

## VENEREAL DISEASE IN EIGHTEENTH-CENTURY SCOTLAND: EVIDENCE FROM THE DIVORCE COURTS

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The late eighteenth-century has been characterised as exhibiting a remarkable openness about sexuality,<sup>1</sup> and this was as true of Scotland as of England: there was even a 'good whore guide' published in Edinburgh in 1775.<sup>2</sup> However, indulging in sexual intercourse with a variety of partners meant an ever-present danger of contracting gonorrhoea or syphilis. W. F. Bynum compiled a bibliography of 100 works on venereal disease published in Britain between 1700 and 1800 and fully examined this literature; his paper on the subject is invaluable in revealing the degree of knowledge, and treatments available, during that period.<sup>3</sup> But what about the social consequences? Is there any way of getting beyond the medical sources to glimpse something of the effect that venereal disease had on the lives of individuals, and particularly married couples? One source can do this: divorce records.

In marked contrast to the situation in England, from the Reformation in 1560 onwards, Scottish men and women could obtain a divorce on equal grounds of simple adultery, without having to fear extravagant legal costs. The Commissary Court was established to hear all matrimonial causes, and from 1684 onwards registers of decreets were kept, into which every word of both oral and written evidence was copied out in full. In the late seventeenth and early eighteenth centuries divorces were a rarity, but in the 1770s numbers suddenly rose dramatically and continued to rise until the court's functions were transferred to the Court of Session in 1830 (with existing cases continuing until their conclusion). Between 1684 and 1770 there were 188 divorce suits, and between 1771 and 1830 there were 786. Wives brought nearly half the divorce suits in the later period.<sup>4</sup>

It was not necessary for an adulterous husband or wife to be seen in the act: if there was enough circumstantial evidence then the commissaries (judges) would consider that adultery had been sufficiently 'inferred' and grant the divorce. As the eighteenth century progressed, venereal disease increasingly appeared as a form of evidence. (Neither gonorrhoea nor syphilis is ever mentioned by name, which is in line with Bynum's finding that they were 'often assumed to be either stages in, or varieties of, what was the same category of disease.')<sup>5</sup>

In one of the earliest cases - 1766 - in which a wife (Isobell Thomson, daughter of a butcher in Edinburgh) cited venereal disease as evidence of the adultery of her husband, John Lawrie (also a butcher), his lawyer did not deny that both parties were infected but argued that this could not 'afford any Foundation for a Process of Divorce against the Husband because in such cases it is possible that the husband has caught the Distemper from his Wife as that she was Infected by him besides it is well known that there is a Possibility of being infected with a venereal Distemper otherwise than by Carnall dealings so this is but a flimsy Foundation for Pretending to dissolve the Marriage on the head of Adultery'. Her lawyer responded that the disease would not on its own be sufficient evidence, 'but when it is Joined with other Facts & Circumstances.... which the pursuer undertakes to Prove there cannot then remain the least doubt of the Defenders Adultery and that it was by these Adulterous Practises that he gott the Distemper'. Witnesses testified to seeing Lawrie in bed with

another woman and hearing him acknowledge that she 'had given him the Clapp and wished that he had never seen her Face for that she was the Ruin of his Family', and Isobell obtained her divorce.<sup>6</sup>

We cannot appreciate how Isobell felt when she discovered the nature of her malady, but the case of Euphemia Hepburn against Matthew Poole, baker in Canongate, in 1772, provides a telling comment. Matthew contested the case on the grounds of 'reconciliation' (a case would be dismissed if it could be proven that the innocent spouse had continued cohabiting with the guilty party in the full knowledge of his or her adultery.) Matthew had had a long-standing affair with an actress, as well as frequenting bawdy houses, but he claimed that his wife knew all about his extramarital activities. Euphemia, when interrogated by the court, described her growing suspicions but said that it was only when she discovered that her husband was infected with venereal disease that she left his bed, 'tho upon another pretence as the Declarant was ashamed to own the real cause but gave out that it was on account of Buggs that was in the Bed'. John Shiels, surgeon, testified that Matthew consulted him as he had a 'heat in Urine and a running from the Urethra', which he said 'was owing to a strain which he had got but the Deponent thought that the disorder was rather Venereal and treated it upon that Plan'. (And, in fact, Matthew did acknowledge to Shiels that 'he had got the said disorder by his dealing with women and in an unlawfull way'.)<sup>7</sup>

John Shiels was obviously the surgeon specialising in venereal disease in Edinburgh at this time, for he also appeared as a witness in the case of Rachel Forbes against John Sharp the following year (1773), when he declared that he had been consulted by Sharp who 'had acknowledged that he had been engaged in some unlawfull amours in which he had got the venereal infection'. Another surgeon, Alexander Bruce, in Musselburgh, had been consulted by Rachel, who at first 'seemed to be ignorant what her distemper was untill this deponent upon being acquainted by her with the symptoms told her what the nature of her distemper was'. Christian Bain, one of several servant maids who had been forced into having sex with Sharp, had also been infected by him 'and upon that account went to the Royal Infirmary where she was cured of the said disease'. Shiels also testified in the 1780 case of Margaret Taylor against William Adie. Adie had used a different name when he consulted the surgeon, but Shiels recognised him in court - the more so as his account was still owing! He declared that Adie 'at the time above alluded to had a swelling in his Groin which Physicians call a Bubo which either broke or came to a suppuration during the currency of the account'.<sup>8</sup>

The above cases have all been of adulterous husbands infecting their wives, but in this era of libertarianism, adulterous wives could also become infected.

In the 1774 case of Robert Sempill, brewer at Castlebarns, against Jean Mann, it is not entirely clear who had infected whom. Sempill accused his wife of drunken rowdiness, embezzling his money, and sleeping around; witnesses bore all this out, and Sempill obtained his divorce. Although Jean alleged that her husband was also guilty of adultery she was unable to bring convincing proof. However, Alexander Hamilton, the surgeon who treated Sempill for venereal disease, testified that it was impossible to say whether Sempill got it from his wife or another woman. Sempill had told him that 'upon his coming home he often found Mrs Sempill drunk like a Beast and as he could not enjoy happiness at home like other married men he was under necessity of amusing himself abroad and acknowledged that he might in that way have contracted the disease'. According to Hamilton the disease 'never seemed

entirely extirpated from Mrs Sempill', and it was necessary from time to time to put them both 'on a Mercurial Course'. Hamilton also attended her 'as a man midwife.... in premature Births and as he thinks four or five different times', and 'every one of the Children came into the world with marks of the venereal disease'.<sup>9</sup>

In the 1780 case of Ebenezer Whyte, weaver in Paisley, against Elizabeth Kennedy, the surgeon (John Shiels again) said that Elizabeth 'had a sore throat which the deponent considered as venereal and ordered for her mercurial pills and other proper medicines which were continued for some time', and that her child was also infected. Her landlady deponed that Elizabeth 'acknowledged to her that Mr Pattison was the first who ever had carnal knowledge of her besides her husband after her marriage'. In this case the effects were grave, for 'having left Edinburgh and returned to Paisley before her cure was affected the strength of the distemper increased to such a degree that she soon thereafter lost her sight and has been blind ever since'.<sup>10</sup>

In the 1789 case of Peter Williamson, printer in Edinburgh, against Jean Wilson, the surgeon, John Carstairs, testified that Jean 'complained to him that she was not well and had sores about her private parts which on inspection the deponent immediately perceived to be venereal shankers'. He therefore 'immediately put her under a course of mercury in consequence of which in about six weeks the Defender declared to the deponent that she was completely cured.' Carstairs told the court that she 'seemed exceedingly unwilling to believe that her disorder could possibly be venereal and declared that if it was so she could have got it from no person but her husband'. She did not ask him to conceal her condition from her husband, or express any uneasiness on that score, so he believed that Williamson was aware of her complaint (though the surgeon 'was paid for his attendance and medicine in small partial payments most of which he received from the Defender herself and the remainder partly from a little fresh complexioned girl whom the deponent knew to be the Defenders daughter and partly the deponent believes from her servant maid'.) But the servant maid, 18-year-old Elizabeth Robertson (a key witness who saw her mistress retire to her bedroom with a succession of men) insisted that Jean's 'disease and her being attended by a surgeon was concealed from the pursuer [her husband]'. According to Elizabeth, Jean sent a former servant of hers, Mrs Lauder, for Mr Carstairs, the surgeon, and Elizabeth was afterwards 'informed by Mrs Lauder that the disease was venereal and Mrs Lauder forbad the deponent to allow any of the children to drink or take any thing out of the same cup with the Defender [Jean]' - which shows that there was the same kind of misconception about venereal disease at that time as there is about Aids today. Elizabeth also said that Jean's illness 'rendered her both deaf and hoarse for a considerable time'.<sup>11</sup>

In the 1807 case of Agnes Peacock against Alexander Teviotdale, plasterer at Tranent, it was the treatment rather than the disease that caused the problems. Teviotdale gave his wife mercury pills which he had obtained from an acquaintance, but in too high a dosage so that 'her face became swelled and a discharge of saliva from the mouth and she was almost speechless when the deponent [Robert Burt, apothecary] was called in.' Teviotdale told Burt that 'he had had the venereal disease himself and had given it to his wife for which he gave her these pills as they had cured himself'.<sup>12</sup>

In a case of 1827 Agnes Young's husband, James Wilson, started frequenting brothels within a few months of their marriage and infected his wife, who 'was delivered of a Child which died in consequence of the said disease'.<sup>13</sup>

The above extracts have shown something of the personal costs of the libertarian,

'enlightened' eighteenth-century attitude toward sexuality. Two important points are worth emphasising. First from the cases cited it appears that some eighteenth-century wives were unaware of the cause of their symptoms but it seems clear that the general openness on the subject of sex included knowledge of such consequences as venereal disease, and that the hypocrisy and blanket ban on the subject in 'respectable' circles in the nineteenth-century, which kept wives in total ignorance, was mercifully absent in the eighteenth. Second, this openness meant that evidence of husbands resorting to prostitutes could be brought into court (by contrast, in nineteenth-century English divorce court records 'men were not commonly portrayed using prostitutes')<sup>14</sup>, as could evidence of them acquiring venereal disease.

This catalogue of disease and infection also emphasises the good fortune of Scottish wives in being able to secure a divorce, with the right to remarry, if they were able to prove their husbands guilty of adultery, unlike their sisters in England who were denied such equality under the law until the present century.

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- <sup>2</sup> Ranger's *Impartial List of the Ladies of Pleasure in Edinburgh*. Privately printed Edinburgh 1775; reprinted Edinburgh: Paul Harris Pub., 1978.
- <sup>3</sup> Bynum W F. *Treating the wages of sin: venereal disease and specialism in eighteenth-century Britain*, In: Bynum W F, Porter R, eds, *Medical fringe and medical orthodoxy, 1750-1850*. London: Croom Helm, 1987, 5-28.
- <sup>4</sup> Leneman L. *Disregarding the matrimonial vows - divorce in eighteenth and early nineteenth-century Scotland*, *Soc History* 1996; 30: no.2 (winter).
- <sup>5</sup> Bynum, op.cit., p.13.
- <sup>6</sup> Scottish Record Office (hereafter SRO) CC8/5/11. In the Scottish legal system, married women retained their maiden names.
- <sup>7</sup> SRO.CC8/5/13.
- <sup>8</sup> SRO.CC8/5/14; SRO.CC8/6/16.
- <sup>9</sup> SRO.CC8/5/14.
- <sup>10</sup> SRO.CC8/5/16.
- <sup>11</sup> SRO.CC8/5/19.
- <sup>12</sup> SRO/CC8/5/29/3;
- <sup>13</sup> SRO/CC8/6/154.
- <sup>14</sup> Hortsman, A., *Victorian divorce* (London & Sydney 1985), p.151.