiate a shortened sentence if they, like Janet Thomson, presented the right effect.⁵⁹ Sometimes, such endeavours backfired, however; petitioning the session could lead to charges of impudence and presumption as easily as it could lead to fewer repentance days.⁶⁰ However, modern historians should not be too cynical as to the genuine nature of emotions on behalf of the penitents. There seems little reason to doubt that these people believed, on some level, that they must repent in order to be restored to the community,

⁵⁴ Gordon DesBrisay, Elizabeth Ewan, and H. Lesley Diack, "Life in the Two Towns," in *Aberdeen Before 1800: A New History*, ed. E. Patricia Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 46.

⁵⁵ Todd, 127-8.

⁵⁶ NAS, *CKSR* CH2/122 volume 3, 17 October 1648.

⁵⁷ Edinburgh also offered this option, for instance. See Todd, 138. For Canongate examples, see NAS, *CKSR* CH2/122 volume 3, 2 March 1643 and 8 November 1646.

⁵⁸ NAS, *CKSR* CH2/122 volume 3, 8 June 1649.

⁵⁹ Todd, 139-40. As Todd states, the "ability to weep at will was a decided advantage for early modern sinners." Ibid, 160-2.

⁶⁰ Ibid, 139.

whether they saw that as the family of Christ, or as a society, or both.⁶¹ The community also accepted penance as repairing a rent in the social fabric.⁶² Fundamentally, repentance was just that: the restoration of the community and of that community's relationship with God.

That fornication was persecuted by kirk sessions primarily for moral and doctrinal grounds is clear. However, in financial terms, pursuing fornication cases also made financial sense to kirk sessions, who may have harboured some "mercenary aims" as well as a sense of moral duty.⁶³ Having no source of income beyond its parishioners, and at times being disappointed in their voluntary contributions,⁶⁴ kirk sessions might very well relish more severe disciplinary measures in order to better serve the parish and God. This was especially important since the resident poor not affiliated with the trade guilds relied on the kirk session to provide relief.⁶⁵ If each penitent had paid the requisite £10 for each fornication case and £40 for each case of adultery, the Canongate kirk would have accrued over £5000 during the decade from sexual sin alone.⁶⁶ Whatever fraction of that sum was actually paid, fornication cases could have been a financial necessity for the parish. Most fornication cases in the Canongate kirk session records, however, either made no mention of fines, or more often included only a brief stock phrase that the

⁶¹ Todd, 171.

⁶² Graham, *Uses of Reform*, 18.

⁶³ Helen Dingwall, Helen M Dingwall, *Late Seventeenth-Century Edinburgh: A Demographic Study* (Aldershot, England: Scolar Press, 1994), 251.

⁶⁴ See NAS, *CKSR CH2/122* volume 3, 12 August 1645. This entry might also constitute the sole joke in the records: "This day was no sess[ion] but collected by John Small a small contribution indeed."

⁶⁵ Guilds provided poor relief for widows and other dependents of its members. For a discussion of women and the poor relief system, see Gordon DesBrisay, "City Limits: Female Philanthropists and Wet Nurses in Seventeenth-Century Scottish Towns," *Journal of the Canadian Historical Association*, 8 (1998), 39-60.

⁶⁶ The actual sum required by the session was variable from case to case, and it is difficult to discern from the records if most of these were paid in full.

penitent was ordered to pay their ‘penaltie’ and sit their penance.⁶⁷ There are relatively few mentions in the records of penitents actually having paid, but since the poor relief collections did not grind to a halt, and the treasurer made no mention of outstanding debts from penitents, we must assume that many penitents did.⁶⁸ Of the fornication cases where amounts are mentioned, the fines vary from two pounds to twelve dollars (£34 16s).⁶⁹ Most penitents were told to pay either 10 pounds or two dollars (£5 16s), the latter largely reserved for first faults or those desiring to be married. Five pound and four dollar fines (£11 12s) were also common.⁷⁰ In early modern Scotland, the fine was tailored to fit the penitent based on his or her individual income, so this variation is hardly surprising.⁷¹ These fines not only chastened the penitents, they also made fiscal sense.

If penitents became decidedly unrepentant, the kirk was able to use stronger methods of punishment than sitting in front of the congregation, such as banishment and imprisonment. Banishment was a threatened consequence for unrepentant fornicators, and especially repeat offenders. Since God’s wrath could strike a city for the sins of a few, and since combating sin was therefore the onus of all, it was common in early modern towns to focus not only on properly correcting those citizens worthy of discipline, but also to purge the city of the ungodly.⁷² This punishment was perhaps especially severe in Scotland since immigrants to new parishes needed to produce

⁶⁷ This was because the fines were uplifted by secular authorities, as was common in Covenanting Scotland. See for instance, the example of Aberdeen: Gordon DesBrisay, “Authority and Discipline In Aberdeen, 1650-1700” (Ph.D. diss., University of St Andrews, 1989), 312.

⁶⁸ The collections unfortunately did not detail amounts, only that they were distributed.

⁶⁹ The kirk session doled out and accepted fines in both rex dollars and pounds, and, more rarely, merks. For the above fine examples, see NAS, CKSR CH2/122 volume 3, 28 July 1646 and 13 July 1647.

⁷⁰ There were thirteen recorded cases of ten pound fines, twelve cases of two dollars, and nine cases each of five pounds and four dollars.

⁷¹ See Bruce Lenman and Geoffrey Parker, “The state, the community and the criminal law in early modern Europe,” in *Crime and the law: the social history of crime in Western Europe since 1500*, ed. V.A.C. Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa Publications, 1980), 4.

⁷² See, for example, Jason Philip Coy, “Beggars at the Gates: Banishment and Exclusion in Sixteenth-Century Ulm,” *Sixteenth Century Journal* 39, no. 3 (2008): 622.

‘testificats’ from their former kirk session proving their good repute, and kirk sessions were vigilant in enforcing the testificat system.⁷³ However, there was often a “yawning gap” between the harsh legislation concerning the banishment of vagrants and its execution.⁷⁴ In Canongate, relatively few people were threatened with banishment for any offence. The vast majority of cases when banishment was threatened took place after November 1646, possibly due to a post-plague tightening of discipline, and the threat was mostly used on those who received ‘infamous persons’, such as servants without character references. Seven tenants, all women, were banished under these circumstances, and their landlords threatened with the same. Those who returned were re-banished with the threat of being burned on the cheek.⁷⁵ Two other women who confessed to fornication were forced to return to their home parishes for repentance.⁷⁶ Overall, however, banishment was more often threatened than applied in the Canongate, imprisonment being a far more common punishment. Indeed, at times imprisonment was so readily meted out that it is perhaps doubtful that every record of a person being “put to ward” was actually enforced. This was a point of contention when the kirk session was evaluated by the Edinburgh presbytery in June of 1649. Punishment where the penitents could be closely monitored, such as a prison, however, were more favourable to the Canongate kirk session than those that let the ungodly loose into the world.

There were, of course, ways of delaying or eluding punishment for fornication, or even to make penance worth one’s while financially. For instance, female penitents,

⁷³ See, for instance, acts made by the kirk session against landlords accepting servants without testificats, NAS, *CKSR* CH2/122 volume 3, 2 August 1643, 30 April 1645, and 13 July 1647. The fact that the act was repeated three times in a decade suggests that the parishioners did not always obey.

⁷⁴ Coy, 637-8.

⁷⁵ See NAS, *CKSR* CH2/122 volume 3, 28 October 1645.

⁷⁶ Isabell James, recorded in NAS, *CKSR* CH2/122 volume 3, 30 January 1644, and Barbara Atchison, 18 May 1647.

usually either pregnant or nursing and on display most Sundays, were often hired as live-in wet nurses in early modern Scotland.⁷⁷ Becoming a wet nurse was the best employment option for fornication penitents, and one that could go some way towards restoring a woman's honour: since morality was said to flow within a mother's milk, it was a testament to a woman's character to hire her as a wet nurse for one's child when she was accused of fornication.⁷⁸ It also allowed a woman to delay her penance while working toward paying her fine. There are seven references to wet nurses in the Canongate kirk session records, and all involve fornication penitents.⁷⁹ In one, George Marchall, a tailor, came forward and declared that he stood as caution for Margaret Hay, alleged fornicatrix, and would produce her for repentance as soon as "the [said] George his bairn shalbe fostered God willing be the said Marg[are]t".⁸⁰ In April of 1649, Janet Chalmers came forward confessing her fornication with Robert Littlejohnne, delayed because she was nursing a child for John McMorane, a merchant in Edinburgh.⁸¹ Another couple came forward later the same month, and the wife confessed that she had hired a new tenant as a nurse "because she was scarce of milk her selfe to give her owne child", but once she found out that the woman's child was unbaptized, she had thrown the woman out of her house.⁸² In this case, the problem may not have been the child's

⁷⁷ In other towns, like Aberdeen, the wet nurses were always fornication penitents. See Gordon DesBrisay, "Wet Nurses and Unwed Mothers in Seventeenth-Century Aberdeen," in *Women in Scotland c.1100-1750*, ed. Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999).

⁷⁸ DesBrisay, "Wet Nurses," 210.

⁷⁹ See NAS, *CKSR CH2/122* volume 3, 26 November 1644, 12 May 1646, 15 February 1648, 4 July 1648, and below.

⁸⁰ NAS, *CKSR CH2/122* volume 3, 19 Febraury 1644. The "alleged" nature of her fornication accusation seems to have been a nicety, considering she was unmarried and nursing. She was never brought forward.

⁸¹ NAS, *CKSR CH2/122* volume 3, 17 April 1649.

⁸² NAS, *CKSR CH2/122* volume 3, 20 April 1649.

illegitimacy, but that the mother had not yet faced kirk discipline.⁸³ Wet nursing and fornication penance were therefore closely intertwined.

Sometimes women, even those of the most vulnerable demographic, young single servants, were able to use the kirk session for their own protection. In August of 1649, Grissell Anderson, servant to the elder Hew Watt, declared that Robert Kirkwood, a merchant in Edinburgh, had molested her several times on the Canongate high street. An indignant Robert asserted that he had merely asked her to walk with him and that he had asked after a bed, which she had found for him, only to return with a constable and officer who took him to prison. When Grissell came forward two weeks later, she said that Robert had bothered her for four nights as she was going about her master's business, and she had "prayed him to let her alone for she was not one of them he was seiking." The fourth incident occurred near her master's house, and so, fearing rape, she took him to a room in the house, and notified her mistress, who sent her to fetch the constable. Robert's defence was that he thought he was in "a badie [bawdy] house". It being the house of an elder of the kirk, that remark did not gain him favour with the session. Two witnesses, both female servants, also came forward with similar tales of attempted sexual assault; Robert was sent to presbytery for his "scandalous cariage toward the s[ai]d women".⁸⁴ In December it was again reported that he had been convicted of stalking or 'haunting' the women, and made public penance to that effect at the kirk.⁸⁵ It was certainly helpful that the primary defendant in the case was supported by an elder of the session, but the Kirkwood case does prove that women, even those most vulnerable to the system of kirk discipline could defend themselves by using the ecclesiastical courts.

⁸³ See DesBrisay, "Wet Nurses," 215.

⁸⁴ NAS, *CKSR* CH2/122 volume 4, 28 August 1649.

⁸⁵ NAS, *CKSR* CH2/122 volume 4, 18 and 23 December 1649.

Janet Spence also used the kirk session system for her benefit. On 3 July 1649, Janet was brought before the session and denied the elders' accusation of fornication. Her co-accused, John Dickie, had declared that they had committed fornication, going so far as to give dates and places. Janet countered that they had only kissed, and that he had followed her to Leith and even attempted to strangle her and to "have done her harm". She had been so afraid of him that she had spent the night in Leith rather than risk running into him again at home that night.⁸⁶ The elders determined that Janet was innocent, and imprisoned John in the tolbooth until he confirmed that nothing had happened between them.⁸⁷ John was ordered to go through multiple days of penance for his slander and abuse. Janet, her name now cleared, was able to marry Alexander Reid with the approval of the church.⁸⁸

John Dickie was not the only Canongate parishioner to slander the honour of others with fornication accusations; women could also be caught attempting to benefit from such methods. In January of 1641, Margaret Dreddan was brought before the court and confessed herself to be pregnant by Andro Dowglass. Although he denied the fact, she was able to give a time and place: her house, after Whitsunday last, and declared it to be under promise of marriage. The presbytery ordered a delay on her repentance until she had given birth; in April of 1641, one year after the alleged date of conception, the session confirmed that no child had been produced, and so for the "mocking both of the

⁸⁶ NAS, *CKSR* CH2/122 19 June 1649.

⁸⁷ John's cell had window access to the Canongate high street, and his imprisonment did not hinder his interaction with the outside world. Two witnesses, George Richardson and his wife Elspeth Fairlie, talked with John from the street through his window. When asked about the scandal that caused his imprisonment, John denied fornication with Janet and swore that Elspeth "was not a judge to try him", although he denied this denial once in front of the kirk session again on 10 July. Janet declared that the only business between them was that she had once refused to drink with him, which he said she would regret. See NAS, *CKSR* CH2/122 volume 4, 3 July and 10 July 1649.

⁸⁸ NAS, *CKSR* CH2/122 3 July 1649 until 14 October 1649, *passim*. Janet and Alexander married on 17 August 1649.

session and maligning of the said Andro becaus he would not marrie her” she was to sit three days at the pillar, and on the last day she was to begin an hour before the sermon in sackcloth, under pain of banishment.⁸⁹

The issue of women’s agency also emerged in the parish’s sole investigated case of abortion in the decade studied. Abortion and infanticide were even more serious offences than fornication, but, like fornication, ones in which one’s sexual honour was challenged by the kirk. On 10 September, 1644, four women came forward to defend their own and each other’s honour in the face of the session’s accusation of abortion. Janet Gladstone was accused of “seiking a drink to destroy ane young child wherwith she was conceaved.” Janet denied the allegation outright, saying she had merely consulted Marjorie Morison for a health drink. Marjorie confirmed that Janet had come to her for a drink, the exact point of which she could not remember, but denied she had sold her anything, and had told Janet to go see Marion Thomson. Marion, when asked, declared that Janet had come to her for a drink “for a woman being a moneth with child” but denied selling one to her. The elders, without evidence and apparently tired of the slipperiness of the women’s oaths, charged Janet’s mother with blasphemy and “molest[ing] the elders”, and abandoned the case.⁹⁰ This case reveals how women could find ways to negotiate with the kirk session and that discipline’s jurisdiction over their bodies.

Whether fornication and adultery cases went smoothly and quickly or became mired in complications, and whether or not other factors came into play, the heart of each

⁸⁹ NAS, *CKSR* CH2/122 volume 3, 26 January 1641, 2 February 1641, 9 February 1641, 6 April 1641. The kirk sessions were specifically warned against this type of dissembling and “sinistrous design.” See Steuart, 251.

⁹⁰ NAS, *CKSR* CH2/122 volume 3, 10 September 1644.

discipline case was absolution of the penitent with God and with the community. The case of Margaret Boyd demonstrates how this was possible for even problem parishioners. Margaret confessed a relapse of fornication with George Peirs in April of 1647. George had already confessed and paid £10 for both of their penance in March. Margaret was told to enter six Sundays of repentance, her penance doubled according to kirk policy since it was a relapse, after which point she would be banished from the parish, and her child taken from her. This was because her relapse followed other offences to the session, such as harbouring alleged whores and abusing the elders. Her second illicit pregnancy was the last straw. On 1 June 1647, she was banished before even being admitted to the place of repentance. George had already sat his penance and had been received on 23 May. Margaret returned in December of 1648, if indeed she ever left, and confessed her fornication with George and a previous fall with James Wood of Grange. She was eventually allowed to sit her penance in late March of 1649, after the kirk session of Athole confirmed that she was absolved for her fornication with James, and was received after being admonished before the congregation by the minister.⁹¹ Whether or not she was allowed to keep her illegitimate child was never mentioned in the records. Agnes Cairleill also went through the Canongate kirk session discipline, for her fornication with Harie Mersor. She confessed her fall in October of 1649, as well as a previous fall with William Greir. She declared herself to be with child by Harie; he confessed that he had committed fornication with her but denied paternity. She then declared that Harie had “abused and stricken her” because she would not leave the parish to deliver the child elsewhere, a fact confirmed by two witnesses. This abuse may have

⁹¹ NAS, *CKSR* CH2/122 volume 3, 16 March 1647, 13 April 1647, 23 May 1647, 1 June 1647, and 26 December 1648; volume 4, 23 and 28 January 1649, and 25 March 1649. The records do not mention whether or not she was allowed to keep her child.

given weight to Agnes' case, and she was admitted into repentance. She sat her six Sundays dutifully and was received back into the community of the faithful on 2 December 1649.⁹² The absolutions of these women, and the many penitents before and after them, were considered necessary for both the individual and the community.

Illegitimacy was very much a part of life in the Canongate during the British Civil Wars, far more than in England and other parts of Europe. The numbers of fornication and adultery penitents may have been so considerable in part because of the social stressors of plague and war, and also because of the Canongate kirk session's meticulous record-keeping. It is important to remember, however, that marriage was still more common. Six hundred and twenty couples were married in the Canongate during the study period, or at least made steps toward marriage.⁹³ In comparison, only 236 couples came before the kirk session for fornication, with only thirty cases of overlap between fornication and marriage entries.⁹⁴ Sexual sin was inextricably bound to issues of honour; penitents tried to negotiate with the kirk over their discipline, and kirk session tried to fit each punishment to the penitent's individual case. Unwed mothers, although burdened with the brunt of godly discipline in illegitimacy cases, had some opportunities for agency available to them. Wet nursing was a common option, and women's testimonies were considered by the session with equal weight as those of their male co-accused. Although the kirk session at times allowed some leeway in its fornication and adultery penalties, this did not mean that the elders forgave easily. Janet Thomson, just over a year

⁹² NAS, *CKSR* CH2/122 volume 4, 9 October 1649 until 2 December 1649, *passim*. Harie never entered the process of penance and absolution.

⁹³ This does not include couples who were from Canongate but married outside the parish, which raises the number to 661.

⁹⁴ There were also twenty-five individuals implicated in these cases, as former lovers of current penitents, raising the total to 497. There were potentially up to 64 cases of remarriage, but given the limited variety of first and last names, and the common omission of identifying details such as occupation, this is a questionable statistic.

after she had been absolved of her adultery with Adam Gordon, confessed a relapse in fornication, this time with a Harie Stewart. After confirming his confession through a witness, the elders allowed her child to be baptized, and then ordered her to sit nine Sabbaths, a third longer duration than a normal fornication relapse sentence. She was also required to wear sackcloth, a detail reserved for adulterers, and to spend the last day at the church doors, to maximise her humiliation. Janet sat her nine days and was received once more into the congregation on 16 July 1648. This act of absolution underpinned all fornication and adultery penance. More than a simple ceremony, it allowed the community as a whole to be brought closer to God during the turbulent decade of the British Civil Wars.

Conclusion

The Canongate kirk session records provide a snapshot of a burgh and parish in crisis during the British Civil Wars. Canongate was at the centre of the political and religious turmoil of the decade, given its proximity to Edinburgh. The kirk session records, providing regular, detailed accounts of the community, remain largely untapped for the 1640s; much can be gleaned from the records, and much comparative work can be done. Canongate was deeply affected by the power shifts, struggles and alliances between factions, the ebb and flow of soldiers through the town, and the economic and social burdens of war throughout the decade. The Canongate kirk stood at the heart of the parish and the community. Discipline, for the individual and for the community, was paramount in such times of trial. God's displeasure was understood as tangible, exact and reactionary, and was experienced in the form of plague and famine as well as war. Detailed accounts of godly discipline were therefore crucial, and Canongate as a parish excelled in both disciplinary measures and the record-keeping of the same. The divisions of the parish into quarters, each monitored weekly by an elder and a deacon, ensured a high level of surveillance of the congregation, and at its weekly meetings, the kirk session enabled straying parishioners to gain absolution through true confession and public penance. This system held firm despite the multiple layers of crisis that swept through the burgh throughout the 1640s.

Women often appeared before the Canongate kirk session, for a variety of reasons. Most commonly, they came forward either desiring to be married or confessing a fall in fornication. These two processes acted as a diptych, both related to the sanctioning of sex only within the marital partnership; one honoured that sanctity and one attempted

to elude it. Canongate followed national marriage trends concerning seasonality, and the age of men and women at marriage; these trends also included a minority of couples, potentially large in Canongate, who were married irregularly, against the ordinances of the kirk. Most marriages, however, were regular, and were carefully detailed in the kirk session records or the marriage registry. Also recorded were the engagement rings that couples gave in so that their banns could be read. These rings provide a window into one aspect of the material nature of the marital partnership. This partnership formed the basis for the household, the economic as well as social cornerstone of society. In the early modern period, economic transactions were rooted in honour and creditworthiness. This honour, and the marital partnership it affected, needed to be protected, as seen in the Canongate kirk session defamation cases, which involved married women far more than single women, as the former had more at stake with such accusations.

If discipline was at the heart of the kirk, negotiation was at the heart of discipline. The goal of each discipline case was the absolution of the penitent, and the restoration of the community of Christ, and so the Canongate kirk session took both the letter and the intent of Reformed Kirk disciplinary policy into account in their meetings, and tailored it to each penitent. This can be seen, for instance, in the varying fines given throughout the decade. Most of the disciplinary cases involved sexual sin; one tenth or more of the parish population was implicated in fornication and adultery cases. These numbers may have risen in comparison to other decades and other locations because of the uncertainties of war, or because of the especial zeal of the Covenanted Canongate kirk session. Despite the importance of marriage in society and the kirk's emphasis on repairing relationships through absolution, very few fornication cases resulted in marriage. Adultery cases were

a far graver concern for the kirk than fornication, and also reveal the dogged nature of the elders in pursuit of the truth behind each case. As the elders made each penance fit the penitent, so too was some agency available to penitents brought before the session, even those from the most vulnerable demographic, young single female servants. Some succeeded, and more attempted, at using the kirk session to their benefit, despite the odds stacked against them. After all, in theory at least, before the kirk session there was “no male or female, no servant or master,”¹ but only penitents to be brought back to the fold.

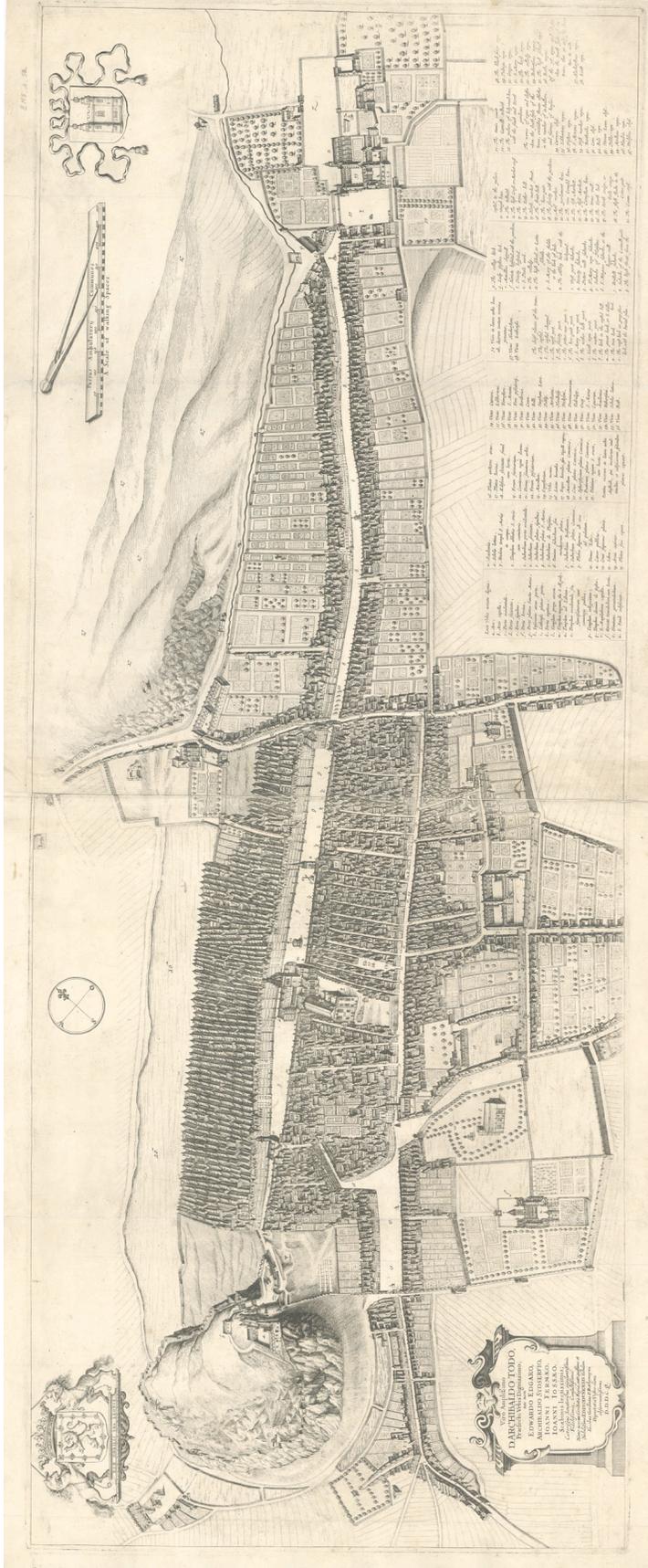
¹ Galatians 3:28, paraphrased.

Maps

Map 1: John Adair, Map of Midlothian, c.1682 (detail)



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Map 2: James Gordon, Edinodunensis Tabulam, c. 1647.
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Appendix 1: Engagements and Marriages by Year

Year	Engagements	Marriages	Away*
1640	9	11	1
1641	51	23	3
1642	51	35	1
1643	70	40	1
1644	40	27	1
1645	62	31	4
1646	108	108	6
1647	81	57	12
1648	32	30	4
1649	65	53	9
1650	23	26	1
Total	592	441	43

*'Away' denotes the number of couples from Canongate who married outside the parish, but whose marriages were recorded in the records.

Note: Incomplete Engagements

There were 420 complete marriage cases in Canongate between 1640 and 1650 (cases where couples appeared both to declare their engagement and to be married), and twenty-one cases of marriage announcements without a preceding engagement announcement (totalling 441). This would mean that 420/592, or 70.9% of all couples completed their marriage process in Canongate, and 172 (29.1%) did not.

It is only possible to determine the number of marriage announcements without preceding engagements until the spring of 1645, however, when marriage announcements began to be recorded in a separate registry. If that number were doubled, to account for the entire decade, there would be 399 couples (67.4%) with completed marriages, and 193 (32.6%) without.

Appendix 2: Engagements and Marriages By Month

Engagements

Year	January	February	March	April	May	June	July	August	September	October	November	December
1640									3	4	2	0
1641	1		1	3	7	6	4	3	0	10	9	6
1642	1	3	3	7	6	5	1	2	6	5	10	2
1643	8	6	3	8	14	7	6	2	3	3	7	3
1644	4	3	2	4	6	2	0	2	1	8	6	3
1645	3	2	3	5	5	1	0	0	0	9	8	27
1646	14	11	10	13	17	6	6	4	7	11	7	4
1647	5	5	7	6	15	11	3	8	3	4	11	4
1648	2	6	2	2	3	2	1	3	0	6	0	5
1649	3	3	4	7	10	7	6	1	1	13	4	6
1650	5	3	3	2	6	1	2	1				

Year	January	February	March	April	May	June	July	August	September	October	November	December
1640								1	1	1	4	4
1641				1	0	4	7	1	2	2	3	3
1642	5	5	0	3	0	3	4	2	1	1	4	6
1643	1	6	0	4	2	12	4	2	2	3	2	3
1644	2	0	1	2	0	5	1	1	2	0	6	5
1645	1	4	2	1	0	2	1	0	0	2	5	11
1646	19	9	7	15	4	14	10	5	3	7	5	7
1647	4	4	3	5	1	13	9	5	3	2	2	6
1648	3	2	1	3	2	4	2	1	1	2	4	2
1649	2	3	4	1	4	8	6	6	0	3	6	6
1650	6	3	3	4	3	3	3	2				

Marriages

Appendix 3: Non-Canongate Parishioners in Canongate Marriages

Year	Men	%	Women	%	Total
1640	1	100	0	0	1
1641	10	66.6	5	33.3	15
1642	6	50	6	50	12
1643	8	27.6	21	72.4	29
1644	5	41.6	7	58.3	12
1645	10	50	10	50	20
1646	43	58.9	30	41.1	73
1647	25	46.3	29	53.7	54
1648	7	33.3	14	66.6	21
1649	23	59	16	41	39
1650	10	71.4	4	28.6	14
Total	148	54.9	142	45.1	290

Note: when an engagement and marriage announcement spanned over the new year, the marriage was counted (rather than the engagement).

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