

The Baltic and North Sea Region in Scottish Burgh and Notarial Records, 1500-1700 (Part One)¹

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Introduction

THIS STUDY analyses the manifold connections which existed between Scotland and the North Sea and Baltic region through untapped Scottish burgh and notarial records, maintained in protocol books and registers of deeds, but also burgh court books since it was usually notaries who acted as town clerks. Burgh court records were, at times, attendant upon other notarial documents, and importantly extracts of contracts registered with Scottish burgh courts were legally valid. Through this notarial and burghal material is possible to discern the manifold exchanges between Scotland and the Baltic and the North Sea and the way these were organised at a local level from 1500 to 1700. This approach seeks to close an historiographical gap, adding to existing studies of Scottish contacts with the Baltic and North Sea region in the early-modern period, which have, until now, focused on professional groups, such as soldiers, merchants or government officials, as well as sub-categories including military musicians and medics.² In addition, through the study of notarial and burgh records, it is possible to identify processes and procedures attendant upon daily activities and exchanges between Scotland and this northern maritime world, which have not hitherto been well researched or represented in the historiography.

Notaries were recruited for their ability to write and their legal knowledge and were primarily employed in the drafting of legal documents and, as independent public officials, their services were called upon to record and attest a range of facts. Their protocol books show that one of their main roles

1 Part Two will be published in *Northern Studies* 55 (2024).

2 Murdoch 2006; Grosjean 2016; Murdoch 2016. Within this North Sea context, Murdoch 2012 has investigated not so much the notaries themselves but rather their records, primarily testaments.

was to evidence land transactions, primarily through sasines, and through the notarial instruments they produced, possession could be proved.³ In parallel, notaries recorded obligations or deeds which could then be preserved in the court books of a specific jurisdiction – such as the burgh register of deeds referred to in this article – giving them legal force. These deeds, whether in protocol books or in registers of deeds, covered a broad range of daily and occasional activities from commercial bonds, acknowledgements of debt, indentures, tacks, the giving of receipts, the making of promises, debt-recovery procedures, to marriage contracts, procuratories and testaments. As clerks of court they not only made transumps or copies of legal documents which they authenticated, but also recorded the outcome of arbitrations. Instances of some of the above, such as procuratories and testaments, as well as additional activities will be illustrated throughout this article.⁴

The notarial protocol books of Scottish notaries have been underused as a source, unlike those of their European counterparts. This is perhaps because of a general misconception that these Scottish documents are mere duplicate registers of sasines or their forerunners and, in consequence, scholars have preferred to refer to the printed Register of the Great Seal.⁵ Nevertheless, in terms of legal records, the importance of notaries and their records within the Scottish context has duly been noted.⁶ Scholars have highlighted their key role as a source and skilfully exploited it, for instance for evidence of cultural trends and sporting activities.⁷ Elizabeth Ewan has been particularly insightful in recognizing the strength of notarial and burgh records as a collective corpus and has been at the forefront in unlocking their potential within the socio-economic, legal and criminal contexts of Late Medieval and Renaissance Scotland.⁸ It is their potential within these various socio-economic, legal and criminal fields that the present article will endeavour to reveal, although necessarily within the constricted framework of a Scottish-based reflection since Scandinavian or Dutch notarial archives have not been consulted.

The first section of this paper touches upon one of the many angles from which notarial and burgh records can be approached, namely human capital, which would require further examination. It then turns to explore the nature and organisation of the exchanges between Scotland and the Baltic and the North Sea from 1500 to 1700 through the lens of notarial and burghal

3 Sasine – the act of giving possession of feudal property and the registration thereof.

4 Angus 1936. There were other types of documents included under notarial production. These will be discussed below at their first appearance.

5 Scottish Record Office 1996, 190; Meikle 2013, 160.

6 Kopaczyk 2013, 131-35.

7 Ewan 2000; Brochard 2019; Brochard 2021; Brochard 2021a; Brochard 2022.

8 Ewan 1992; Ewan 2005.

documentation, the attention then shifts to the processes involved in these exchanges, in which notaries, writers and the decisions of the burgh courts played a vital role. The formalities and practices surrounding death will be examined in this paper, primarily from the perspective of the paperwork and procedures, whilst two further processes, namely procuration and litigation will be studied in the next issue of this journal.⁹

Human capital: networks, distribution, women and apprentices

Networks and linkages

The importance of notarial and burgh records is not limited to their contents, i.e. the actual transactions they contained, but in fact extend to the parties involved and indeed the notaries themselves. These sources are useful to deepen our understanding of the notaries' personality and their function in enabling contacts in Scotland and Europe. Notarial deeds reflect the complex and networked world of early-modern European seafarers as they entered into business deals with each other. The active role played by notaries who documented these transactions in establishing and/or furthering these connections is difficult to ascertain. However, notaries were well placed to facilitate contacts between Scots and Scandinavians not only due to their networks of clients but also because of their general fluency in Latin. Whilst in Cairston (east of Stromness) in Orkney in August 1656, James Will younger, a merchant burghess of Aberdeen, as a cautioner for Herman Anderson, skipper employed by Herman Garmann, custumar general of Nordafjells, became bound to pay £200 to John Scott, burghess of Aberdeen, or the said Garmann. The notary selected for the task of recording this bond on that day was a Hugh Wood, described as a notary in Caithness.¹⁰ This bond exemplifies the possibility of indirect contacts through third parties, amounting to connection through recommendation or 'network linkage', and such connections are generally hard to trace.¹¹ Because of his wide network of clients, Wood could potentially enable some of these clients to liaise with Will and ultimately, perhaps, to make arrangements with the said Norwegian custumar general.

9 Procuration – the action of appearing for another through a mandate or authorisation formally constituting another one's procurator, i.e. chiefly one's attorney also, one's factor.

10 ACA, CA2/2/9, 13 May 1657, with Garmann noted as 'g[e]n[er]all customer of norvay'; Peter Anderson, personal communication, 22 May 2015, for identifying this place-name ('Rarstoun' in the original). Unless otherwise stated, monetary values are given in Scottish currency throughout the present article.

11 Zickermann 2013, 87.

Geographical distribution

These networks in turn can be deconstructed. As will be shown below when examining trade, notarial and burgh records enable a similar geographical breakdown for individuals to map out patterns of settlement and delineate particular activities or trends in relation to given communities. This information is helpful to complement studies on larger Scottish settlements, such as the ones in Gothenburg or along the Elbe and Weser rivers.¹² However, individuals from more remote Scandinavian places did get more than a mention in these notarial volumes, as did Scottish married women. The detail of this latter group that emerges is instructive in that it outlines a geographical settlement of Scots in the Baltic that was far and wide, to be found even in relatively remote locations or at least in the Scandinavian hinterland. Some of these women, such as Margaret Young, a daughter of Edinburgh merchant John Young, lived away from known Scottish clusters in the vicinity. Through her, her husband Magnus 'Simenes', a citizen of Filipstad north of Karlstad and Örebro, engaged in the Edinburgh property market.¹³

However, it is to be borne in mind that the particular series of protocol books examined are not necessarily homogeneous in their geographical coverage. For instance, apart from occasional references to men such as Simenes, the vast majority of references to the Baltic states and the countries bordering the North Sea within the Edinburgh protocol books relate to Poland, Edinburgh expatriates there, or descendants of Edinburgh property holders, giving this series a particular Polish flavour.¹⁴ The focus is also on the Edinburgh property market and the commercial links of its current and former inhabitants. For example, some time before May 1650, Stanislas Porteous in Slavina ('Slavonia in polland') was served heir to Leonard Porteous, his grandfather's brother's son and sometime merchant in Poland. Leonard Porteous had held part of a tenement of land on the north side of the High Street in Edinburgh near Castle Hill, and Stanislas, his heir, chose to sell this to William Younger, merchant traveller in Poland, in a contract drawn up in Slavina in May

12 Grosjean and Murdoch 2005; Zickermann 2013.

13 NRS, B22/1/80, ff.60v-61v. Earlier, in March 1501/2, Thomas Lumsden, Danish Sjælland herald, had resigned his lands in Edinburgh too, perhaps to assist with his permanent residence in Roskilde: NRS, B22/1/1, f.27r. Frequently used for diplomatic contacts with Scotland, Lumsden's mention in this Edinburgh source is the earliest for his role as herald: Riis 1988, ii, 67-68; Grosjean 2009, 166, 174, 178, 180-86.

14 This statement comes from a consultation of the card index to the Edinburgh protocol books which is found in Edinburgh City Archives. For additional connections, read Bajer 2012, 120.

1650.¹⁵ In another case, in October 1630, the Court of Session instructed the magistrates of Edinburgh to make an annual payment of 50 marks to William Porter, a local merchant, forth of the property of the late Patrick Mean, Edinburgh burgess, out of a principal sum of 1,000 marks redeemable by James Mean, Patrick's son, then a resident in Prussia in Poland ('in Spruce in Poll'). Porter had earned the right to this sum as he had constituted himself an assignee to Mean's debt of 512 'polles guidlings' or Polish guilders worth £576 Scots.¹⁶

Women and their dependants in the records

Beside this geographical pattern, the sources reveal gender and social aspects that enrich our knowledge of the roles of women and apprentices in the Baltic and North Sea region, adding to a growing body of gender studies focusing on Scots in the area that has recently emerged.¹⁷ Notarial records can provide considerable additional evidence to strengthen the arguments of recent studies about the involvement of women in the Scottish-Baltic trade, underscoring as they do the participation of women as business partners in European commerce, far beyond the confines of a domestic market. For instance, an entry in the protocol book of Robert Wedderburn records that, for a payment of £11 10s and a 'hame' (ham?), Florence Gray in Dundee received a quarter of a ship's ale (a low-quality beer used aboard a ship) for every voyage of that ship to Norway during the summer of 1592.¹⁸ Through the use of commissions, women were able to recoup unpaid debts. In July 1594, Perth merchant Adam Melville alias Mallace ('malice') stood £100 in debt to his sister Violet Mallace for linen cloth which he had received from her, and he contracted to pay this sum before 8 September. Subsequently, Adam allocated to her as many of the goods about to return from Gdańsk with their brother Alexander Mallace as would cover that sum, with Adam empowering Violet to sell such goods up to that amount.¹⁹ Repayment of sums owed certainly did take place in the case of Agnes Colville, widow and executrix of mariner James Blair. Blair had entered into a business deal with Robert Guthrie ('gottray'), son of William Guthrie, burgess of Ayr, for 'ane

15 NRS, B22/1/92, ff.228v-30r.

16 NRS, B22/1/75, ff.104r-05r. For further discussion of Court of Session rulings, see part two.

17 Murdoch and Zickermann 2019; Talbott 2007; Murdoch 2022. Both Grosjean 2003, ch. 5, and Bajer 2012, ch. 4, highlighted the importance of women of various strata.

18 DCA, B19/1/13, 27 January 1591/2. Gray presumably received a quarter's worth of that beer, that is in value or of its initial volume. On women's economic activities in relation to Scandinavia, see this article's part two; Talbott 2007, 108-9; and Rorke 2005, for the broader context.

19 PKA, B59/8/6, f.65r-v.

Danskene weyage'. However, Blair died before Guthrie could pay him the £60 he owed him. In October 1607, the Guthries became bound to deliver the money to Agnes, which they did at some point prior to January 1609.²⁰

Women's roles in Scottish-Baltic networks were far from one-dimensional. There is evidence from notarial and burgh documents that they were actively involved in the support of relatives, including apprentices who accompanied their masters abroad. This is of particular interest as apprentices, as a social category, can be difficult to locate in records. One such apprentice was John Shepherd, son of the late William Shepherd, a burghess of Dundee. In July 1568, when still a minor, John was about to accompany his master to Gdańsk and was keen to avoid any threat to his lands and goods through 'euill auisit [ill-advised] p[er]sonis'. With the consent of his curators, Shepherd named his sister Janet as his assignee to these inherited possessions.²¹ After the death of her husband, William Chalmers, a Perth baker, Agnes Henderson sought to organise a future career for her son, Thomas Sym.²² Agnes and two other bakers of Perth determined to give Sym a career outside baking. In September 1598, they all entered a contract with Gilbert Elder, a local burghess, for him to take Sym in service 'in the p[ar]tis of the eister seis [the Baltic] for vsing of the trade of m[er]chandice for lang or schort zeiris as he salhappin to be bund wt ane maister thair'. The family was thus ready to entrust Sym seemingly to a non-family member and went as far as becoming duty-bound to relieve Elder of all potential damages and costs sustained by Sym's still-to-be-found foreign master.²³

Arrangements made by families for the education or apprenticeship of their progeny were relatively common, and venturing to the 'eister seis' was apparently a popular option. In July 1623, Mearns minister George Maxwell of Auldhouse and Edinburgh merchant Patrick Forbes ended their previous contract relating to the apprenticeship of George Maxwell junior. Having earlier placed George junior as an apprentice with Forbes, the minister found his son more suited 'for tredding in the Eister seyes' than remaining in Scotland. So, with Forbes's consent, the minister sent George to 'ye kingdome of poill and vyairis pairtis' where the young apprentice could still be found in July 1623.²⁴ In another instance, in July 1639, George Irvine, a weaver in Milton of Balloch, declared in front of the burgh court of Dumbarton that 'he

20 Ayrshire Archives, B6/13/1A, ff.158v-59r.

21 DCA, Protocol Book of Thomas Ireland, 1566-75, ff.42v-43r.

22 Her son presumably from an earlier marriage.

23 PKA, B59/8/9, ff.89r-v.

24 NRS, B22/8/22, ff.273v-74r.

larnit the tred of wewing in [blank] citie of norwage'.²⁵ Yet, apprenticeship was only the first step as contacts and recommendations were paramount for a candidate's targeted sphere of operation.²⁶

This migratory phenomenon and enticement did not affect sons alone. Women themselves ventured out into the unknown. Whilst in Leith in early August 1571, Albert Wilson, a resident of Salten ('Salisbury') in Norway, entered into a matrimonial contract with Margaret Colville a resident of the Scottish port. This contract specified that Wilson was to receive Margaret as his wife once in Salten '*in facie ecclesie*'.²⁷

Commercial relations: their nature, agents and logistics

Commercial activities

If notarial and burgh records are rich sources for an analysis of human capital, they are also important for other types of capital. Indeed, commerce features prominently in the paperwork produced by notaries, albeit at times in a rather terse format. For instance, in June 1508, the notary Vincent Strachan recorded in his protocol book an accusation made by Thomas Winter that William Ker had unlawfully detained in Stralsund ten lasts of salt which were due to be delivered to Scotland packed in twelve barrels.²⁸ In another instance, in November 1560, with payment not forthcoming to redeem merchandise left in pledge with him by James Lindsay in Gdańsk, John Strathie, a merchant in Stirling, asked a local notary and clerk to formally document a public auction of the pledged goods at the local market cross. Among the items auctioned were a sword, a coat of French grey cloth, a doublet of white canvas, and a book called '*explica[ti]o Cathesismj*'.²⁹

In some of these notarial volumes, the role of peddling in the Baltic trade comes to the fore, and it is possible to follow the footsteps of travelling merchants such as Peter Dun in Lichnet ('lichtnay') in the duchy of Prussia, or those of John Scot, a merchant traveller in Poland.³⁰ However, peddling

25 Dumbarton Heritage Centre, DB1/1/1, 22 July 1639.

26 Murdoch 2006, 143, 193.

27 NRS, NP1/17, ff.121v-22r. The place referred here is almost certainly Salten, whose administrative unit (*len*), was about to come under the control of Scotsman Alexander Durham later on that decade: Murdoch 2003, 7-9.

28 NRS, B22/1/5, ff.5v-6r; DCA, Burgh Protocol Books, 1518-1534, f.46r (David Allanson's sale of shares in a ship in Stralsund in 1524), f.56v (James Kinloch and Gilbert Rolland, master of the *Mare*, in Denmark to recoup various sums from nine Scots there, 1525).

29 Stirling Archives, B66/15/4, 22 November 1560. The volume in question appears to be the work of German theologian and Reformer Johann Brenz' *Catechismus pia et utili explicatione illustratus* (1551) known as *Explicatio Catechismi*: Weismann 2016, 695.

30 ACA, CA2/2/4, 2 July 1603 (Dun); NRS, B22/8/7, f.109r (Scot).

was at times prompted by opportunities offered by large scale events. The largest fairs in Scandinavia drew Scottish merchants and were convenient occasions for settling business matters. One such fair was that of St Dominic held in August in Gdańsk, being the largest fair in Scandinavia, at which, in 1582, Aberdeen burgess John Ferguson younger settled his debts.³¹ On another occasion, in October 1564, having purchased the ship the *Grace of God*, a group of Aberdeen merchants arranged for part of its payment in Stralsund to local ship-owner Peter 'gowk/goak' prior to 'ye dominik m[er] cat' in Gdańsk.³²

Notarial registers not only richly illustrate the interconnections between Scottish merchants and their fellow traders in the Baltic and North Sea but also their ties with the homeland. For example, within these registers are to be found records of contracts signed by Scottish burgesses and merchants in the Baltic states (including Scottish burgesses of Scandinavian towns) and mercantile transactions. Although merchants might arrange for contracts to be registered after their return to Scotland, some Scottish notaries did travel to the continent to conduct their business.³³ Some of the transactions could be quite convoluted. For example, in May 1627, William Watson, a native of Perth, who was then in 'ye boid' in Pomerania went to Stralsund to sell two merchant booths he held in Perth to William Dickson, another merchant of the Fair City, who was in Stralsund at that time. On that occasion, Watson constituted Richard Black, a burgess of Perth, as his procurator to carry out the transaction in Perth. To Scotticize the procedure even further, Dundee residents witnessed the deed whilst in Stralsund.³⁴ In a similar case, in August 1607, Gilbert Halliday, merchant burgess of Edinburgh, signed a bond with David Wemyss, a skipper in Leith, in front of three merchant burgesses of Edinburgh. There is nothing unusual in this except that these men were then in Stockholm.³⁵

31 ACA, CA5/1/2, 15 May 1582, also 23 July 1582; CA1/1/23, p.305. The feast of Saint Dominic was additionally set as a time for payment of debts in Polish money: ECA, SL234/1/6, 28 January 1604.

32 ACA, CA1/1/25, pp.416-17. Despite this popularity, the fair has not attracted comment in Kowalski 2015 but has in Bogucka 2000, 40.

33 NRS, B22/8/2, f.75v (Alexander Clerk son of James Clerk, burgess in Stralsund, 1570s); DCA, Register of Deeds, 1626-47, 2 October 1644 (David Fife, merchant in Stockholm); B19/1/1, 9 November 1571; B19/1/2, 1 May 1573; B19/1/4, 1 May 1583 (all three, George Logan, burgess and 'rodman' of Bergen). On travelling notaries, see below and this article's part two.

34 PKA, B59/8/15, ff.66v-67v; ACA, CA2/2/6, 28 June 1619 (Aberdeen mercantile activities in 'Cassiehult' (Kashult/Kajshult?) in Sweden).

35 NRS, B22/8/10, 22 June 1608; equally B22/8/2, f.78v (a nameless Annand, servant to the king of Sweden, 1570s); B22/8/7, f.35v (Peter Forbes, servitor to Henrik Ramel, foreign chancellor of Denmark, 1595).

Volumes of deeds and notarial books are extremely valuable in documenting Scottish trade in the Baltic region and the North Sea, detailing logistical, contractual, and commercial elements of that trade. They prove useful in depicting the interactions, largely of a commercial nature, between Scandinavians and Scots.³⁶ As one would expect, some professionals appear in notarial documents more frequently than others, and men who embraced a maritime life feature prominently in these papers, for example 'Jochim menstur', captain of a Stralsund ship, who is recorded in May 1551 in an Aberdeen protocol book.³⁷ More specifically, these sources additionally enable a geographical breakdown and analysis of that trade. To name one such case, they often shed light on the commercial activities undertaken by Scots in Norway. In that context, the timber trade was very important, but other business and trade emerges from the notarial records, with, for instance, the sale of salt in Bergen by Edinburgh merchant Harry Young being documented in 1590.³⁸ Shipbuilding, one of Norway's leading industries, frequently attracted Scots to the country, in part to make use of that industry's facilities there, be it for the demolition of a crayer (a small trading vessel) or the refitting and repair of ships. In March 1589/90, William Colling, timberman, acknowledged receipt of the ship *Fleur de lis* 'as scho come fra ye Illis'. He was paid 500 marks and thirty stones of iron 'for bigging of ane new schip in Norroway'.³⁹ Colling was a busy man and seems to have specialised in the building of ships in Norway. In January 1591/2, as contracted with a group of Dundee ship-owners, he undertook to pass to Norway with the ship *Expedition* and refit her in length and breadth and with the addition of a new keel, new masts and sailyards ('rais'), a new rudder and orlop (lower deck), and complete with 'ane fals sternpost'. For his efforts, Colling would receive 650 marks and a full set of clothes. Two weeks later, the same Dundee owners charged Colling to use that same trip to Norway 'qr best ty[m]mer can be had' and to take with him 'sa mony men' to serve him to 'big & repair ane new schip' of forty king's foot long in the keel. This time his salary was set at 750 marks.⁴⁰ In another instance, at some point prior to October 1596, Edward Wilson, cooper in Aberdeen, sold his share in a crayer to Andrew Allan,

36 DCA, Burgh Protocol Books, 1518-1534, f.54r (Henry Stokon, skipper of Hamburg, 1525); ACA, CA2/2/5, 25 September 1607 (Mr Henrich Claussen and three other burgesses of Flensburg).

37 ACA, CA2/1/8, pp.190-91.

38 NRS, B22/8/5, f.20v; DCA, B19/1/12, 7 March 1589/90 (freighting of a ship in Skien in Norway). The import of salt had dominated the Scottish trade through Bergen earlier that century: Pedersen 2005, 148-49. On the timber trade, see Smout 1999; Lillehammer 1986.

39 DCA, B19/1/12, 17 March 1589/90.

40 DCA, B19/1/13, 12 January 1591/2; 28 January 1591/2.

burgess of St Andrews, who 'Demaleschit and down takine' it in Norway with Wilson's consent. Instead, once there, Allan actually built a new vessel under the colour of 'beitting and mending' the old crayer.⁴¹

Crucial to these maritime activities were the charter parties drafted by notaries. These documents were contracts of carriage of cargo between owners and merchants relating to the hire of a vessel and the delivery of the cargo and setting out the rights and responsibilities of the ship owners and the charterers. This type of contract demonstrates the versatility of early-modern maritime ventures. Having made a charter party in April 1601, Gilbert Lothian, merchant of Edinburgh, associated himself with the German 'henry albert [Heinrich Albrecht?]', master of the *Tiger* of Lübeck, and freighted it to Peter Cunningham and Robert Hunter, burgesses of Ayr, to sail to Aveiro in Portugal and bring it back to Ayr. However, when the ship returned, Lothian apprised it from Albrecht in late July 1601. The ship's actual possession duly passed to Lothian in early February 1602, with Albrecht being present for that transaction. In early May 1602, it was then Lothian's turn to sell on the fly-boat to two Ayr burgesses, James Johnston and John Power.⁴² These transactions, duly recorded in notarial records, show that these connections between Scots and the Baltic and the North Sea might not be straightforward and highlights multiple, indirect contacts and operations.⁴³ Furthermore, although the burghs of the Scottish west coast tended to ply their foreign trade along an Atlantic arc, this clearly demonstrates that their merchants also organised ventures with the Baltic.⁴⁴

Indeed, maritime operations were at times rather complex, representative of a much more multi-port, indirect and non-linear Scottish commercial trade in contemporary Europe.⁴⁵ Around 1597, John Snell, a 'Dutche' merchant in Lisbon, made use of George Govan's ship the *Hairt*, then in Lisbon, to transport 100 muids of salt to either Gdańsk or Königsberg. In that instance, Govan's cautioner was a William Clephane, alias 'Gulielmo Iwan Scottis man', resident and merchant in Lisbon.⁴⁶

41 ACA, CA2/2/3, ff.79r-81r.

42 NRS, B6/1/1/2, ff.616r-18v, 627r-v, 635r-v. An apprising applies to a legal procedure whereby the heritable rights of the debtor were sold to pay debts.

43 Smout 1999, 42.

44 Rorke 2001, i, 291-95.

45 Talbott 2016, 5; McLoughlin 2014, 95-97; Zickermann 2013, 108.

46 NRS, B22/8/8, ff.372v-73v. Govan failed in his enterprise as the Edinburgh guild court ordered him to pay Clephane 400 ducats, or £1,250 Scots, for the salt. Indeed, the case was picked up by the Edinburgh burgh court in July 1606, where it transpired that Govan actually sold the salt in Yarmouth. The legal imbroglio that ensued was caused by the fact that it initially derived from a 1588 contract in which a third party received money from Snell and Clephane: ECA, SL234/1/6, 12 July 1606.

Repatriation of capital

The profits generated by these commercial activities were then invested in various forms, including the repatriation of capital. Notarial records can be particularly pertinent in demonstrating to what degree Scottish migrants enriched if at all early modern Scotland. Using Dutch wills and testaments, Murdoch has been very insightful in this respect.⁴⁷ Indeed, Scottish expatriates or travellers did not forget their native land and showed a beneficence towards their local communities back in Scotland through the repatriation of capital.⁴⁸ In a similar vein, Scottish notarial series can complement such useful studies. A more systematic analysis of these documents is required but a few cases indicate that migrants contributed towards societal enrichment through various means, be it mortifications or donations. In June 1633 whilst in Gdańsk, James Rolland, one of its burgesses, granted to the burgh of Aberdeen, the town of his birth and education, some land to serve the ministry in Footdee and for the promotion of religion.⁴⁹ Earlier in 1601 in the same philanthropic vein, Walter Wishart, burgess of Hamburg, had left in his testament 100 dollars to the beadles of St Thomas's hospital in Aberdeen. This sum was drawn upon a debt owed by John Wemyss of Logie to Wishart in a 1595 Hamburg bond.⁵⁰

Factors, risks and risk management

Whether for commercial activities or the repatriation of capital, these often relied on trusted representatives or agents. Information contained in notarial records highlights the role of go-betweens employed by individuals to ensure their operations ran smoothly. Factors frequently acted as representatives of merchants who could not be present themselves. In June 1527, Nicholas White undertook to pay John Cant in Leith or his factors in Copenhagen 48 marks Danish money for wine and cloth on his next voyage to the Danish city.⁵¹ From Bergen, burgesses such as Henry Garioch and Robert Murray could organise the sale of lands which they held in Scotland, as indeed

47 Murdoch 2012.

48 Murdoch 2006, 228-37.

49 ACA, CA2/1/38, ff.224v-25v; CA2/2/7, 15 August 1633; CA2/2/8, pp.99-103. Rolland gave a procuration dated Gdańsk in June 1633 to Mr William Guild, minister at Aberdeen, for the said mortification. Rolland might have been connected with Guild through the latter's wife, Katherine Rolland.

50 ACA, CA1/1/40, p.342; Zickermann 2005, especially p.260 for the conditions to conduct business in Hamburg.

51 DCA, Burgh Protocol Books, 1518-1534, f.90v. The treatment of factors is not elaborated further as the role of notaries in this process is explored in greater details in part two.

they did for their Orcadian properties in May 1621 and in September 1630 respectively.⁵²

These trusted factors should be set within the wider context of risks and risk management. Because of the distance separating Scotland from Scandinavia, an element of trust was required when conducting trade and all that entailed, in particular when engaged in the risky business of borrowing. In this respect, notaries assisted in alleviating these risks and strengthening trust between parties by drafting bonds. These written documents could subsequently be referred to if necessary, as opposed to oral agreements which could be disputed or even denied under oath. Having lent money to a merchant in Montrose, and this transaction having been recorded in the register of deeds of Aberdeen in June 1669, Jens Jurgeson, a merchant of Molde in Romsdal in Norway, would have been confident enough that its recovery was not beyond his reach.⁵³

Risks other than those associated with non-payment of debts were plenty indeed, if only the vagaries of the sea faced by travellers to, from and in the North Sea and Baltic. Two such travellers, Hamburg citizens, broke ship on the isle of Sanday in Orkney in late April 1596 and, contrary to assumption or popular perception, they were able to recover ‘peciablie’ all the salvageable cargo. They added that they had no occasion to complain and had been ‘weill i[n]terteineit’ by the islanders.⁵⁴ There were also near-misses. The drowning of Dundee resident John Turner on 13 May 1561 when sailing from Perth to Dundee was found in court to have been caused by Turner’s own negligence. The court acquitted Turner’s fellow seamen, including Alexander Myld ‘scottis duche man’ and Hans ‘girsman’, residents of Stralsund, without charge.⁵⁵ Others were nevertheless less fortunate, notably as victims of piracy.⁵⁶ At times, foreign merchants fell prey to the violence displayed

52 NRS, NP1/75B, ff.94r, 263v-64r. The Orcadian links with Bergen can be encapsulated in the family story of Thomas Cromerty from Walls who became a burghess of Bergen in 1572: Hansen 2015; 2015a; similarly for the other Northern Isle, Shetland, and its links with northern Germany (Bremen/Hamburg), see Zickermann 2013a; Zickermann 2013, ch. 2; Riddell 2019, 6-9.

53 ACA, CA2/2/11, 30 June 1669. Scots borrowed money abroad: GCA, B4/1/1, f.190r (Gdańsk). That notion of trust is further discussed in part two.

54 NRS, NP1/36, f.39v; Zickermann 2013, 84; ACA, CA5/1/2, 25 August 1582 (a Rostock ship broke and ‘periseit vpon ye sand of balhelvie [Belhelvie]’). In 1530, after their vessel was caught in a storm and deliberately run aground off the Aberdeen coast, the mariners and merchants of a Gdańsk ship overall enjoyed a comparable peaceable outcome, supported by the law: Simpson 2018; more generally Ford 2023, and pp. 315-16, conversely for violent spoliation (‘spuilzie’).

55 PKA, B59/12/4, ff.37v-38r.

56 Ditchburn 1992; Murdoch 2010, ch. 3; Murdoch, Little and Forte 2003; Brochard 2014, 223-24.

against them, as experienced by Hamburg merchant Christoph Waser who ran into trouble in Inverness in January 1567/8 when he was threatened by three locals, including the drawing of a sword against him.⁵⁷ Ships' crews were also temporarily denied access ashore because of the risk of plague, as happened in St Andrews to several ships coming from the Baltic in 1602.⁵⁸

Travellers knew the dangers they were about to expose themselves to through sea transport, diseases and raids. Aware of potential risks, prior to their departure Scots had to ensure that everything they left behind was in good hands, and they made good use of notaries to record their transactions and arrangements. Robert Cramond, fiar of Aldbar in Forfarshire, was bound for Sweden in July 1573, and in presence of notary Thomas Ireland he delivered to the safe-keeping of Alexander Maxwell of Tealing and his son David various writs which were to be delivered back on Cramond's return or, in the event of his death, to Cramond's heirs, as duly recorded in Ireland's protocol book.⁵⁹ The same cautiousness is visible in another case. The reason behind the departure of St Andrews tailor Alexander Carstairs on 'yis voyage maid to Denmark' is not known, yet he appointed Robert, Henry and James Carstairs, presumably his brothers, assignees to a 77-mark debt still owed to him by Thomas Carstairs, very probably his uncle, as his share of the inheritance of his late unnamed father in the Grange. This was simply a precautionary disposition as Alexander Carstairs added a clause that, if he ever returned to Scotland, the Carstairs trio would repay him the money.⁶⁰ As if these dangers were not enough, another threat was lurking for expatriates as ill-intentioned individuals were able to take advantage of absences to make mischief. For example, they might launch legal actions during individuals' 'absence out of ye town [Edinburgh]' to cause inconvenience and financial loss, as happened to John Howie, burgess of Bergen in December 1603-January 1604.⁶¹ Thomas Wright in Leith had Howie arrested and in December 1603 had him find a surety to answer in court whenever charged. According to Howie, Wright never intended to sue but was planning to use Howie's future absence out of town 'to get sum inconvenient' against him. Valuable though the work of notaries was, they could not guard against every eventuality or protect against every risk.

57 HCA, BI 1/1/2, ff.6r-v, 7v-8r.

58 SAUL, B65/8/2, 7 and 11 November 1602 (merchant John Brydie and crew from Lübeck); Ayrshire Archives, B6/18/1, 7, 16, 22 September 1602, 19 and 26 October 1602, and 1 November 1603 (two ships from Gdańsk).

59 DCA, Protocol Book of Thomas Ireland, 1566-75, ff.142r-43r.

60 SAUL, B65/8/1, 21 April 1590.

61 ECA, SL234/1/6, 5 January 1604. The large Scottish community in Bergen is the subject of Pedersen 2005.

Drafting writs

Yet one type of risk, the one peculiar to oral agreements, could be mitigated by the drafting of writs. Arrangements for drafting writs between parties in this Scottish-Baltic context were available so as to adapt to this international setting. One convenient way of managing transactions was to have a charter and precept of sasine already drawn up back in Scotland, such as the one drafted by Andrew Ellis for the said Robert Murray in the case just mentioned. The document was then taken by any burges or merchant with enough education who happened to resort to Scandinavia to the vendor so the paperwork could be completed. In this instance George Stewart, burges of Aberdeen, fulfilled this role, and, having located Murray, he merely had to fill up 'the dait year and witness' section in the writ.⁶²

This task of filling up the witness list could be devolved to a notary travelling or resident abroad, and this did happen in a few cases. William Hutcheson, a native of Edinburgh and resident of Greifswald, acknowledged a debt of his late father, Walter Hutcheson, merchant of Edinburgh, to William's brother-in-law, James Clerk, merchant of Edinburgh. Clerk organised the settlement of the undisclosed debt through his son, James Clerk younger, who also paid an additional 300 marks 'of ye [...] Cuntrey of Pomerland' to William in Greifswald. In return, William sold Clerk senior a booth in Edinburgh's High Street for which they had Mr Hadrian Littlejohn, son of a merchant of Edinburgh, draw up the contract, presumably in Edinburgh. Once in Greifswald in November 1612, the notary Patrick Kerr inserted the witnesses, all Scottish merchant burgesses of Greifswald.⁶³

As a norm, however, the parties simply drew up the agreement themselves. In May 1615 in Bergen, John Gourlay drafted a bond of borrowing between Thomas Lawson, son of a baker in Edinburgh, and William Gray, a baker in Leith, whereby Lawson became bound to pay back the 28 Norwegian dollars to Gray that he owed him.⁶⁴ John Goldman, son of a butcher of Dundee, adopted similar means. In newly-founded Gothenburg, in June 1633, Goldman admitted his debt of £40 lent to him by two burgesses of Dundee and became bound to pay them back within less than two months with a tenement in Dundee in warrandice. Fellow Scots and burgesses of the Kattogat town Peter Geddie and James Kinnaird (Kinnaird being later master of the mint in Sweden) witnessed the deed. The notary Thomas Fife

62 NRS, NP1/75B, ff.263v-64r.

63 NRS, B22/8/14, ff.244v-47r. Part two also touches on this aspect of travelling notaries. This point deserves more scholarly work.

64 NRS, B22/8/17, f.5v, and ff.64v-66r, for merchant John Philip drawing a contract in 1613 in Stockholm.

then acted as Goldman's procurator for its registration.⁶⁵ This registration was important as will be seen in part two when dealing with litigation.

Inheritance and testimonies

The importance of notaries and their records in relation to business and commercial activities has been underlined above. That role and importance did not diminish when dealing with death and inheritance which featured prominently in these sources, alongside cases of debts and damages. The recovery of goods and possession by the heirs of Scots deceased at home or abroad are frequently noted in notaries' protocol books.⁶⁶ The vast majority of these cases concerned pursuit for debt, as in August 1574, when four sons of the late Anstruther resident John Watson (William, John, Peter, and Andrew) pursued Archibald Pennycuik in Leith to recover a seventeen-year-old debt of 40 marks 'spruce money' contracted by Pennycuik with John Watson whilst in Gdańsk in 1557.⁶⁷ At times cases were more complex and the pursuit for debt might even be tied to homicide. In April 1571, William Steven in 'Muirfudline' as heir of the late Thomas Steven, pressed for the recovery of any of Thomas's possessions and for assythment (compensation) following Thomas's killing in Sweden in 1570 by Walter Richieson in Leith.⁶⁸ In a few cases, the prosecutors only sued for homicide. In September 1573, Captain George Mitchell empowered William Spalding to pursue 'in Swadine for ye Deid and slaucht[er]' of the late Julius Spalding.⁶⁹

Less violent situations also required crucial documents, such as account books, for the due process of law. With the death of John Stobie in Gdańsk, efforts were made in Perth in 1589 to secure his account book ('compt buike') there to be brought back at the next homecoming of merchants from the Baltic port to settle any of Stobie's remaining debts.⁷⁰ Armed with such evidence, local courts could then impose the payment of arrears to the creditors' heirs. In February 1597/8, the burgh court of Aberdeen bound George Ker, a local

65 DCA, Burgh and Head Court Book, 1633-1648, 14 August 1633; Grosjean and Murdoch 2005, for the context and pp. 196, 198, 211, 221, for Kinnaird. In 1630s Gothenburg, Kinnaird appears as a master mariner who had arrived from Denmark with his wife Elizabeth Wedderburn: Grage 1986, 112.

66 DCA, Burgh Protocol Books, 1518-1534, f.137r (Alexander Elder, son of Robert Elder in Barry parish (Carnoustie), died in Denmark prior to March 1528/9).

67 ECA, SL150/1/2, pp. 55-56. The bailie ordered Pennycuik to pay the plaintiffs 10s Scot per mark.

68 ACA, CA2/2/1, f.44r-v.

69 DCA, B19/1/2, 21 September 1573.

70 PKA, B59/8/4, f.160r-v. Perth merchants had long been trading in the Polish city, as seen in the early 1550s: PKA, B59/12/3, ff.200r, 210v.

burgess, to reimburse Isobel, Agnes, Margaret and Elspeth Anderson, sisters and heiresses of the late Gilbert Anderson, also burgess of Aberdeen 'su[m] tyme travelland in poill', for a debt contained in their brother's account book and owed by Ker to him.⁷¹ In a debt case pursued by these four Anderson sisters before the burgh court of Aberdeen, the claimants produced, among other evidence, an account extracted out of 'ye buiks of the bretherschep of poill', presumably the same document as the 'compt buik' subscribed by 'the elderis and bretherschep of poill' dated at Poznań 19 July 1597. They subsequently requested that commissions be sent to 'the Lords of poisnay [Poznań] in poill danskyn [Gdańsk] and to ye scottis Iudicatorie and brether of the elderschip yr' to be reported in writing. The sisters had entrusted Patrick Chalmers, merchant 'in the eist cuntries', as their procurator to retrieve the money. When he failed to pay them, the sisters turned against him and his surety before the Aberdeen court, forcing Chalmers eventually to make the payment in July 1598.⁷²

Competing international legislation

At times, legal wrangling was compounded by competing laws resulting in international cases. The late Helen Bickerton, a daughter of William Bickerton in Haddington, had travelled to Norway and married a 'W[illia]m swerver Duschman' and bore him a son, who subsequently died without heirs. Following the death of her husband, Helen remarried to Gilbert Kincaid, merchant burgess of Uppsala, but died childless. In the ensuing case to establish the rightful owner of Helen's estate, reference was made to the Norwegian laws of succession whereby Helen's possession fell to Margaret Lindsay, her mother. Margaret herself cancelled all letters of procuratory to uplift Helen's goods and especially an assignation of the same to Robert Archibald, burgess of Uppsala. Instead, and for a payment of £300, she transferred these to Kincaid. Finally, whilst in Edinburgh in May 1605, William Binney, burgess of Uppsala, paid the said sum on Kincaid's behalf to Christian Bickerton, Helen's sister and Margaret's executrix.⁷³

Legal complications arising from cases spread over different countries were not uncommon. In June 1659, Mr William Spang, minister at Middelburg in Zeeland as legal tutor, commissioned Mr William Caldwell, student in

71 ACA, CA1/1/37, pp. 280-81; Bogucka 2000, 41-42. However, Anderson also contracted debts himself for which his co-heiresses were then being sued: ACA, CA1/1/37, pp. 282-83.

72 ACA, CA1/1/37, pp.327, 387-88, 481, 500-501, 681-83, 775-76. Chalmers was shortly thereafter admitted burgess of Poznań in 1600: Bajer 2012, 119.

73 NRS, B22/8/9, ff.49v-50r.

Glasgow, to manage the affairs of Hannibal Spang, described as ‘pupil’ and presumably a relative of the minister. Yet this was legally challenged before the burgh court of Glasgow on a claim that the production of a tutory dative – i.e. a tutor appointed by the Crown or the court – was null as granted by a pupil dwelling ‘in Poll or Suaden’ and not resident in Scotland, and was thus illegal. It was replied that the document was actually a retoured service of legal tutory – a formerly retoured or legally confirmed tutor (a tutor at law) which superseded and outranked a tutor dative – with the pupil being of Scottish descent by the father and Polish by the mother. Hannibal was served heir to his grandfather, Andrew Spang, as eldest son of the late colonel Andrew Spang, of Swedish and Norwegian service in the 1630s-1640s, himself the eldest son of the said Andrew.⁷⁴

Wills and testaments

Even before post-mortem procedures began, people tried to pre-empt legal complications that might ensue or simply wanted to provide for the future of their relatives and loved ones. To that end, some individuals in the Baltic region wrote testaments in favour of relatives left behind in Scotland prior to their decease.⁷⁵ In February 1597, Michael Fraser, son of Mr Thomas Fraser of Bishopton in Aberdeenshire, did so in Königsberg and bequeathed 100 guilders ‘dutche money’ and an additional 50 Scottish marks each to his sister Margaret Fraser and brother Gilbert Fraser. After his death, the money was collected by Robert Clayhills, merchant burges of Dundee and ‘now trauelland in Prussia’, who handed it over to Margaret and Gilbert’s procurator, with the final payment being made in May 1598.⁷⁶ The same procedure equally applied for goods going in the other direction. As a dying man, John Cochran, resident in Gdańsk, made his testament and left to his spouse Effie Cooper, then in the Polish town, his ‘kist’, containing money and clothes, that was in the keeping of Gilbert Hunter in Leith at the time. The executor and chief executor (‘o[ve]risman’) appointed by Cochran entrusted the brother of the deceased, Andrew Cochran, burges of Ayr, with the task of transporting and delivering the chest and its contents from Leith to the widow in Gdańsk. Andrew was to carry the testament, given him by

74 GCA, B1/1/5, ff.274v-77r; SSNE, ID no. 3546.

75 Drafting wills was a feature of notaries’ work: Ewan 2000, 154-55.

76 DCA, Burgh and Head Court Book, 1597-1599, 15 July 1597, 8 May 1598. At the time of his death, Michael Fraser had left 400 guilders overall with Clayhills to be paid to the relevant persons. The case is then picked up by Aberdeen burgh court in June 1599 ordering the payment of 300 marks to Gilbert who had secured a birth-brief before the local baillie to determine his true family credentials: ACA, CA1/1/38, pp.607-609; AUL, MS 1050/1, no. 151, 16 June 1599.

these executors, to show to Effie, as she additionally was duty-bound by the testament to pay Andrew's own niece, Agnes Maxwell, £80 Scots. Should Andrew fail to hand over the chest, he was to take it back to the executors but also pay them a £40 fine.⁷⁷

In the absence of such testamentary stipulations, the normal procedure for the retrieval of foreign assets was first to secure a testimonial from a Scottish burgh to confirm the actual death and the family connections of the claimant whose relative died abroad; a task which normally fell to a notary as town clerk.⁷⁸ In August 1557, Alexander Carnegie in Idvies (Angus) turned to the town council of Dundee for a testimonial 'to verify his lauchfull getting & bering in ye band of matrimonie'. Carnegie produced three witnesses who testified that he was the son of John Carnegie in Ochterlony ('achtrelø') and Effie Kid, who had three sons John, the said Alexander, and Patrick. With John junior dying in Roskilde in Denmark, Alexander resigned his right in favour of his younger brother Patrick. The Dundee magistrates then ordered a testimonial to be produced for Patrick to be sent to Denmark to enable his claim to his deceased brother's goods.⁷⁹ The same procedure took place in October 1608 when eight Glasgow burgesses appeared before the local council and testified to the lawful marriage of the late John Howie and Marion Park. They added that out of their fruitful union were born 'dochters and sonis' among whom was Robert Howie now in Poland.⁸⁰ From 1589, Aberdeen actually kept a separate register for these certificates, the propinquity book, in which entries were made either by a bailie or a scribe.⁸¹ It recorded testimonials granted by the town bailie for natives of Aberdeen and district who had travelled elsewhere in Scotland and Britain or emigrated. The bailie typically heard evidence from a number of witnesses at the request of the person seeking to establish these biological and social

77 Ayrshire Archives, B6/13/1A, f.63r.

78 On testimonials in general in relation to notaries, see Ewan 1992, 36; Durkan 1983, 39.

79 DCA, Burgh and Head Court Book, 1555-1557, 2 August, 9 August 1557. Of similar flavour is Moray Archives, ZBEL, B2/3, pp.1014, 1016-17 (William Robertson, son of Richard Robertson, burgess of Elgin, died in Prussia in December 1583); ACA, CA1/1/25, p.320 (James Crombie in 'ryslleinbrig' (Riesenburg/Prabuty?) in Poland as lawful son of Thomas Crombie and Helen Wright in 'ney[ther; i.e. Nether]' Carden in Oyne parish, 1564), pp.618, 624, 641 (all for Scots residing or who died in Gdańsk, 1565); CA1/1/36, p.120 (heir of Andrew Tullidaff, burgess of Gdańsk, 1595).

80 GCA, C1/1/6, f.239v.

81 Those who applied for birth-briefs were recorded in the 1589-1603 propinquity book, now kept at Aberdeen university library: AUL, MS 1050/1. The city archives keep the later volume for 1637 to 1705: ACA, CA5/10/1. Prior to 1589, the council issued testimonials to the same effect: e.g. ACA, CA1/1/23, pp.3, 186 (Alexander Thomson, burgess of Gdańsk, 1558); CA1/1/24, pp.697-98 (George Sanderson, dwelling in Stralsund and factor to James Clerk in Stralsund, 1563).

credentials as proven and verified by these witnesses.⁸² While potentially valuable sources, it has, however, been established that the information these registers contain is not always accurate.⁸³

For their part, the burghs held inquests to enquire into the death of former residents and their kin. This involved the hearing of testimonies to corroborate any claims of a death on foreign soil. In October 1547, the burgh court of Perth sat for the hearing of four witnesses regarding the death of Helen Wright, widow of James Lawson and presumably having Perth roots or properties. John Christie, burgess of Perth, attested that Helen died '*ab humanis corporalis*' ('from [her] human body') in Elsinore 'in ye yest [east]' about a year ago, having heard the same 'be oppin voce and fame of ye honest men of elsonvr quhay coft [bought] hir clothing & abuylzeme[n]t [apparel] eftir scho wes decessit'. He added that a man named Alexander Lyal, presumably then in Elsinore, would have sent to Scotland 'testifica[ti]oun in write' of her death had it not been for Helen's daughter who was present at the time of her mother's passing away and could come to Scotland and swear to it. This Lyal was none other than the mayor of Elsinore and one of the richest and most influential merchants of the country at the time. No doubt his testimony, had he provided it, would have carried some weight in Scotland. Another witness, Alexander Bunch, undoubtedly the local bailie, declared that Helen's daughter returned to Scotland with him and showed him that her mother was 'deid and erdit [buried]'. Finally, burgess Andrew Farewell corroborated that Helen was alive in Elsinore about a year previously and then died and was buried 'i[n] ye kirk zard' there and that he 'zeid apon [i.e. went to] hir graif'.⁸⁴

The burghs' inquests were primarily conducted to ascertain the validity of the various claimants' rights. These should actually be set within a larger legal process, revolving around brieves of inquest. These documents were issued by the Chancery and were means of identifying the nearest lawful heir. Once a claimant had purchased a breve, it was issued to the appropriate authority, here the burgh court, which was obliged to conduct an investigation to establish that claimant's right to the land or property in question and report back to the Chancery for judgement. One such inquest took place in late February 1547/8 in Ayr concerning the estate of the late William Nisbet. It

82 It is also worth bearing in mind that not all birth-briefs were written by notaries. For the case of James Clerk, schoolmaster in Glasgow, as a writer of one such certificate in 1661, see GCA, B1/1/6, f.34v.

83 Reid 1972, 562-63; Glozier 2000, 63-64.

84 PKA, B59/12/3, f.22r; Christensen 1970, 136; Smout 2001, 121; and Riis 1988, i, ch. 6, for the Scottish community in Elsinore.

was presented to the inquest that Nisbet had three sisters each with children. One of them was Mary ('male') Nisbet married to Conall Nicol. The couple seems to have lived abroad in Gdańsk with 'certane barnis' also resident there. Within the previous four years, Nicol had been in Ayr to fetch one of his sons who was, at that time, staying with his (Conall's) 'friends'. But the Nisbet sisters' rights were contested by the nephews of the deceased, William and Alexander Ards, in particular Alexander who presented a brieve to be served as nearest heir.⁸⁵

Having established a claimant's lawful right, burgh councils would issue a 'testificat & warrand', or certificate and warrant, under the 'secret seall' of that local authority. These legal documents were then sent to the foreign town where the person had died attesting to the claim secured by the departed's rightful heir(s). In April 1560, the Dundee bailies found Alexander Carnegie, a local baker, to be nearest and lawful heir of his deceased brother, David Carnegie, burgess of Elsinore in Denmark, both being lawful sons of David Carnegie and Margaret Wedderburn. The bailies ordered that a testimonial be produced under 'yr [their] seill of causs'.⁸⁶ In another instance in June 1649, Aberdeen council dispatched similar documentation to Gdańsk notifying the authorities there that Mr James, Richard, Christian, Jean and Susanna Gordon were the only brothers and sisters of the late Robert Gordon, a burgess of Aberdeen, who died in the Polish city. The Aberdeen authorities vouched for the fact that no one else had 'als good richt to succeed to his [Robert's] means guid and geir'. Aberdeen council furthermore guaranteed the Gdańsk magistrates that no legal challenge would hold against these relatives' claims. In that way, should a legal suit against these heirs follow, then the latter could hold Aberdeen council responsible for any fault in the matter. In their turn, to protect Aberdeen council from any legal action that this security granted to Gdańsk might cause, three cautioners became duty bound to relieve the town from any Polish court case or any other litigation.⁸⁷

Competing claims made by relatives and interested parties in Scotland at times delayed the lawful procedure, as it was necessary to allow for the appearance of witnesses or the submission of the relevant paperwork. In May 1561, when Thomas Lyell sued Andrew Ramsay before the burgh court of Perth over the goods of the late James Christison, Ramsay pressed the court

85 Ayrshire Archives, B6/12/2, p. 32.

86 DCA, Burgh and Head Court Book, 1558-1561, 25 April 1560. David Carnegie had skippered vessels between the Baltic and Scotland since the 1540s before trading goods between these two areas in the 1550s: Riis 1988, i, 164-67; ii, 213.

87 ACA, CA5/1/6, 8 June 1649. Gordon is not to be confused with his namesake of Aberdeen's Robert Gordon's College fame, who was a wealthy merchant of Gdańsk and entrepreneur: Bajer 2012, 170-71.

to grant him forty days to prepare his defence. Ramsay argued that David Bremner ('braban[er]'), one of Christison's executors, was actually in Gdańsk with 'ye haill ryts titillis & Jur[i]s man necess[a]r for ye defens of yis actioun i[n] his keping'. Lyell objected to such a grant on the ground that Ramsay had received a copy of the charge in late March. The judge concurred with Ramsay's argument, although he equitably granted him but three weeks.⁸⁸

Once this legal paperwork was all cleared, the next phase was the actual retrieval of goods. It goes without saying that Scots dying in Scotland were at times debtors or creditors to Scots in the Baltic region. It was left to the heirs of the deceased to organize the retrieval of these assets or the payment of any outstanding debts. Appearing before Burntisland burgh court in March 1607, John Orkney, burgess of Bergen, was discerned to pay William, Catherine and Adam Brown, as children and executors of William Brown, butcher of Burntisland, £50 Scots within the Fife burgh prior to June 1608, presumably to clear sums that Orkney had not paid the butcher during the latter's lifetime.⁸⁹ On occasions, the Scottish heirs would deal with matters personally. In May 1600, Aberdeen masons Andrew and Robert Gray received 70 marks from local merchant John Hay. The money covered the gift of bastardy of Thomas Gray, Andrew and Robert's brother, which Hay had obtained for them but also 'for furnesing' Andrew to Bergen ('Birrhvn') to recover Thomas's goods there.⁹⁰

However, relatives of the deceased usually granted a procuration to a third party to retrieve these goods from abroad.⁹¹ About 1528, Alexander Mitchell in Stirling was indebted in the sum of £16 for bear barley purchased from Thomas Jamieson. Yet Mitchell absconded to Denmark ('being fugitive of yis c[un]trey to de[n]m[ar]k') where he died just prior to July 1553. Thomas Burgess, burgess of Stirling, then obtained a letter of procuratory from Mitchell's relative, Marion Mitchell. Burgess became bound to Peter

88 PKA, B59/12/4, ff.29r, 31r-v. The legal ramifications of the lack of paperwork or incorrect paperwork which demonstrate the important role of notary and his documents are studied in greater depth in part two.

89 NRS, B9/10/2, f.67r.

90 ACA, CA1/1/39, p.364. In the record, John appears as John Gray and Thomas as Thomas Hay. The position adopted here has been that there was a clerical error between these two individuals' surnames. John Hay was entitled to 35 marks by the following November and half of the goods or monies to be recovered either through Thomas' legacy or the said gift of bastardy. Pedersen 2005, 157-58, for another case in Bergen involving illegitimacy. A gift of bastardy was the crown's gift of property of a bastard dying intestate (without a will) and without heirs which enabled the Crown to sell the rights to the bastard's estate to private persons.

91 On the constitution of procurators and letters of procuratory, read Finlay 2000, 21-27. Part two discusses the broader application of deputation and procuration beyond this issue of deceased relatives.

Williamson, provost of Elsinore, where Alexander had resided, to pay Alexander's creditors. But, being reluctant to do so, the magistrates of Stirling, having seen Williamson's testimonials confirming the taking of possession of Alexander's goods, ordered Burgess to make the payments. These detailed payments are interesting in showing the legal paperwork that was involved in the case, including two letters of procuratory that 'pessit to de[n]m[ar]k'; another procuration brought to Leith; a commission sent to Edinburgh and Linlithgow and additional expenses for the examination of witnesses, for a procurator's fees and legal instruments, and for the purchase of decrees.⁹² In another case, with Alexander Urquhart dying in Roskilde in February 1599, his three brothers who were burgesses of Aberdeen (John, surgeon) and Forres (James and William), and his sister Marjory, in August 1599 entrusted Aberdeen merchant Andrew Forbes younger with the collection of Alexander's goods in Denmark. The Aberdeen court issued Forbes with such a procuration 'in latine in ampil forme' bearing the burgh's seal of cause, reinforcing the point made earlier about notaries facilitating contacts and networks through their proficiency in the European lingua franca.⁹³

The issue of bastardy, touched upon in the case of Andrew and Robert Gray mentioned above, deserves greater consideration. Andrew Nicholson, son of Mr John Nicholson in Aberdeen, had 'decessit as bastard' in August 1563 'in ye eist partis of danskyne'. Subsequently, Catherine Adamson, a resident of Aberdeen and in all probability the deceased's close kinswoman, interfered with the late Andrew's goods. Yet Catherine was to learn the hard way about the subtleties governing the Scottish law of bastardy and the legal remedy attendant upon illegitimacy. James Nicholson, almost certainly one of Andrew's relatives, knew a thing or two about this legal condition being a Writer to the Signet in Edinburgh. He had arranged to secure a royal gift of Andrew's escheat. James then only had to petition the Aberdeen magistrates in November 1563 to serve Catherine with a legal notice to pay and deliver these goods to James. The judges accordingly bound her to do this in July 1564.⁹⁴

In terms of a post-mortem procuratory, before any steps could be taken, the interested parties had to ensure that the migrant had actually passed away.

92 Stirling Archives, B66/15/3, 10 December 1554, 11 February 1554/5, 18 February 1554/5, 26 April 1555, 10 May 1555, 17 May 1555, 16 March 1556/7.

93 ACA, CA2/2/4, 14 August 1599; CA1/1/38, pp.750-51. Forbes was a regular trader to Scandinavia and, for instance, purchased twelve horses from Aalborg skipper Andreas Nielsen in July 1600: ACA, CA1/1/39, p.606; also NRS, B22/8/4, f.33r-v (Christian Campbell in Skien in Norway, 1587); DCA, Burgh and Head Court Book, 1555-1557, f.45r (John Bryde alias Kinloch died in Neumark, 1556). The role of notaries in translating documents is further explored in part two.

94 ACA, CA1/1/25, pp.142-43, 332.

This could be formalized through a testimonial issued by the town where the relative died. In Aberdeen in January 1594/5, the four daughters of the late Patrick Gray disputed Andrew Tulliedaff's claim to be served as rightful heir to John Tulliefdaff, resident in Gdańsk, in relation to a sasine which Patrick had obtained from John. One of the points at issue was whether John Tilliedaff was actually dead and so Andrew, John's cousin, produced a testimonial under Gdańsk's seal certifying John's death. Undeterred, the daughters tried to prove there was a more suitable candidate as heir, an unnamed daughter of John's elder brother William resident in Vienna. But as no certificate could be produced for her, the bailies allowed Andrew's brieve (of service) to be put to an inquest, in other words for the procedure to continue its course.⁹⁵

This legal clarification through the use of testimonials and commissions was crucial for determining death and complying with due process. Walter Hunter received a property in the Guestrow in Aberdeen and had it registered in May 1563. By then Hunter had become a burghess of Slangerup in Denmark. At that time and just prior to his departure from Scotland to settle in Slangerup, Hunter commissioned Patrick Leslie, burghess of Aberdeen, to uplift the rents and duties from other properties under his control, those of his maternal uncle John Fiddes ('fuddess') and the late William Fiddes. Hunter then left for Slangerup and eventually died there. In June 1565, Slangerup council sent a letter to the Aberdeen magistrates informing them that both Hunter and the said John Fiddes, also a burghess of Slangerup, were dead. It further notified the Aberdeen magistrates that Fiddes had meanwhile commissioned Hunter to sell all his Aberdeen properties and, a year prior to his death, had resigned all his Aberdeen estate to Hunter's brother Patrick Hunter and sisters Margaret and Anne Hunter instead (so that in all probability Walter was already dead by then). The Slangerup authorities issued a commission to last-man-standing Patrick Hunter to recover all the remaining sums in connection with these properties in Aberdeen. This Patrick did so in early September 1565 and received 20 marks from the aforementioned Patrick Leslie (meaning that Walter Hunter had almost certainly delegated Leslie to organise the sale).⁹⁶

Legal paperwork was invaluable for resolving complex situations, and it was the absence of such that prompted Glasgow council to take a cautious

95 ACA, CA5/1/4, 24 January 1594/5; CA1/1/24, pp.39, 46 (a testimonial from Gdańsk in a case involving the deceased Alexander Thomson younger, burghess of Gdańsk, d. 1553x1560).

96 ACA, CA1/1/25, pp.662, 664; CA1/1/24, p.669; and CA1/1/24, p.217 (testimonial and procuration in relation to the late William Wawane in Cairnbrogie 'slane' in March 1561 in 'ye toun of raincowa/ramcowa or yrby' beside Gdańsk (modern Rakowo, in Nowy Dwór Gdański County)).

approach in the case of the deceased Robert Boyd. Boyd was a merchant in Stockholm and son of Glasgow tailor Robert Boyd. Having just brought in a cargo of iron and tar to the Clyde town, Robert junior passed away, as narrated before the town council in July 1662. The local magistrates ordered the cargo to be sequestered and send for the 'dutchman' skipper to find out more regarding the rightful owners of the goods. The foreigner testified to the existence of a charter party and bill of loading – a document issued by a carrier to a shipper acknowledging receipt of goods for transit – with one part of the cargo belonging to Robert junior and another part to 'wthers' in Stockholm. Having sequestered the goods, Robert junior's cousin, David Boyd, a merchant in Edinburgh, and Robert's own father, Robert senior, desired Glasgow council to give them the authorization to intromit with the cargo and were prepared to bear the obligation to deliver these goods to the relevant rightful parties. But the council was reluctant to agree. Within a week, the town appointed a commissioner to take up Robert junior's accounts. In February 1663, the situation was still unresolved, but the council was, by now, amenable to David Boyd and his colleagues' use of any legal means to release these goods from arrestment.⁹⁷

These complications, however, were not the norm. In a large number of cases, the confirmed executor would ensure the retrieval of goods. This is what happened when James Hunter, a merchant burgess of Ayr and executor to the deceased George Greer, also a merchant of Ayr, undertook his task. In summer 1622, Greer held some goods in Gdańsk in partnership with another Ayr merchant, John Getty. After Greer's death and within a few months, in late November of that year, Getty delivered to Hunter, acting as tutor to Greer's daughter, Janet, her share of her father's goods.⁹⁸

As seen above with procurations issued in Scotland, the same process could be performed on the continent. When Edinburgh burgess Nicholas Bremner died at some point prior to April 1554, his heirs had to organize the sale of his tenement in the Scottish capital. By that date, his three heirs were his granddaughters Agnes, Helen and Elizabeth 'hardgryp', one curator of whom was Hildebrand Lauder, citizen of Greifswald. A Greifswald writer thus subscribed three letters of procuratory authorising the sale.⁹⁹ In another case, Thomas Scott granted a letter of procuration to Montrose clerk James Guthrie dated in July 1604 in 'feddeland / foddillland' in Pomerania under the

97 GCA, C1/1/14, 19 July and 24 July 1662, 20 December 1662, 7 February 1663.

98 Ayrshire Archives, B6/13/1A, f.40r. Only four days later it was the turn of Gelis Dalrymple in Ayr to be paid for the goods of her late husband, merchant George Campbell, as he had passed away in Gdańsk also that summer: Ayrshire Archives, B6/13/1A, ff.41v-42r.

99 NRS, B22/1/18, ff.28r-29r.

seal of cause of that town and written by the local town clerk. The document entitled Guthrie to secure a brieve of the Scottish Chancellery to serve Scott heir as only brother of the late Elspeth Scott, fifth daughter of Montrose dyer Andrew Scott.¹⁰⁰

The next stage of the processes following death, dealing with the administration of estates of deceased persons, would see the heir/heirress securing the official brieves of service to legalise his/her entry into the possessions of the departed. In January 1625, Alison Hay, the daughter of John Hay in Bergen, produced no less than four of these brieves from the Chancellery serving her as heiress both to her late grandfather, Matthew Donaldson, walker of Dundee, on her mother's side, and to his sons. The Dundee authorities duly infeted her in these Donaldsons' local tenements and lands.¹⁰¹ Likewise, in August 1610 whilst in Gdańsk, John Alexander, son and heir of the late James Alexander, a merchant of Dundee, gave power of attorney to William Wright, a merchant of Dundee, to be infeted in a half back tenement in Dundee. As notary James Wedderburn recorded in his protocol book, John Alexander moreover secured brieves of the Chancellery which were sent to the bailies of Dundee declaring him as the heir to the said property after having paid undisclosed sums to his mother, Elizabeth Galloway, presumably to acquire her share of that property.¹⁰²

Alternatively, the heir/heirress could simply relinquish his or her rights. In February 1614, Isobel Ramsay renounced her right as sister of the late Thomas Ramsay, burgess of 'newdyk' (Neudeck/Neu Dieckow?) in Poland. She contracted to be served heiress to him before the Chancellery in whichever possessions he had in Scotland, Poland, or elsewhere. She gave commission to John Black, maltman burgess of Edinburgh, and Duncan Campbell, burgess of Edinburgh, to raise the brieves out of the Chancellery to serve her as heiress at their costs. In return, Isobel transferred all her rights to Black and Campbell for £100 Scots.¹⁰³ The situation echoes that found in August 1561, when after a probation by witnesses, Aberdeen granted a testimonial in favour of Denis ('Du[n]neis') Arduthie as brother to John Arduthie who died in 'roslo' (modern Rolsø or Roslev) in Denmark which was sent to the latter's authorities so as to serve Denis as heir to his late brother. About a year later, in May 1562, Arduthie assigned his rights to his own brother

100 NRS, B51/10/3, ff.22r-5v; DCA, Burgh and Head Court Book, 1555-1557, f.33r (procuration written in Gdańsk, 1555).

101 DCA, Burgh and Head Court Book, 1624-1625, 12 January 1625.

102 DCA, Protocol Book of James Wedderburn, 1610-1622, ff.12v-13r.

103 NRS, B22/8/14, ff.184v-87v; also NP1/12, f.123r-v (David Logan died in Poland; his brother and heir, John Logan in Restalrig, sold the right to the inheritance to John Langland, a merchant in Poland in June 1556).

Robert Arduthie. In that entry, John's death was dated in Brunholm ('bru[n] holmu[n]/m[']') in North Jutland at Martinmas 1560, probably after receiving clarification from Rolsø/Roslev's magistrates. About three weeks later, it was Denis and Robert's sisters' turn. Catherine and Margaret Arduthies likewise assigned their rights to Robert after an undisclosed financial arrangement with him.¹⁰⁴

The inheritance could also simply be sold outright in order to secure some hard cash, especially when there was no short-term prospect of returning to the Scottish motherland. This is what John Martin did. Martin was the son and heir of the late William Martin, a burgess of Glasgow. John had taken residence in Königsberg in Prussia at some point before September 1637, when his father died. Martin organized for his attorney, Mr Robert Mayne, a physician, to take possession of his late father's lower back tenement on the High Street across from the university in Glasgow. Martin kept the building in his possession for a while but, six years later, he entrusted Robert Hamilton, merchant of Glasgow, to sell the tenement to Gabriel Logan, son of a local merchant. Hamilton then only had to produce and deliver into the hands of one of the Glasgow bailies his letter of procuration, which was written in Königsberg on 20 February 1643, to infeft Logan in that tenement in the following November.¹⁰⁵

The alternative to an outright sale was for the heir to keep liferent interest in the inherited property for his or her lifetime. In September 1626 and whilst in Stockholm, James Fergusson, a local burgess and son of the deceased John Fergusson, skipper burgess of Aberdeen, sold some lands in Aberdeen to Thomas Clerk, a burgess of both Stockholm and Aberdeen and son of Mr Andrew Clerk, advocate of Aberdeen. Fergusson entrusted the said Mr Andrew as his procurator to infeft Thomas but reserving to Fergusson the liferent of the said property. The advocate did so in Aberdeen in December 1628 having produced to the local bailie Fergusson's charter of sale written in English on paper ('*in anglico sermone in papiro conscript[o]*') at the time of that sale.¹⁰⁶

Yet, parties could suffer through the actions of ill-intended persons, so that pre-emptive or corrective measures had to be taken. With the death of her unnamed brother 'laitlie' in Stralsund, Janet Herman commissioned John Paterson to appear in her name before Coupar's town council. This Paterson did in April 1551 and claimed that Janet had made over and assigned her

104 ACA, CA1/1/24, pp.236, 425, 442.

105 GCA, B10/1/27, f.180r-v; B10/1/16, f.84r-v.

106 ACA, CA2/1/36, ff.316v-17r. Thomas became a burgess of Stockholm in 1622: SSNE, ID no. 7366.

late brother's goods to a James Weland ('veland') out of 'c[om]pulsion of hyr husband & throt fair [fear]'. In order to rectify this, Janet entrusted Paterson with her revocation of the same which he presented to the council and requested that the council issued no certificate under 'y[e] comone sail' to the said Weland to her prejudice.¹⁰⁷

Conclusion

This exploration of notarial and burgh records, relatively underused material, has underlined a few salient points concerning Scots and the countries of the Baltic and the North Sea. A perusal of some of the notarial records reveals the extent to which these men did business for Scots based in the Baltic and the wider interaction between Scotland and the region. These notarial and burgh writs record the Scots' vicissitudes in Scandinavia in a more tangible and quotidian way than customs records. Taken together, they present a rich picture of the logistics and nuts and bolts of business, commercial and financial arrangements, as well as of people's daily lives. Notaries assisted in the management of risk through their drafting of contracts and charter parties, and these bonds strengthened trust between contracting parties in a way that oral agreements could not. In addition, these sources highlight little known or under-researched aspects concerning the Scots who worked, settled and formed communities in the Baltic and the North Sea, in particular underscoring women's influence and agency and the activities of another poorly studied group, apprentices. Notarial writs underlined the role of women as business partners. Families invested in the education of their sons and had them enter into apprenticeship in the Baltic and North Sea trade or businesses.

Additionally, in its exploration of the as yet understudied group of professional writers, this paper signposts future research directions, notably the notaries' role in facilitating both direct and indirect business and professional contacts. Acting in a professional capacity, they were key figures in the exchanges between individuals or communities of Scotland and the Baltic and the North Sea. At the same time, this study has moved away from presenting the existence of contacts or networks or from grouping them merely under socio-professional categories. Instead, the focus has been on these daily connections and the underpinning paperwork and procedures that smoothed them at a crucial point of friction and tension within these exchanges: death. In themselves, the documents have shown that the bedrock of these exchanges lay on the two complementary notions of trust and deputation. When these broke

107 SAUL, B13/10/1, f.42v.

down, procedures were available for redress. The follow-up and second part of the article will explore the mechanics of that deputation through procuration and the solutions available when that trust reached another point of friction and tension, namely litigation.

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GCA: Glasgow City Archives, Glasgow

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B4/1/1. Glasgow Dean of Guild Court Book.
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C1/1. Glasgow Town Council Minutes.

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BI 1/1/2. Inverness Burgh Court Books.

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ZBEL, B2/3. Elgin Town Council Court Books.

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