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The Early Career of Thomas Craig, Advocate

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Analysis of the clients of the advocate and jurist Thomas Craig of Riccarton in a formative period of his practice as an advocate can be valuable in demonstrating the dynamics of a career that was to be noteworthy not only in Scottish but in international terms. However, it raises the question of whether Craig's undoubted reputation as a writer has led to a misleading assessment of his prominence as an advocate in the legal profession of his day.

A. INTRODUCTION

Thomas Craig (c 1538–1608) is best known to posterity as the author of *Jus Feudale* and as a commissioner appointed by James VI in 1604 to discuss the possibility of a union of laws between England and Scotland.¹ Following from the latter enterprise, he was the author of *De Hominio* (published in 1695 as *Scotland's*

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1 There is a considerable literature on Craig. In general, see P F Tytler, *Account of the Life and Writings of Sir Thomas Craig of Riccarton: including Biographical Sketches of the Most Eminent Legal Characters, since the Institution of the Court of Session by James V, till the Period of the Union of the Crowns* (Edinburgh, 1823); D B Smith, "Thomas Craig, Feudalist" 1915 *Scottish Historical Review*, 271 (henceforth Smith, "Thomas Craig"); J Pocock, *The Ancient Constitution and the Common Law* (reissue, 1987); J W Cairns et al, "Legal humanism and the history of Scots Law", in J MacQueen (ed), *Humanism in Renaissance Scotland* (1990), 48 (henceforth Cairns et al, "Legal humanism"). Future work on Craig will be informed by the forthcoming entry in the *New Dictionary of National Biography* (OUP, 2004) prepared by Professor J W Cairns of the University of Edinburgh. Given the imminence of this publication, biographical detail here, though sometimes necessary, is kept to a minimum. Note that, despite later tradition and almost universal usage in modern literature, there is absolutely no basis for the attribution of a knighthood to Thomas Craig.

Sovereignty Asserted), a tract on union, *De Unione regnorum Britanniae tractatus*, and *The Right of Succession to the Kingdom of England* (London, 1705).² He also wrote poetry and, although much of this seems to have been lost, his poem in praise of Sir John Skene and his *Epithalamium* on the marriage of Mary and Darnley both survive.³ Given this output, it is hardly surprising that Craig the writer has overshadowed Craig the lawyer.

Craig was the son of the Edinburgh burgess, Robert Craig, and Katherine Bellenden, a woman with considerable family connections in the legal community of Edinburgh and Broughton, including her brother, Sir John, the Justice Clerk.⁴ After studying at St Andrews he went to France where he spent at least some of his time studying in the University of Paris.⁵ Not only was a French education quite common for aspiring advocates of the period, but Craig's family business connections made it a natural choice.⁶ His father spent considerable time in France and his younger brother, James, went on to become a merchant in Bordeaux.⁷ Tradition has it that his uncle, the scholar and leading reformer John Craig, a man with an education in civil and canon law, also tutored him as a young man.⁸ Apart from this,

2 *De Unione* was not published until an edition by the Scottish History Society, edited by C S Terry, in 1909.

3 There is reference to poetry in praise of James VI, his wife and Prince Henry in a letter from the Privy Council to the King in Aug 1610: J Maidment (ed), *The Melros Papers* (The Abbotsford Club, 1837), i, 84–85.

4 National Archives of Scotland (henceforth NAS), Register of Deeds, RD1/12, fo 109r; Edinburgh Burgh Register of Deeds, B22/8/1 fos 258r–259r. Robert Craig, in turn, was the son of the Edinburgh baker, Thomas Craig, who in 1552 is found married to Margaret Newton: NAS, Register House Charters, RH6/1550a. On the Bellendens see, generally, P D Anderson, *Robert Stewart, Earl of Orkney, Lord of Shetland 1533–1593* (1982); T van Heijnsbergen, “The interaction between literature and history in Queen Mary's Edinburgh: the Bannatyne Manuscript and its prosopographical context”, in A A MacDonald et al (eds), *The Renaissance in Scotland* (1994), 183 (henceforth van Heijnsbergen, “Literature and history in Queen Mary's Edinburgh”). The chronology suggests that this Katherine Bellenden must have been the sister of the Justice Clerk; Sir John Bellenden had three daughters, including one called Katherine. According to a brief by Edinburgh Town Council on behalf of Thomas Craig's brother John, addressed to the University of Frankfurt on Oder, Thomas was the eldest son of a marriage that dated back to around 1540–1541 (information from Dr John Durkan kindly passed on to the writer by W D H Sellar, University of Edinburgh).

5 J W Cairns, “The *breve testatum* and Craig's *Jus Feudale*”, (1988) 56 *Tijdschrift voor Rechtsgeschiedenis* (henceforth TR), 316.

6 J Durkan, “The French connection in the sixteenth and early seventeenth centuries”, in T C Smout (ed), *Scotland and Europe, 1200–1850* (1986), 19, especially 23–27.

7 Robert (d 1575) was known to be in France in July 1549 (Edinburgh City Archives, Moses index no 8456) and in Feb 1570 (NAS, Commissary Court Register of Deeds and Protests, CC8/17/1, reg 18 Feb 1570); James Craig (d bef 27 May 1602) is mentioned at NAS, Register of Acts and Decrees, 1st ser, CS7/200, fo 113. The writer is grateful to John H Ballantyne for all of this information. Note that here, and throughout the text, all dates have been modernised.

8 T A Kerr, “John Craig, 1512(?)–1600 with special reference to his contribution to the upbuilding of the Reformed Church in Scotland” (University of Edinburgh, unpublished PhD Thesis, 1954), 191. This must have been after John Craig's return to Scotland in 1561; he had left the country in 1536, probably before Craig was born. Thomas Craig probably returned from France before John.

Craig's personal and educational background was fairly typical for an advocate of his generation.

Craig began to practise as an advocate in 1561, entering the legal profession at a period of significant developments in law and government.⁹ The early 1560s saw considerable reforms in French law and administration, and Craig would have found a similar agenda taking hold on his return to Scotland.¹⁰ Advocates, from the law commissions of 1566 and 1575, through to publications such as the works of Sir John Skene, were very much publicly focused on thinking about Scots law, and it is clear that Craig and others were in touch with French developments.¹¹ Whatever the impetus—whether foreign example, humanist influence, the development of printing, or contemporary fascination with the nature of legal and political authority—this period saw the earliest clear engagement by Scots lawyers in law reform. Such widespread dissatisfaction with the status quo must have had an important influence on Craig during a formative period.

Craig's lifetime also coincided with a significant expansion in the size of the legal profession. Between the early 1550s and the mid-1580s, the number of advocates practising before the Court of Session increased fivefold. As well as more advocates, there was more litigation. Though this has never been empirically measured, the Court of Session certainly fits into the western European pattern of expanding litigation in the second half of the sixteenth century.¹² Complex social, demographic and economic factors underpin this phenomenon; but in Scotland the upheaval of the Reformation and the difficulties and dislocations of the civil war period 1570–1573 must form part of the explanation for the increase both in litigation and in the number of professional advocates.

The main consequence of this proliferation of advocates was increasing competition in the marketplace for legal services and there are indications that the number of advocates was beginning to outstrip the increase in litigation in the 1570s. A pattern was emerging that was to be echoed in the early eighteenth century: a few very busy advocates at the top, a larger number just about making a living in the middle, and a number below them faced with increasingly limited prospects of advancement. The difficulties were eased, but not removed, by one

9 J W Cairns, "Craig, Cujas, and the definition of *feudum*: is a feu a usufruct?" in P Birks (ed), *New Perspectives in the Roman Law of Property* (1989), 77 (henceforth Cairns, "Craig, Cujas and the definition of *feudum*"). F J Grant, *The Faculty of Advocates in Scotland, 1532–1943* (Scottish Record Society, 1944) seems to be mistaken in suggesting Craig was admitted as an advocate in 1563; his name is absent from the relevant volume of the Books of Sederunt, NAS CS1/2/1.

10 J H Salmon, *Society in Crisis: France in the Sixteenth Century* (1975), 151–166.

11 Cairns et al, "Legal humanism", 50–51.

12 For discussion, see C W Brooks, *Lawyers, Litigation and English Society since 1540* (1998), 75.

consequence of the Reformation—the prohibition on ministers of the reformed kirk acting in royal secular administration.¹³

B. CRAIG'S STANDING AS AN ADVOCATE

The focus of this discussion is the Court of Session in the period 1570–1575: what standing within the profession did Craig have at that time?¹⁴ The court records of the 1570s demonstrate considerable demand for the services of a few leading advocates. The winners in this regard were far outnumbered by the losers, though it is difficult to draw inferences about those who did not reach the heights of the profession. Some certainly made a living at least partly from the law, even though the number of their appearances in court was slight. There was a need for legal services beyond simple representation, and advocates who feature rarely in court had a number of alternative opportunities for employment. These alternatives included the provision of advice, assistance with negotiating and drafting marriage and other contracts which were then, like other deeds, registered for preservation or execution in court books; and the acquisition of administrative offices whether public, such as that of bailie of a regality or a burgh, or private, such as acting as a curator, tutor or arbiter.

In the early 1570s, it is not yet possible to include Craig among the ranks of leading advocates. By 1575 he was appearing fairly regularly yet he was still much less busy than the elite practitioners. In that year, a fellow student of Craig's at St Leonard's College in St Andrews in the mid-1550s, John Sharp, made more than three times as many appearances before the court as Craig did.¹⁵ But Craig's career was advancing, particularly towards the end of the period under review, and the only advocate whose career was following a comparable upward trajectory during these years was his older contemporary David McGill, the future King's Advocate.

13 G Donaldson, *Scotland: James V–James VII* (1965), 149; J Kirk (ed), *The Second Book of Discipline* (1982), 63.

14 Unfortunately, time has not permitted examination of the commissary court records. The period 1570–1575 is to some degree arbitrary; however, it was chosen for two reasons: first, preliminary study suggested that Craig appeared relatively infrequently in the record during the 1560s and it was suspected that this departure from the justice court might have led, as it appears to have done, to a focus on practice in the Court of Session; second, it was decided, in the time available, to take a sample of data from 1570, 1575 and 1585 which, when added to an extant sample from 1600, would provide a wider context against which to judge his early career. The period chosen followed on naturally from the earliest sample.

15 J M Anderson, *Early Records of the University of St Andrews* (Scottish History Society, 1925), 153. See the figures given in the appendix. On Sharp generally, see M B H Sanderson, *Mary Stewart's People* (1987), 22–33.

The basis of analysis

To ascertain Craig's standing as an advocate, it is first necessary to discover how best to judge success in the sixteenth-century legal profession. If busier advocates are more successful advocates, then one method is to count the number of appearances they made before the session. The figures for four sample years are given in the appendix.¹⁶ As these represent purely appearances in those years, not necessarily the number of clients, these statistics can provide only a general picture of who the busiest advocates were. Moreover, with vacations, feast days, potential disruptions due to the civil war (including the siege of Edinburgh Castle), and the practice in the sixteenth century of limited sittings, the court did not sit on more than half the days of the year. For example, in the year to the end of March 1571, the court sat on 137 days. The record shows Thomas Craig as having been present on only eleven days, that is, about 8%. In the year to the end of March 1576, the court sat on 176 days, with Craig appearing in the record on seventy-eight of them (or about 44%). A slightly different measure, the raw number of his appearances rather than the number of days on which he appeared, is consistent with this general picture, indicating a dramatic difference in Craig's practice between 1570 and 1575. To some extent natural wastage in this period, such as the deaths of notable veteran advocates John Abercrombie and John Spens, and the appointment of David Borthwick as King's Advocate (which heavily reduced his private practice), created an opportunity for advancement among the more able novices.

By 1585, according to the number of appearances he made before the court, Craig had risen from the pack. The figures for 1600, however, demonstrate increasing diversity and this is exactly what might be expected as a consequence of expansion within the profession. It is significant that the proportion of appearances by the five busiest advocates seems to have remained similar until at least the 1580s. In the first three sample years in the appendix, the top five advocates (whoever they happened to be) made roughly 55% of all appearances made by advocates in those years. In 1600, however, the share of appearances by the top five declined to only 36%. This suggests a wider distribution of business among leading members of the legal profession. Incidentally, by this time complaints began to be heard about overcrowding at the bar in the Tolbooth where the Lords of Session sat. That Craig was still appearing so regularly in 1600 is interesting because it is believed that during this year he was busily composing the *Jus Feudale*.¹⁷

16 The figures for 1570, 1575 and 1585 are the writer's; the figures for 1600 were kindly provided by Dr Winifred Coutts and appear in graph form in W Coutts, *The Business of the College of Justice in 1600* (Stair Society, vol 50, 2003), 44.

17 Cairns, "Craig, Cujas and the definition of *feudum*", 75.

Although these figures are complete, they afford only one measure of activity. The accuracy of the impression they convey may be checked by reference to the regularity with which clients constituted particular advocates in the book of judicial procurations. From the mid-1530s such constitutions were recorded not in the *acta* of the lords but in a separate volume, or series of separate volumes. Despite references to such a volume in the 1530s, the only one known to survive covers the period 1569–1581.¹⁸ Due to the way the clerks of session functioned, it is unlikely to have been the only volume covering this period and it may be conjectured that each clerk kept a separate volume for the purpose of recording who represented whom.

The data from the book must be used cautiously because such a limited sample can paint only a partial picture. Moreover, as it records new clients, rather than retained clients, it measures only (or at least mainly) new relationships. We would not expect someone like John Sharp, undoubtedly the busiest advocate of his generation, to be named most often in new constitutions every year; many of his clients would already have retained him and would continue to pay him an annual pension without ever having to issue fresh letters of procuratory. In 1575, for example, Sharp was acting, presumably on retainer, for the Bishop of Caithness, the Prioress of North Berwick, the burghs of Cupar, Edinburgh, Glasgow, Rutherglen and Selkirk, the Commendators of Coupar Angus and Newbattle, the Earls of Angus, Argyll, Atholl, Caithness, Cassillis, Eglinton, Montrose, Rothes and Sutherland, and Lords Borthwick, Forbes, Glamis, Innermeath and Maxwell. As well as these, he had a large number of less prominent clients and yet his name appears in the book of constitutions for that year on a mere eight occasions.¹⁹

The book of procurators, therefore, provides a method of interpreting who was recruiting clients and thereby rising in the profession; it represents potential future, rather than present, dominance. Moreover, its incompleteness makes it suitable for use only in corroboration of information from other sources. Some figures bear this out. Of the 150 clients for whom Thomas Craig appeared in the period 1570–1575, only eight are named in the book of procurators as having constituted him

18 NAS, Miscellaneous unidentified administrative papers, CS94/31.

19 It is noticeable that wealthy litigants do not often feature among those recorded as having constituted advocates in the book of procurators, though they regularly feature as the opponents of those who did. The persons and institutions mentioned by no means comprise an exhaustive list of Sharp's prominent clients; others included figures such as James, Earl of Morton (e.g. CS7/51 fo 296r); Andrew, Earl of Erroll (e.g. CS7/54 fo 200r); John Hamilton, Archbishop of St Andrews (CS7/53 fo 260r); Alexander, Bishop of Galloway (e.g. CS7/51 fo 248r); James McGill, Clerk Register (CS7/51 fo 153v); the Principal of New College, St Andrews (CS7/53 fo 421r) and the Provost of St Salvador's College (CS5/71 fo 40v). He even acted for George Gibson, one of the scribes of the court, who was himself acting *qua* curator (CS7/51 fo 367r), and John Skene's brother, Dr Gilbert Skene (CS7/53 fo 595r). Sharp's client list is altogether of a different order from that of Thomas Craig both in size and quality.

their advocate. The advocate Alexander King was constituted more than any other in the 1570s; yet King did not appear for clients noticeably more often than his contemporaries during that decade. To take one year, 1575, of the 102 constitutions in the book of procurators King was nominated in twenty-one of them, considerably more than the eight which contained John Sharp's name. Yet Sharp appeared three times more often before the court than King in that year, and was present on more than twice as many days. Sharp had arrived; King was merely gaining a foothold. By 1600 he had overtaken Sharp in number of appearances, but by then Sharp had been at the forefront of the profession for over thirty years.

C. PATRONAGE AND THE BAR IN THE SIXTEENTH CENTURY

The figures suggest that Craig in 1570, like Alexander King, was still in the process of making his way professionally. His initial years at the bar were unspectacular and difficulties in attracting clients might explain his willingness to take on a variety of roles that kept him busy in the early 1570s. As well as developing his private practice, he was sheriff depute of Edinburgh, justice depute, admiral depute, and occasionally gained commissions to act as sheriff *in hac parte*. These are the kind of tasks that an able advocate of Craig's generation would be expected to take up and they represent the tangible rewards of patronage.²⁰ With the removal of clergymen from secular administration, the later sixteenth century was a period of opportunity for lawyers both in terms of gaining positions within government and also in taking influence within the kirk, an area of influence largely vacated by the nobility.²¹ A number of leading advocates, including men such as Richard Strang and Alexander Mauchane with and against whom Craig acted in the Court of Session, were elders in Edinburgh Kirk Session in the early 1570s.²² But gaining such offices required access to patronage, particularly from magnates and existing office-holders whose influence could make or break careers.

Nobles required the services of advocates, not only to represent them in the cycle of legal disputes that were the natural consequence of landowning, but also to advise them on contractual matters (particularly related to their borrowings), marriage negotiations, curatories and a diverse range of other routine matters. The defence of noble interests, despite the immediate (and often resented) costs of litigation, was viewed as essential for the long-term support of a family's reputation, prospects and position within society.²³ In their turn, advocates required the

20 On which subject, see generally J Goodare, *State and Society in Scotland* (1998), ch 3.

21 J Wormald, *Lords and Men in Scotland* (1985), 163.

22 M Lynch, *Edinburgh and the Reformation* (1986), appendix iii.

23 See K M Brown, *Noble Society in Scotland* (2000), 84–85.

patronage of nobles in order to expand their practice. The network of kin and local relationships of reliance within magnatial affinities was an attractive target; many lesser litigants might take the lead from their lord and employ the same advocate.²⁴ Noble clients and their retainers could provide welcome protection for advocates and their lands, particularly during periods of political turbulence. Further benefits might accrue to those advocates who looked to noble patronage to advance them politically in royal service; such an avenue for promotion may have been particularly desirable to those whose natural abilities lay in areas other than forensic oratory.

Such was the mutuality in this unique kind of relationship that in substance it can sometimes be difficult to be sure, despite the clear difference in status, where patronage ended and clientship began.²⁵ To add a complicating factor, obligations might pass from father to son. Witness, for example, the ready resort to patronage in 1627 by the Lord Advocate, Sir Thomas Hope, when he prompted his patron (and client), John Murray, Earl of Annandale, one of the gentlemen of the king's bedchamber, to suggest to the king the name of Hope's son, John, for a vacancy on the bench, despite the fact that the young Hope was yet in his early twenties.²⁶ There is a hint of humour in one of Hope's letters to Annandale on the matter:

And I think I haif gainit ane greit point that your lordschip wryttis ye hope at sum vther tyme to gife me contentment, and both I and my sone, being hopes, will rest vpon that hope, and still hope that his sacred majestie will not disappoint our hope.

The hope was indeed fulfilled five years later. But such use of a relationship of this kind was by no means new. It would not be surprising if Thomas Craig's son Lewis, raised to the bench in 1605 after scarcely five years as an advocate, benefited in the same way in access to patronage through his father.²⁷ After all, Sir John Bellenden of Auchnoule took over the office of Justice Clerk from his father in 1547, and was able to ensure his son Lewis (after whom Craig's son may have been named) received it after him in 1576.²⁸

24 See J Finlay, *Men of Law in Pre-Reformation Scotland* (2000), ch 5 (henceforth Finlay, *Men of Law*).

25 Cf the comments, in a later context, of Sir George Mackenzie on advocacy as a noble profession: "What is so noble, as to be depended upon by such as are in Prosperity, (for Client and Depender are the same in all Languages)". ("Pleadings before the Supreme Courts of Scotland", in *The Works of that Eminent and Learned Lawyer, Sir George Mackenzie of Rosehaugh*, 2 vols (Edinburgh, 1716, 1722), vol 1, 11).

26 R Paul (ed), "Twenty-four Letters of Sir Thomas Hope", *Miscellany of the Scottish History Society* (Edinburgh, 1893), vol 1, 88–89.

27 On the circumstances, see R K Hannay, *The College of Justice* (reprint edition, Stair Society, sup vol 1, 1990), 121. On Craig's progeny, and the remarkable links they had with the legal profession, see T I Rae, "The origins of the Advocates' Library", in P Cadell and A Matheson (eds), *For the Encouragement of Learning* (1989), 6. It should be noted that royal patronage of the kind Hope sought is only viable with an adult king and functioning court; it cannot therefore be traced for Craig in the early 1570s.

28 van Heijnsbergen, "Literature and History in Queen Mary's Edinburgh", 197. Lewis Bellenden named Thomas Craig as one of his factors when he left to study in France in April 1575: National Register of Archives in Scotland, 1100/1938 (reference from John H Ballantyne).

As for Craig himself, it may be appropriate to view his relationship with Bellenden of Auchnoule as the key to his early prospects. As Justice Clerk, Bellenden was in a position to offer his nephew promotion and protection. In return, Craig was a valued and trusted connection, retaining joint custody of some of Bellenden's papers after his death.²⁹ The relationship is clear from Bellenden's will, dated October 1576, in which, as well as making provision for his younger son James, he left Craig an annual pension of £20, together with a like sum to be paid annually in return for managing James's legal affairs.³⁰ Other clients sprang from this relationship. In the years 1574 and 1575 Craig acted for Bellenden's son William, Reader at Kilconquhar in Fife, and his sister, Margaret.³¹ Margaret's subsequent second husband, Mr Robert Hamilton, was another client of Craig's.³² A significant political ally of Sir John Bellenden, his cousin Adam Bothwell, Bishop of Orkney and Commendator of Holyrood Abbey, also employed Craig in several cases concerning abbey lands as well as in an action he brought as tutor on behalf of his daughter, Jane.³³ Craig was still acting for Bothwell, and his son James, in the 1580s; during all this time he may well have had access to Bothwell's highly impressive legal library.³⁴

The Bellenden link extended to the Bannatynes, a family with whom the Bellendens were long closely connected.³⁵ In January 1571 Craig acted for Robert, son of the Edinburgh burghess James Bannatyne (who also appeared as his tutor), against Mr Arthur Telfer, parson of Creichmouth, and his son.³⁶ The dispute

29 RPC, ii, 580. These papers related to the administration of Kelso Abbey (see text at note 118).

30 J Riddell, *Remarks upon Scotch Peerage Law*, 168. Bellenden, in his will, referred to Craig as his "cousing", though it seems they were uncle and nephew.

31 That Sir John's interests in Kilconquhar were long-standing is clear; see CS7/47 fo 327r (15 Dec 1570).

32 Margaret was the widow of James Denniston, a burghess and former provost of Linlithgow (J B Paul (ed), *The Scots Peerage*, (9 volumes 1904-1914), vol 2, 64), William was said to be one of Auchnoule's sons (*The Scots Peerage*, vol 2, 67). Another relative of Auchnoule for whom Craig acted was John Bellenden, "chaplain of Kilconquhar" in 1572 (probably a son of Sir John and, therefore, Craig's cousin): CS7/61 fo 335r (Margaret), CS7/55 fo 5v (William), CS7/46 fo 446r (John Bellenden, chaplain); CS7/59 fo 400r (Robert Hamilton). Craig was at St Andrews with several Robert Hamiltons (including one in his own college), of whom this may be one: Anderson, *Early Records St Andrews University*, 153, 155.

33 Bothwell and Bellenden were both confirmed king's men in the early 1570s; indeed Bothwell crowned the infant king; G. Donaldson, *All the Queen's Men* (1983), 99-100. Bothwell and John Craig were commissioned in 1565 to arrange the business each day at the General Assembly: Kerr, "John Craig", 61. Men in Bothwell's administration also employed Craig; one example is Thomas Gunn of Orkney in 1585 (NAS, CS7/103 fo 53v), another may be Andrew Callendar of Bordie, since a Walter Callendar of Bordie is recorded as a servant of Bothwell's in Holyrood abbey in the 1580s: RMS, iv, no 431. Craig also appeared against Bothwell on one occasion, albeit not directly; this was an action over disputed teinds where Craig's clients, the debtors, were unsure of which of two alleged creditors (one of whom was Bothwell) was entitled to payment (e.g. CS7/56 fo 297r).

34 E.g. CS7/101 fo 273v. D Shaw, "Adam Bothwell, conservator of the Renaissance", in I B Cowan and D Shaw (eds), *The Renaissance and Reformation in Scotland* (1983), 155-156.

35 So close is the connection between them that, as some historians think, Bannatyne and Bellenden may be variants of the same surname. The spellings used here are consistent with the records used.

36 CS7/47 fo 412v.

concerned the income of the chaplaincy of the royal chapel of the Blessed Mary of Rattray, resigned as early as 1543 by Telfer to John Bannatyne.³⁷ Telfer and his father feature in George Bannatyne's *Memorial Book* (1582) as godparents of the author's siblings, but there is no surprise that in this dispute Craig was active on the Bannatyne side, particularly since James Bannatyne was depute Justice Clerk under Craig's own patron Bellenden.³⁸ When Craig, who had since 1564 fulfilled the lesser role of justice depute in Edinburgh (though his court often met in Leith during the early 1570s), ended a run of consecutive appearances as sole judge in this court that went back at least to January 1570, it was Thomas Bannatyne who took over.³⁹

In a more general sense, the position of advocates in the noble client networks of the period is not always easy to assess.⁴⁰ Advocates were engaged primarily for their skill rather than their political loyalty or usefulness and this means that their relationships with clients might cut across political and religious boundaries. The relationship between lawyer and client was itself akin to the wider patron-client relationship; it was contractual, with expectations on both sides, and it was fundamentally based on trust.⁴¹ But there was no necessary personal or political dimension inherent to the relationship and care should be taken in drawing too many conclusions from the mere fact that such a relationship existed.⁴² Thus in the 1570s may be found Catholic clients employing Protestant advocates and vice versa; even the Earl of Morton employed the Catholic advocate Edmond Hay.⁴³ The majority of litigation was neither controversial nor particularly sensitive; the collection of a debt, the removal of a tenant or the recovery of goods wrongfully taken from property generally had little significance in wider terms and imported no element of *delectus personae* so far as the litigant seeking representation was concerned. Those in a position to provide patronage often employed more than

37 van Heijnsbergen, "Literature and History in Queen Mary's Edinburgh", 205.

38 James Bannatyne continued to serve in this role under Sir Lewis Bellenden and his successor: Hannay, *College of Justice*, 331. He was the father of Mr Thomas Bannatyne, justice depute (information from John H Ballantyne). Craig himself became godfather to George Bannatyne's eldest grandchild: van Heijnsbergen, 219.

39 Smith, "Thomas Craig", 279; NAS, Justiciary Court Records, JC1/13 fos 157r–251v. Bannatyne first appeared on 18 Feb 1573 (JC1/3 fo 223v), thereafter Craig appears much less frequently until Bannatyne takes over. Both Bannatyne and Craig acted under a commission as justice deputes, with Mr Henry Kinross, in a perambulation in Fife in Nov 1566: NAS, JC26/Box1/No 55.

40 For discussion of this general theme as it applied to the 1530s, see Finlay, *Men of Law*, ch 3.

41 On legal ethics see J Finlay, "Ethics, etiquette and the early modern Scots advocate" (forthcoming).

42 In a period when a variety of factors, including religion, family, friendship and the calculus of personal advantage, could determine political allegiance, we should not expect to find a simple picture in regard to the employment of Catholic or Protestant advocates: on politics, see I B Cowan, "The Marian Civil War, 1567–1573", in N Macdougall (ed), *Scotland and War AD 79–1918* (1999), 95–100.

43 CS5/74 fo 475v.

one advocate and no doubt did not treat them all equally. The more private and more important affairs of such clients would be entrusted only to particular advocates (preferably kinsmen) and surviving correspondence clearly demonstrates where the power lay in these relationships. Maintaining the bond of trust was essential; if it broke down, it was the advocate who was vulnerable.

That advocates occasionally needed protecting is clear. Even the Crown's advocate was not free from violent attack, as John Spens of Condie discovered in 1564 when set upon on his way home.⁴⁴ More typical of potential dangers was the difficulty encountered by John Sharp in the late 1570s when he found himself having taken on one client too many. He appeared against John Lindsay, laird of Covington, in an action at the instance of the laird of Stonehouse concerning lands in Broughton.⁴⁵ These lands had been granted to Covington following the forfeiture of the previous laird of Stonehouse for supporting Mary in the civil war; this forfeiture was reversed under the Morton regime. Despite this, Covington was still taking the rents and otherwise oppressing the tenants regardless of the reduction of his infefment, and the new laird of Stonehouse retained Sharp to put a stop to this by legal means. Covington objected on the basis that Sharp had acted for him in the past in relation to the same land and therefore his appearance at this juncture was in breach of confidence. The court permitted Sharp to continue, although rancour persisted. Covington, a patient man, waited until after Morton's fall from power to take his revenge. It may have been the case that Morton had protected Sharp (though Morton used other advocates in litigation as well as Sharp), but when Covington's men invaded Sharp's barony of Houston and destroyed his crops it was to the Privy Council, and particularly to his client the Earl of Angus, that Sharp appealed.⁴⁶ The matter was resolved by agreement with Angus's assistance in December 1583, just at a time when Angus himself was feeling the backlash from his participation in the Ruthven raid.⁴⁷ Episodes such as this demonstrate the way in which influential clients could be sources of protection as well as potential sources of wealth for trusted legal advisers.

44 Finlay, *Men of Law*, 223.

45 NAS, Sharp of Houston Papers, GD30/2186/3.

46 Sharp appeared for Angus regularly in the 1570s; he also acted for Angus's widow in 1590: CS7/125 fo 6r.

47 NAS, Sharp of Houston Papers, GD30/2186/1; M Lee, jr, *John Maitland of Thirlestane* (1959), 46–47.

48 TA, xiii, 31, 125. It will be seen that Craig seems to have put his absence in Aberdeen to good use, see below, text at notes 122–127.

D. OFFICE-HOLDING

Most of the benefits of patronage gained by Thomas Craig were consistent with a career based in Edinburgh. The office of justice depute naturally required attendance at the justice ayre though even this did not always mean that he could not attend the Court of Session. Thus Craig is absent from the court record between July and October 1574, and it is known that for at least thirty days of that period he was at the justice ayre of Aberdeen; however, in January 1576 he did manage five appearances before the Lords of Session during what is described as the ayre of the sheriffdom of Edinburgh.⁴⁸

Despite such occasional inconveniences, the office of justice depute had its compensations. First, the financial rewards were regular if unspectacular. As well as his fees for attendance, Craig had since January 1565 been granted annually the fines of any six or fewer persons of his choice, up to a financial limit of £240.⁴⁹ All he had to do was to ensure personally, and at his own expense, collection of the fines. Secondly, the experience gained as justice depute stood Craig in good stead for later work at the criminal bar, where he was to practise widely throughout his career. Thirdly, the role of justice depute created a link with the Justice General, an office held on a hereditary basis by the Earls of Argyll. In the period analysed for this study, the only nobleman for whom Craig acted in civil matters before the Court of Session was, perhaps unsurprisingly, Colin, Earl of Argyll.⁵⁰ The Campbell connection proved useful, since the sixth earl was quite heavily involved in litigation, including an ongoing action brought by the divorced wife of his predecessor, Janet Stewart, and the connection might explain why Craig also acted for Colin Campbell of Glenorchy in July 1575 and other Campbells subsequently.⁵¹ At the same time, the ubiquitous John Sharp also acted for Argyll, as did another advocate named Henry Balfour, and Craig's appointment as justice depute was surely secured through the patronage of his kinsman Bellenden of Auchnoule, the Justice Clerk.⁵²

Craig's work as admiral depute must have involved considerable time. Although the only surviving portion of the record of the sixteenth-century Admiralty Court covers the period 1557–1561, it demonstrates the demands of maritime business.⁵³

49 RSS, v, no 1892.

50 Although he did act for John Stewart, Earl of Atholl, before the Privy Council in 1575, Atholl's regular advocates were John Sharp and Alexander Mauchane.

51 In one phase of the Argyll-Janet Stewart litigation, Craig acted for Mr John Hutton, Argyll's man of business: CS7/53 fo 161r. On Hutton, see J E A Dawson, *The Politics of Religion in the Age of Mary, Queen of Scots* (2002), 79. Craig also acted for Hutton's son, William, in a separate action in the same year: CS7/57 fo 15r.

52 Craig appeared before the lords on Bellenden's behalf when the latter was in Peebles at a justice ayre in Nov 1573: CS7/52 fo 140r.

53 T C Wade (ed), *Acta Curiae Admirallatus Scotiae 1557–1561* (Stair Society, vol 2, 1937).

Even for this period, the record is not complete. However, the two most complete years, 1558 and 1559, show that the court met, on average, more than once a week. These sittings appear to have been fairly evenly spread throughout the year. In 1558 one of the vice admirals, David Kintore, sat on forty-two separate days and, in the following year, he sat on at least fifty days, either in Leith or Edinburgh.⁵⁴ His colleague, Richard Troup (sometimes written as Trohope), sat on forty-three days and twenty days respectively, although he might have been a junior colleague or else kept busy in 1559 as sheriff depute of Edinburgh.⁵⁵ Whatever the internal difficulties in Scotland between 1570 and 1575, the Admiralty Court continued to function, even in the face of a potential trade embargo when it was threatened in October 1570 that no Scottish ship would be accepted in a French port without Queen Mary's warrant.⁵⁶ The court's regular sittings reflect the practical requirement that admiralty cases had to be dealt with quickly, and Craig, in the *Jus Feudale*, was later to make critical remarks about admirals who neglected their duties while making large profits at the expense of the state.⁵⁷

How did Craig come to hold the office in the first place? It was mentioned above that Richard Troup, like Craig, held the offices of sheriff depute of Edinburgh and admiral depute simultaneously, so the combination was not without precedent.⁵⁸ There is no direct link between Craig and the Earl of Morton as Great Admiral, though in 1569 there is a link between Craig's family and that of the Earl of Bothwell, admiral by hereditary right until forfeited in 1567.⁵⁹ This link provides a glimpse of Craig's personality. It arose because his father, along with John Spens, the Queen's Advocate, and John Mossman, a notary, had been a cautioner for Bothwell in a legal action concerning payment of a contractual debt.⁶⁰ The cautioners having failed to make payment, they were put to the horn and Mossman was arrested by the bailies of Edinburgh in conformity with letters issued by the Lords of Session. Thomas Craig, purporting to act as justice depute, removed Mossman from the bailies' custody and set him free. This upset Bothwell's creditors whose complaint to the regent and the Privy Council led the latter to

54 In 1571 Craig witnessed a charter along with David Kintore in Kintore's house in Edinburgh: NAS, RH6/2231.

55 *Troup was sheriff depute certainly in July 1565: NAS, Bell-Brander Family Papers, GD63/32.

56 J D Marwick (ed), *Records of the Convention of Royal Burghs*, (1866–1870), vol 1, 19.

57 *Jus Feudale*, 1.16.17.

58 Craig acted for Troup's widow, Katherine Kerr, in an action of removing brought in 1573 against tenants in Newbattle who alleged that they were kindly tenants: CS7/51 fo 333r, CS7/52 fo 41r.

59 RPC, ii, 27–28. On Bothwell and the admiralty, see R G Macpherson, "Francis Stewart, 5th Earl Bothwell, c 1562–1612: lordship and politics in Jacobean Scotland" (unpublished PhD thesis, University of Edinburgh, 1998), ch 1.

60 Mossman's attachment to the sheriff court may go back to the early 1550s; he appears on a witness list along with the then sheriff depute in 1552 (NAS, Dalry and Inverleith, GD1/83/1).

command Craig to produce Mossman. Despite promising to do so, Craig delayed until compelled to hand Mossman over. This is a curious incident, Craig's reluctance explicable because Mossman was sheriff clerk of Edinburgh and admiral clerk and so a close colleague, perhaps, despite his Catholic recusancy, even a "client" of his in the political sense.⁶¹ This link to Bothwell, which seems to have been purely a commercial one, cannot explain Craig's appointment as admiral depute. Thomas Craig's subsequent career does not suggest he was a Bothwell sympathiser. A more likely explanation again lies with the proximity of the Craig family to the Bellendens, who had connections with the Hepburns going back over a century. Relations between James, fourth Earl Bothwell, and Sir John Bellenden, political enemies from at least 1566, may explain Craig's good fortune in becoming admiral depute. The appointment of his nephew may have been a political reward to Bellenden as one of the king's men in the late 1560s.⁶²

E. CLIENTS

In the five years examined for this study, Craig appeared before the Lords of Session on behalf of 150 clients. Excluding groups of tenants and sureties, there were 146 individual clients sharing ninety-three surnames. Of the 146, some 129 (88%) were male and seventeen were female (of whom at least nine were widows). The geographical origins of 144 of his clients have been identified with reasonable certainty. The only foreign client was from England. From the county of Edinburgh came eighteen clients; from the remainder of the south-east came twenty-nine clients (this includes Linlithgow and the eastern Border marches). In the south-west (including Lanarkshire) he had thirty-four clients, while he drew forty-seven from the eastern counties north of the Forth (included here are Aberdeenshire, Fife, Angus, the Mearns, Morayshire, Perthshire and Orkney). In the county of Stirling, he had eleven clients, and four came from Argyllshire. The most striking thing about Craig's clients is their geographical diversity, with 35% from north of the Forth, 57% from the south and 8% from the central region around Stirling.

The only front rank noble among Craig's clients was, as already mentioned, the Earl of Argyll. Craig also acted for the Bishops of Orkney and Dunkeld, the Abbot

61 Lynch, *Edinburgh and the Reformation*, appendix vi. Members of the Mossman family, including James executed on the fall of Edinburgh Castle in 1573, were also goldsmiths: on the execution, see Lynch, 144. Mossman drew up a contract (8 Oct 1568) wherein Thomas Craig was cautioner for his parents when they purchased from James Cupar, merchant burgher of Edinburgh, lands in which he had been infeft by James, late Earl Bothwell, but the superior of which was now Francis Stewart (NAS, RD1/12 fo 109r-111v); the advocate Alexander King was a witness to this.

62 The writer has not yet been able to ascertain with precision the date of Craig's appointment as admiral depute.

of Kinloss and the Commendator of Souleseat in Wigtownshire.⁶³ His clientele had a number of prominent royal officers including the Justice Clerk, two successive royal treasurers, and the collector general. At a less elevated level, clients included figures such as the Chamberlain of Whithorn Priory and graduates who were the agents of greater men, such as the Earls of Argyll and Erroll. The vast majority of his clients, however, were fairly modest figures: lairds, burgesses, ministers, chaplains, vicars and humble tenants.

In religious terms, Craig's Protestant credentials were never in doubt, and it has been plausibly suggested that John Knox's colleague, the Edinburgh minister and former Dominican, John Craig, was his uncle.⁶⁴ In June and July 1575 Thomas appeared in two separate cases as one of the procurators for the kirk along with the kirk's regular advocates, Alexander Sym and Richard Strang, perhaps as a temporary replacement for Clement Litill, the third member of the kirk's regular triumvirate of advocates.⁶⁵ Actions on behalf of the kirk were numerous and ran in the name of these same three advocates throughout this period, so Craig's involvement was exceptional and noteworthy.

Acting for the kirk may have been a by-product of Craig's experience in actions relating to the collection of thirds of benefices on behalf of another significant client (and former Marian) Robert, Lord Boyd, collector general, who had shifted allegiance to Morton in 1572.⁶⁶ The function of the office of collector general was to take action to recover these funds as part of the reorganisation of the kirk's finances pushed forward by the Regent Morton.⁶⁷ When he litigated, Lord Boyd did not always act alone; his co-pursuers were typically royal officers of arms, such as Ross Herald or Snowdon Herald, or other officers of his such as Patrick Davidson, or his son, James Boyd, depute collector. The small team of advocates acting for these co-pursuers included, as well as Craig, the familiar kirk advocates Strang and Sym.⁶⁸

63 The Bishop of Dunkeld in question was James Paton, who replaced the Catholic Marian bishop, Robert Crichton, in 1571. Paton was not active against Catholics in his see and, for this and other offences, was deprived by the general assembly in 1576: G R Hewitt, *Scotland under Morton 1572–80* (1982), 109.

64 On John Craig, see Kerr, "John Craig". Thomas Craig was mentioned in John's will in 1600, along with Thomas's client and brother-in-law John Arnot, as men whose advice the executors should seek (Kerr, 196). Baillie, in the 1732 edition of *Jus Feudale*, seems to be wrong to ascribe an influence to John Craig over Thomas's early education as John Craig was abroad from 1536 until 1561 (Kerr, "John Craig", 17, 198–199). However, some subsequent superintendence is suggested, as is the fact that John Craig was influential in developing Thomas's religious faith (Kerr, "John Craig", 3–5). John Craig may tentatively be identified as the son of Thomas Craig, baker burgess of Edinburgh, thereby brother of Robert Craig, the advocate's father.

65 CS7/60 fo 26v. *Pace* C P Finlayson, *Clement Litill and His Library* (1980), 16, Litill did appear fairly often before the Court of Session.

66 Donaldson, *All The Queen's Men*, 124.

67 Hewitt, *Scotland under Morton*, 83–84.

68 Examples may be found at: CS7/55 fo 51r, 52r; CS7/57 fo 186r.

Craig himself took on the representation of Lord Boyd's son, Thomas, Reader of the Kirk of Beith, in January 1575 in litigation concerning the recovery of teinds, in which the advocates Clement Litill and Richard Strang were both involved on the side of Alexander, Commendator of Kilwinning, Boyd's patron.⁶⁹ In 1579, his part-time role as a team member matured into his appointment as sole advocate for the collectory, in return for 200 merks annually for life.⁷⁰ This put paid to his appearance for any other clients in cases concerning the collectory, ministry and thirds of benefices; his role from then on was exclusively to be in defence of the collectory.⁷¹

The picture from the Admiralty Court is different. Despite, or perhaps because of, his active role as admiral depute, there is no great evidence of Craig appearing for individual members of the maritime community. Craig in the *Jus Feudale* took a hard line against office-holders who used their office for profit, and he may have had reservations about creating links with individual mariners who might later find themselves before him as judge.⁷² Evidently, he had the confidence of the maritime community as a whole. In a couple of notable instances he appeared for that community before the Privy Council, once for the mariners of Leith against the burgh of Edinburgh in 1579, and then on behalf of the skippers and mariners of Scotland in 1580 protesting against an act passed by the commissioners of the royal burghs in Aberdeen (part of a wider jurisdictional struggle between the burghs and the admiral).⁷³

(1) Establishing a practice

Within the competitive environment of the bar in the 1570s Craig, like many advocates, was never short of relatives willing to instruct him.⁷⁴ A difficulty for the historian is that family ties are not always clear; sometimes there is little evidence beyond the suggestion of kinship raised by the mere fact of a shared surname (and Craigs were relatively common). Thomas acted for six people surnamed Craig

69 CS7/57 fo 152v. For Thomas as "possibly" Boyd's son, see C H Haws (ed), *Scottish Parish Clergy at the Reformation 1540–1574* (Scottish Record Society, 1972), 14. Thomas, master of Boyd, is recorded as obtaining a remission with his father and his followers, including the brother of a later Craig client, John Colquhoun of Kilmardonay, David Barclay of Ladyland, a possible client, and several Crawfords whose relatives might have been Craig clients: RSS, vi, no 1270. It is not surprising that Craig should have gained clients among Boyd's friends and kinsmen.

70 RSS, vii, no 2011.

71 Ostensibly, this was because of delays in prosecuting actions on behalf of the lord collector and the fact that advocates employed for the purpose had "so mony uthir clyenttis that thai may nocht guidlie attend thairto". As the appendix shows, Strang and Sym were both appreciably busier than Craig in 1575.

72 *Jus Feudale*, 1.16.17.

73 RPC, ii, 247; 309; Macpherson, "Francis Stewart", 252–253; J Goodare, *The Government of Scotland, 1560–1625* (OUP, forthcoming), 165–168.

74 See Finlay, *Men of Law*, ch 5; Coutts, *Court of Session*, 9–10.

during this period and there were around half a dozen other individuals in the sample to whom he may have been related by blood or marriage.⁷⁵ This is a small figure but not insignificant: clients breed clients.

Even so, it is a remarkable coincidence that, on a single day in 1574, Craig should appear for his sister Margaret before the Lords of Session and against her before the Privy Council.⁷⁶ Both cases were linked through the family of Johnstone of Kelliebank, with whom the Craigs had considerable connection.⁷⁷ Margaret was the widow of the Edinburgh burghess James Johnstone of Kelliebank and was involved in a lead mine with John and Robert Johnstone.⁷⁸ The Johnstones had acquired the right to work the mine in 1568 from John, Earl of Atholl, who had originally been licensed by the Privy Council to export the extracted ore. When Atholl assigned the lease to John, Robert and Thomas Johnstone, Robert Craig was John Johnstone's cautioner in respect of the payment of customs duty during the remaining term of the licence. Six years later, John Johnstone and Margaret Craig (who by this time had become a partner in the enterprise) instructed Thomas Craig to bring a complaint against Robert Johnstone's wife, Helen Baron.⁷⁹ In her husband's absence (presumably abroad), she had prevented them from gaining access to cellars in Leith which contained a stock of lead ore ready for export. The Privy Council decided to allow the pursuers to remove their own two-thirds' share of the ore, and Helen to retain her husband's share.

On the same day, Margaret undertook to deliver custody of her deceased husband's children to Thomas as their tutor dative, a position granted to him on the

75 Excluding Craigs and Hamiltons of indeterminate relationship, he acted for the following during this period: Sir John Bellenden (cousin); Adam Bothwell, Bishop of Orkney (second cousin); John Arnot (brother-in-law); John Johnstone of Kelliebank (nephew); Robert Richardson and James Richardson (relations by his first marriage, see below); Robert Bannatyne (possible kinship; spiritual kinship with at least one member of the Bannatyne family). To this may be added another brother-in-law, James Inglis (see below). Alexander Newton, for whom Craig appeared before the Privy Council (RPC, ii, 193), may have been related to Craig through his grandfather's wife (and possibly his grandmother), Margaret Newton (NAS, RH6/1550a).

76 CS7/53 fo 387v; RPC, ii, 363. For Margaret as daughter of Robert Craig, see NAS, B22/8/1, fo 10r. Craig was still acting for Margaret Craig in 1600: Coutts, *Court of Session*, 9.

77 Thomas Craig's personal link to the Johnstones may date back at least to 1564, when he was granted the escheat of one "Jacob[us] Johnstoun de Myddilgill": TA, xi, 292. John Johnstone of Kelliebank was cautioner for Thomas and his mother in 1566 when Thomas purchased land in Edinburgh from the burghess James Curle: NAS, Register of Deeds (Old Series) B22/8/1, fo 259r. The link between Thomas and the advocate Archibald Johnstone of Wariston arose through one of Craig's daughters, Elizabeth, marrying into the Johnstone family; see Ridpath's epistle to secretary William Johnstone in his edition of *Scotland's Sovereignty Asserted* (1695), and the table by Rae, "The origins of the Advocates Library", 9.

78 RPC, i, 635–637.

79 Atholl's lease had expired and George Douglas of Parkhead had taken over as leaseholder. Margaret's involvement, through her husband, may date from arrangements set in place at that time; certainly the Johnstones continued to work the mine: RPC, ii, 362.

king's behalf some nine months earlier.⁸⁰ One of Craig's cautioners that day was the wealthy goldsmith Michael Gilbert and, again, his relationship with Gilbert seems also to have been due to a family connection.⁸¹ This can be inferred from a later dispute. When Gilbert was elected deacon of the goldsmiths of Edinburgh on 1 May 1576, he declined the office apparently because of ill health. The goldsmiths complained to the Privy Council, who were no doubt sympathetic, since without a deacon to stamp their work as required by legislation the "nobill men and gentill men of the realme to quhome thay have wrocht werk" could not receive it.⁸² Craig was Gilbert's advocate and seems to have been instrumental in working out a compromise whereby the noblemen got their jewellery and Gilbert agreed to accept the position of deacon. This was subject to one condition: his fellow goldsmith, Adam Craig, was to help him in the exercise of that office should his health so require. It is not clear what relationship Adam, who was a committed Protestant and a member of Edinburgh's Privy Kirk in the 1550s, had to Thomas.⁸³ However, it is possible that Thomas's second wife, Helen Heriot, was part of the same family of goldsmiths whose most famous member was George Heriot, goldsmith to the king.⁸⁴ Craig clearly had links to the goldsmiths of Edinburgh.

Having a client sharing his surname, without further evidence, is hardly conclusive of family relationship. Even territorial designations do not necessarily help, as where Craig acted for Patrick Craig of Cairnduff in an action which he brought, with the concurrence of the King's Advocates, against the sheriff of Lanark and John Craig of Dunloch.⁸⁵ There is often little prospect of being able to identify the genealogy of litigants such as these. Even when the context is helpful, defining the relationship still poses problems. When Andrew Craig, heir of a late merchant, wine importer and king's man of the same name who had recently died in Calais, interdicted himself from alienating his property (until the age of thirty-six) without the consent of named individuals, including Thomas Craig, at least some degree of relationship may be assumed.⁸⁶

80 RPC, ii, 362–363; CS7/53 fo 387v. Craig was later curator to the child, John Johnstone, along with Margaret's second husband, John Arnot (a former Marian and future kirk elder), and they acted jointly against William Johnstone to recover funds allegedly due to John: RPC, ii, 556. Craig also acted for Arnot in other cases in 1574 and 1575. For Arnot as kirk elder, see NAS, Buik of the General Kirk of Edinburgh, CH2/450/1 fo 24r.

81 On Gilbert, see Lynch, *Edinburgh and the Reformation*, 53. The Gilberts were linked by marriage to the Bannatynes.

82 RPC, ii, 537.

83 M F Graham, *The Uses of Reform* (1996), 37.

84 Although Craig did not act for George Heriot and his fellow goldsmith, Thomas Foulis, against the Countess of Atholl in 1585: CS7/103 fo 47r. Note that the Mossman family also contained goldsmiths: see note 61 above.

85 CS7/53, fo 310r.

86 CS7/50 fo 91v; on Andrew Craig, senior, see Lynch, *Edinburgh and the Reformation*, appendix vii.

What is beyond dispute is that family connections brought Craig clients throughout his career; in 1586, for example, he acted for James Inglis, the king's tailor, who was married to Helen Craig, possibly Thomas's sister.⁸⁷ This was part of a noteworthy wider phenomenon of members of the king's household bringing legal actions in the mid-1580s: valets of the bedchamber and wardrobe,⁸⁸ domestic servants,⁸⁹ lackeys,⁹⁰ servitors,⁹¹ the king's master porter,⁹² and James Couper, plumber to the king⁹³ (for whom Craig acted), were all involved in litigation, generally actions for the payment of pensions owed from a variety of sources.

(2) Clients by marriage

A more significant example of the generation of business through family links is Craig's first marriage to Helen Hamilton.⁹⁴ This occurred probably at the end of 1573 and the timing may have been due to family pressure, since it appears that Craig had become involved in an undesirable liaison with a woman named Margaret Simson.⁹⁵ His client list provides clues to the choice of his wife and the background to his marriage, because it features from 1574 a number of Hamiltons from Ayrshire, Dumfriesshire and Lanarkshire. Perhaps of most interest here is Craig's appearance in October 1575 for William Hamilton of Sanquhar against Hugh and Robert Wallace of Cairn Hill and others in an action of removing from their tenancy in Kyle Stewart.⁹⁶ The Hamiltons and Wallaces of Craigie were long-standing local rivals and this particular action may in some way have related to William's marriage, before February 1575, to Annabella Wallace.⁹⁷ In particular, he was required to find cautioners before the Privy Council in 1576 that he would not, under the huge penalty of £5,000, molest or pursue his father-in-law John

Clearly these both belonged to the branch of the Craig family that had established itself within the Edinburgh burghess community.

87 CS7/103 fo 230v. Thomas certainly had an aunt named Helen on his father's side: NAS, RH6/2832. She was apparently not married in April 1586.

88 CS7/103 fos 114r, 143v.

89 CS7/103 fo 134r.

90 CS7/101 fo 142r.

91 CS7/101 fo 319r.

92 CS7/101 fo 171r.

93 CS7/101 fo 388r.

94 J Riddell, *Remarks upon Scotch Peerage Law* (1833), 165, records a marriage contract dated 31 Oct 1573. The writer is indebted to John H Ballantyne for this reference.

95 On 22 May 1574 Craig, having been charged to appear before the kirk session, denied paternity of Simson's child: NAS, CH2/450/1, fo 8r. The reference to this in Lynch, *Edinburgh and the Reformation*, 42, wrongly states that Craig was a judge.

96 CS7/61 fo 161r, July 1575; note removal of another tenant, 7/62 fo 50r in March 1576. This action appears to have been assigned by William to his son John in 1574; CS7/53 fo 45v.

97 RSS, vii, no 59. The Wallaces of Cairnhill had close links with the Wallaces of Craigie.

Wallace of Craigie other than by order of law.⁹⁸ Such arrangements ultimately proved ineffective, with Hamilton being accused by Craigie of attacking him with pistols in Ayr kirkyard in 1578.⁹⁹

What is clear is that William Hamilton of Sanquhar engaged in considerable litigation, and the systematic sale of considerable parcels of land, in the years following his succession to his father's lands in 1572.¹⁰⁰ Craig was involved in this process, acting for Hamilton again, this time with Hamilton's equally formidable brother John, when they, with accomplices, were alleged to have committed spuilzie in April 1574 against John Spottiswoode of Fowler (not further identified).¹⁰¹ He also acted for James Hamilton of Woodhall in regard to a dispute with Thomas Inglis, chamberlain of James, Lord Torphichen, concerning multures owed by the tenants of Thankerton in the sheriffdom of Lanark.¹⁰²

The Hamilton connection was therefore important and it seems to have been established by Craig's marriage, although it is not clear to which branch of the family his wife belonged. Given Craig's political associations on the king's side in the civil war even a minor branch of the Hamiltons might at first sight appear a surprising family into which to marry.¹⁰³ The Hamiltons' recent record of political judgment was not enviable. But having been supporters of Mary, even they had seen the writing on the wall and in February 1573 their comprehension in the Pacification of Perth to some degree rehabilitated them. Hamiltons featured heavily among the signatories to that document, who were sworn to uphold the king's authority and support the kirk.¹⁰⁴ Making Helen Hamilton more acceptable still was no doubt the attraction of a significant dowry and, from a professional perspective, a connection to a family with a network of diverse but very substantial landholdings throughout the lowlands.¹⁰⁵ Perhaps decisive is the fact that Helen

98 RPC, ii, 493–494.

99 Hamilton, *House of Hamilton*, 779.

100 His father, Sir William, several times Provost of Ayr, had been briefly made Provost of Edinburgh in 1553: Lynch, *Edinburgh and the Reformation*, 70. As his estate was sold to cover his debts, William's legal fees could only have added to his distressed condition.

101 CS7/61 fos 85r, 266r.

102 Apr, May and Oct 1575; CS7/59 fos 175r, 304r; CS7/61 fo 282r.

103 Helen cannot be more closely identified, but if she is linked to the Hamiltons of Sanquhar then she belonged to a branch of the family willing to defy their chief and align with their rival, Wallace of Craigie, behind Queen Mary against Moray in the Chaseabout Raid in 1565: Donaldson, *All The Queen's Men*, 75.

104 Donaldson, 125.

105 There can hardly have been a family more potentially attractive to the advocate than the Hamiltons in terms of its landholding, office-holding, and local connections, despite the recent difficulties of the civil war; see E Finnie, "The House of Hamilton: patronage, politics and the church in the Reformation period" (1985) *Innes Review*, 3–28; and P G B McNeil and H L MacQueen (eds), *Atlas of Scottish History to 1707* (1996), 137. Another contemporary advocate, James McCartney, was also married to a Hamilton: CS7/54 fo 17v.

was described as “oy” to Robert Richardson, Prior of St Mary’s Isle, in their marriage contract. Richardson, erstwhile treasurer and a very prominent Protestant figure, had enjoyed a long working association while he was treasurer with Sir John Bellenden and Craig.¹⁰⁶ He was also one of Craig’s clients.¹⁰⁷ Richardson was father of at least three natural sons and one of them, James Richardson of Smeaton in the regality of Dalkeith, was himself a client of Craig.¹⁰⁸ On a professional level, the marriage certainly did Craig no harm, and may help explain both his role as procurator for the kirk and as advocate for the former Marian supporters John Johnstone, Commendator of Souleseat, and Mr James Douglas, Chamberlain of Whithorn Priory, mentioned earlier, all of which occurred after the date of this marriage.

It is certainly possible that Craig once again had his Bellenden connection to thank for arranging the marriage. In August 1572 James Bellenden, son of the Justice Clerk, was gifted (no doubt under his father’s influence) the nonentry of the estate to which William Hamilton of Sanquhar was heir.¹⁰⁹ The Bellenden-Hamilton-Craig connection is therefore not likely to be coincidental.¹¹⁰ However, an interesting conjecture concerns the role of the Johnstones who, certainly since the Reformation, were aligned politically with the Hamilton interest. As well as the Commendator of Souleseat, an experienced man well used to dealing with advocates personally or as intermediary for the head of his kindred, Craig acted for the minor, John Johnstone of that Ilk (whose mother was a Hamilton), and his curators, against his father’s widow.¹¹¹ On the very same day, he appeared for John Hamilton of Barnwell, William Hamilton’s brother. It seems safe to conclude that Craig’s first marriage gave him an entrée into a network in the south-west that

106 Craig as justice depute, Richardson as treasurer, and Bellenden as Justice Clerk were all involved in actions brought against them in respect of judiciary affairs in the late 1560s and early 1570s, e.g. CS7/46 fo 354r; CS7/47 fo 410r. Thomas Craig, notary, witnessed a sasine in Richardson’s favour in Apr 1562; J Russell (ed), *The Protocol Book of Nicol Thounis* (1926), no 70 (the writer is grateful to John H Ballantyne for this reference).

107 Graham, *The Uses of Reform*, 261; Lynch, *Edinburgh and the Reformation*, 181. It is not clear what relationship Helen in fact had to Richardson; she was either his niece or granddaughter. Richardson appears as Craig’s client when he was still treasurer on 31 Mar 1571 (CS7/46 fo 434v).

108 RMS, iii, nos 1817, 2461, 2843, 2844. He had at least one affiliation action brought against him: J Kirk, *Patterns of Reform* (1989), 275. The link to Richardson might also explain the appearance of Godfrey McCullouch of St Mary’s Isle as a client of Craig’s in 1574 (CS7/52 fo 441) and must surely explain that of Richardson’s tenant, James Lidderdale, in 1575 (CS7/61 fo 247v; RSS, vi, no 2180).

109 RSS, vi, no 1691. See also van Heijnsbergen, “Literature and history in Queen Mary’s Edinburgh”, 196.

110 Margaret Bellenden is noted in the early 1570s as the wife of Robert Hamilton of Inch Mauchan in a transaction concerning lands in the sheriffdoms of Lanark and Linlithgow: NAS, RD1/12, fo 22; also CS7/50 fos 372v–374v. The marriage dates back at least as far as 1561 although it seems that there was a divorce or annulment before 16 Feb 1576: NAS, RD1/16 fos 1–3.

111 On Souleseat, see Sir William Fraser, *The Annandale Family Books of the Johnstones, Earls and Marquises of Annandale*, 2 vols (1894), vol 2, 271–272; CS7/56 fo 329r.

allowed him, from 1574, to develop his client base noticeably in that part of the country. Indeed, of all of his clients identified as originating in Ayrshire and the south-west between 1570 and 1575, who total more than twenty, only one of them belongs to the period before his marriage.¹¹²

That Craig did not have much, if any, contact with the Marian party in the civil war is suggested by the pattern of events surrounding his marriage. Although he made more appearances in 1573 than in 1572, there is no evidence of a sudden influx of newly reconciled Marians rushing to use his services in the months immediately following the Pacification of Perth in February 1573. This permitted a six-month window for review, by the original judge, of civil cases decided since 15 June 1567, should any party who felt aggrieved have a defence that he was not able to raise at the original hearing.¹¹³ Craig's marriage created contacts with former Marian supporters, but these came too late for him to gain significant benefit from any sudden surge in litigation. Ironically, in November 1573, he did defend James Stewart, the late Earl of Buchan's son, against an action raised under the terms of the Pacification by one of its architects and major beneficiaries, Sir James Balfour of Pittendreich (author of Balfour's *Practicks*).¹¹⁴

What the data collected for this study does not reveal is whether this expansion lasted beyond the death of Helen Hamilton, which occurred before 12 December 1576.¹¹⁵ Given a downturn in the fortunes of the Hamilton family in 1579, Craig may have been fortunate that the marriage did not last long enough to damage his prospects.¹¹⁶ By the mid-1580s, when a reasonable proportion of his clients was still based in the south-west (including the sixth Earl of Glencairn), none of them was a Hamilton and this may reflect continuing difficulties of that family until the fall of the regime of James Stewart, Earl of Arran, at the end of 1585.¹¹⁷

When Craig appeared for his sister Janet's husband, Mr John Sandilands, parson of Hawick, a degree of family friction may have resulted. Sandilands was engaged in litigation with his landlord, Francis Stewart, the future Earl Bothwell,

112 *Alexander Kessane, notary v Bernard Ferguson of Kilkerran and others*, 8 Dec 1572 (CS 7/46 fo 458r). Craig acted for Kessane.

113 RPC, ii, 193–200, esp 198; J Stevenson et al (eds), *Calender of State Papers Foreign, Elizabeth 1572–74* (London, 1876), 780. For an example, see CS7/50 fo 421r. A number of Marians received remissions throughout 1573 and early 1574: Donaldson, *All the Queen's Men*, 126.

114 CS7/50 fo 421r; RPC, ii, 250. On Balfour's role in 1573, see P G B McNeill, *The Practicks of Sir James Balfour of Pittendreich* (Stair Society, vols 21–22, 1962–1963) vol 1, xxv.

115 Riddell, *Scotch Peerage Law*, 165. Craig had "lawful bairnis" by Helen, though the chronology suggests it is unlikely they had more than two. Riddell argues, plausibly, that Lewis Craig, later Lord Wrightshouses, was a child of this marriage.

116 Hewitt, *Scotland under Morton*, 64–70.

117 Lee, *Thirlestane*, 50, 62. Craig counted the fifth Earl of Glencairn (d 1580) among his clients from at least Dec 1576: RPC, ii, 577.

Commendator of Kelso Abbey (who appeared with his administrator, Mr William Carmichael). As the case progressed the opposing advocate, Alexander Mauchane, alleged that he was entitled to receive, in payment of his annual pension from the abbey (in other words, his retainer), the sum of £20 from its readiest fruits, particularly from the teinds of the parishes in which Sandilands was a tenant. Mauchane's position as a member of the College of Justice made his action a privileged one to which the court gave priority. In February 1575 Sandilands paid arrears of this debt from the period between 1569 and 1572. Mauchane refused to accept payment owing from 1573 unless the debt for 1574 was extinguished at the same time. Sandilands' refusal to pay this was upheld; the period of the lease for 1574 came to an end at Beltane 1575 (3 May, according to the record), and the pension payment was regarded as not falling due until the following midsummer.¹¹⁸ Interestingly, although Craig was appearing against the young Francis Stewart (born around 1562–1563) in this case, he was later to act for him. Sir John Bellenden took over as his administrator and this involved a change in legal adviser with long-term results, since in adulthood Francis, Earl Bothwell, appears to have made ready use of Craig as his advocate in the 1590s.¹¹⁹ Moreover, to reinforce the centrality of Sir John Bellenden within Craig's client list, during Bellenden's administration of Kelso Abbey in 1575 Craig acted for the tacksman John Hoppringill of Buckholm in a case brought against him, Francis Stewart, and Bellenden by James Cunningham, son of the late Earl of Glencairn, in respect of a tack in Carluke.¹²⁰ A year later, he acted for monks of Kelso Abbey in an action for payment of a stipend from John Fraser, Prior of Beaulieu.¹²¹

(3) Advocates and the locality

It has already been seen that gaining a client of social and political significance, such as Robert Richardson or the Hamiltons in the south-west, or the Earl of Argyll, could promote further business in the local area among the original client's kinsmen, tenants and servants. The sudden appearance of a number of clients in Moray and Inverness-shire provides a further example. Walter Reid, Abbot of Kinloss (and successor as abbot to Robert Reid, also Lord President of the Court of Session), was his highest profile client in the region. As well as Reid, Craig acted

118 CS7/47, 274r; CS7/57 fo 247r; CS7/63 fo 1v. This case is obviously ripe for citation of Roman law (e.g. D 12.6.10) though unfortunately the record does not give any of the legal argument to confirm this.

119 On Bellenden as administrator, see GD39/1/86, GD39/1/94, and Macpherson, "Francis Stewart", 125, 195. Craig was one of the three advocates who defended Francis Stewart at his witchcraft trial in 1593: *Calendar of Border Papers* (1894-1896), vol 1, 487. In 1570, the advocate Alexander Mauchane had been acting for Francis and his then administrator (e.g. CS7/47 fo 244v).

120 CS7/54 fo 421v; NAS, GD39/1/86, GD39/1/94.

121 CS7/63 fo 17v.

for George Murray, one of the monks of Beaulieu, against the prior for intromission with the fruits of the local mill.¹²² He also acted for George Dunbar of Arnot, executor to Alexander Dunbar, prior of Pluscarden, against the advocate James McCartney who claimed payment of a pension for life of an annual barrel of salmon for his having (as he no doubt narrated from his letters of procuratory):

solistit helpit suppleit and mantenit the hail actionis & causis movit be the said unquhile alex[ande]r prior of plusgarden & convent thair of or aganis thame befor the saidis lordis or before ony uther Juge or Juges within the burgh of Ed[inbu]r[gh].¹²³

Another client in the region, Alexander Urquhart, exercised a varied ministry but was minister of Altyre in Moray when he employed Craig at around the same time. All of these actions occurred in 1575, and in their number should also be included one brought by Craig on behalf of Mr Thomas Austean against tenants allegedly interfering with his right to the fruits of the vicarage of Abeer in Moray, and a separate vicarage dispute a few months later involving Alexander Peterkin in Elgin.¹²⁴

What explanation is there for Craig's involvement in this sudden bout of litigation in a vicinity where he seems to have had little previous professional connection? A similar outbreak of clients in Aberdeenshire in 1574 suggests that this activity in the north-east stemmed from the Regent Morton's visitation to Aberdeen in the summer of 1574 and his own attendance at the justice ayre.¹²⁵ The promoters of reformed religion in a burgh which, nominally on the king's side in the civil war, was religiously conservative, were boosted significantly by the support of Morton and the ministry of John Craig who had arrived in Aberdeen in 1573.¹²⁶ There was considerable concern about affairs in Moray diocese and John Craig was commissioned by the General Assembly in March 1573 to investigate the bishop and chapter of Moray.¹²⁷ Thomas's arrival on the scene allowed him an opportunity to benefit from his uncle's local contacts and wider family connections. His presence allowed him to attract new clients and to be briefed about actions to be raised in Edinburgh.

At the centre of this burgeoning Aberdeenshire client network was William

122 This action against the prior of Beaulieu came only a month before the action brought by the Kelso monks against him (mentioned in the previous section): CS7/60 fo 322v.

123 CS7/61 fo 356v.

124 CS7/60 fo 209r. In Feb 1576 Craig acted for Alexander Peterkin in Elgin against William Douglas, vicar of Elgin, in an action for spuilzie: CS7/60 fo 424v.

125 On the background to this, see A White, "The Regent Morton's Visitation: the Reformation of Aberdeen, 1574", in MacDonald et al (eds), *Renaissance in Scotland*, 246–263.

126 White, 262.

127 Kerr, "John Craig", 108.

Craig of Craigfintray, for whom Thomas first appeared in May 1574.¹²⁸ According to T A Kerr, William was either a cousin or paternal uncle of Thomas, and the Craigs of Craigfintray had long-standing connections to Thomas's family.¹²⁹ William, most likely due to the financial difficulties which later saw him escheated, resigned his lands in Craigfintray (near Turriff) and elsewhere, under reservation of a liferent to himself and terce to his wife, Margaret Keith, and Thomas Craig obtained a charter of the lands in April 1576.¹³⁰

F. ADVOCATES AND THEIR SERVANTS

More advocates in practice meant that there were more advocates bringing their own actions before the court. Sometimes they did not appear personally, but were represented by another advocate; conversely, in the notable case of the advocate James Gray, the only time he seems to appear in the court record is when he was acting on his own behalf. Although Thomas Craig and his wife are also found litigating, there is nothing particularly remarkable about most of these cases; the type of litigation generally related to actions of removing or ejection; actions concerning rents and the like. It is clear, though, that advocates, such as James McCartney, were still prepared to take legal action to recover unpaid pensions by which their legal services had been retained.

The record also contains reference to advocates' servants. As Margaret Sanderson has pointed out in her discussion of the career of John Sharp, a number of younger men of law trained in Sharp's office and had family connections to practising advocates and writers.¹³¹ No matter how skilled in Roman law intransigent advocates may have been, or how many classes they had taken at continental universities, they had to gain knowledge of Scottish procedure which was as unique as local procedure anywhere. Even at the height of the Dutch system of university education, aspiring advocates, such as Hugo Grotius's younger brother William, had to learn the practical side of court life through private study and apprenticeship after they had graduated.¹³² His Scottish counterparts were no different. In Craig's office there is known to have been at least one servant, John Ford, who may have been related to an advocate of the same name. Little is known of him, apart from one incident that must have caused embarrassment to Craig. In

128 William Craig, from the same branch of the family as John Craig, was one of two clients from Craigfintray for whom Thomas acted; the other was William Pantoun in 1575.

129 Kerr, "John Craig", 4.

130 RMS, iii, no 2552; RSS, vii, nos 566, 1378.

131 *Mary Stewart's People*, 25. Sharp was described in 1582 as "dene of the advocatis of the session".

132 M Ahsmann, "Teaching the *ius hodiernum*: legal education of advocates in the Northern Netherlands (1575–1800)" 65 (1997) TR 453.

June 1578 Alison McGill was in dispute with James McGill the son of the Clerk Register, concerning her removal from certain land in Berwickshire which he allegedly held in ward. She sent some deeds to Thomas Craig in Edinburgh to obtain his advice. Craig's servant kept these deeds negligently; or so it transpired when he became ill with a fever whereby "he was [so] destitute of his judgement and remembrance that he could nocht declair quhair the writtis gevin in keping to him war". To make matters worse, he then died.¹³³ The mere fact that the deeds could not be found indicates how busy Craig's practice was and how many documents it must have generated; the unfortunate outcome demonstrates the reliance advocates were obliged to place upon their servants. If Craig was slightly embarrassed by the reflection Ford's lapses may have cast upon him as his employer, he may have taken solace in the fact that things might have been worse. As justice depute Craig himself presided over the trial of John Govane, servant to the advocate Richard Strang, who was accused (though acquitted) of pickpocketing during a sermon in St Giles Kirk in 1570.¹³⁴

G. CONCLUSION

What did Craig himself take from these years? In the *Jus Feudale*, he refers to more than ninety cases, of which hitherto only a few have been traced, which he had heard debated or in which he was involved.¹³⁵ Unfortunately, no references have been found which identify unambiguously cases involving Craig during 1570–1575. However, the case of *William Edmonstone v Lady Edmonstone* (referred to in *Jus Feudale*, 2.1.4) is reported in *Morison's Dictionary of Decisions* and dated there to 1570,¹³⁶ although Craig does not say he was acting in the case, merely that he was present. If the case does date from 1570, so far as it is now possible to tell, Craig did not act for either of the parties. On the other hand, in *Robert Bruce v John Livingstone* (undated but referred to in *Jus Feudale*, 2.7.12) it is more likely that Craig did act for one of the parties because he is known to have acted for Robert Bruce both in the period 1570–1575 and in 1585–1586, although this particular case did not occur during either period.¹³⁷ Another reference from 1585–1586 is to *John Murray v Cunningham*, both heirs of Polmaise. Given that Craig is found acting in 1586 for James Murray, described as the brother of the

133 CS7/101 fo 264v.

134 NAS, JC1/13 fo 171v.

135 J C Gardner, *Judicial Precedent in Scots Law* (1936), 24, followed by Clyde, *Jus Feudale*, xxxiii–iv, suggest seventy-three cases were cited, Clyde tracing five of them. In fact, there are more than this: Cairns, "The *breve testatum* and Craig's *Jus Feudale*", 311, n 2.

136 (1570) Mor 5997.

137 E.g. CS7/101 fo 353v.

laird of Polmaise, Craig himself may have been involved in the case he cited.¹³⁸

One case in the treatise certainly involving an appearance by Craig is that of *William Craig of Broxmouth v William Watt in Easter Barns and others, tenants*, heard in January 1585–1586.¹³⁹ The case was a typical one of spuilzie. The legal point at issue, however, related to the tacit relocation of a lease for a year. William Craig, the landlord (Thomas's client), failed to give proper notice to the tenants and resumed occupation of the lands at the ish; the tenants then raised the action of spuilzie (in the sense of ejection from the lands).¹⁴⁰ To avoid defeat, Craig was compelled to compromise. This therefore became one of many instances where, due to settlement, the case simply disappeared from the record; even so, what appears to be a routine matter was clearly remembered by Craig some fifteen years later (although, if William Craig was indeed a relative, perhaps he had simply not been allowed to forget it).¹⁴¹

Craig's failure to record the date of cases to which he makes reference indicates that, for him, they are merely illustrations of the law and, as in the *Murray* case, he sometimes assumed them to be well-known to practitioners. The cases to which he refers demonstrate the very rules and principles of the *practick* of the court in operation (almost in the sense of the common learning of the bar), and thus he provides some context to what is otherwise a straightforwardly procedural record. It has recently been speculated whether other texts, now lost, contained elements of such common learning from which extant texts may have been culled.¹⁴² More study of Craig's use of case-law will be necessary to see whether the *Jus Feudale* may shed light on this, though he often gives the impression of relying more on memory than any written record.

What does the record tell us about Craig? Judging from his career in the early 1570s, Craig was still making his way in the legal profession. Without ability he simply would not have survived, but there is nothing to indicate on his part any particularly outstanding talent as an advocate. His social connections with the Bellenden family were relevant and important to him, but they were not greatly superior to those which many of his contemporaries could claim.¹⁴³ On the other hand, his connection to John Craig, a celebrated (if not always popular) figure at

138 *Jus Feudale*, 2.8.42; CS7/103 fo 228v.

139 *Jus Feudale*, 2.9.12; CS7/103 fo 124r (28 Jan 1585/6).

140 On the contemporary meaning of spuilzie, see W C Dickinson, *The Sheriff Court Book of Fife 1515–1522* (Scottish History Society, 1928), appendix B.

141 It is possible that the William Craig in this case was the William Craig formerly of Craighintry.

142 W M Gordon, "Balfour's Registrum", in H L MacQueen (ed) in *Miscellany IV* (Stair Society, vol 49, 2002), 135.

143 It is remarkable how many links Craig and his clients have to lands held by the Bellendens as listed in a grant by James VI to Sir Lewis Bellenden following his act of revocation in 1587: RMS, v, no 1304. Examples include Kerse, Wrightislands, Beircroftis, The Pleasance, The Grange, Leith and Saughton.

the heart of the reformed religion, was of no less significance; Thomas may have benefited by association with his uncle's regular preaching at St Giles.¹⁴⁴

Politically Craig was a king's man.¹⁴⁵ At least five of his clients were present at the infant king's coronation in July 1567: Sir John Bellenden, Adam Bothwell, Bishop of Orkney, Robert Richardson, John Craingelt of that ilk, and Sir Archibald Napier of Merchiston (Adam Bothwell's brother-in-law).¹⁴⁶ This is a startling figure given that, as such events go, this was poorly attended. Political alignment with the Bellendens in the early 1570s may be assumed. The king's coronation may have been the occasion on which Craig enquired of Sir John Bellenden (*"clarissimus vir"*) why holders of public office had to have their commissions renewed at the time; he recorded the answer in the *Jus Feudale*.¹⁴⁷ Though he was married briefly to a Hamilton, prompting commerce with former members of the queen's party, Craig's first marriage was over long before Morton turned against the main branches of that family in 1579.

Craig's clientele visibly demonstrates the social change of the 1570s. One small example of this is the number of his clients who were church readers bringing actions, in 1574 and 1575, against parishioners to recover stipends and rents owing to them.¹⁴⁸ This phenomenon reflects the elevated status given to readers in 1572, when they were authorised for the first time to administer the sacrament of baptism, an elevation that seems to correspond to the disappearance of exhorters who had been authorised to preach in the kirk since the Reformation.¹⁴⁹ The by-product of a reorganisation of the kirk at this period was therefore a change in the everyday legal landscape and the type of litigation coming before the court.

Though having gained several public commissions through family, political and religious connections, Craig's progress in private practice was slow in the opening years of the decade. Then there was a dramatic change in 1574. In that year, Craig took on more than three times as many clients as he had had the year before. Suddenly, he was taking on clients from throughout the country, from Aberdeenshire to Jedburgh and Galloway. Several factors may explain this chronology. The Pacification of Perth and the end of the disruption caused by the civil war, particularly in Edinburgh, created the classic conditions for an upturn in litigation.

144 Kerr, "John Craig", 44–45.

145 Lynch, *Edinburgh and the Reformation*, 304–306; I B Cowan, "The Marian Civil War, 1567–1573", in N Macdougall (ed), *Scotland and War AD 79–1918* (1999), 99.

146 Donaldson, *All the Queen's Men*, 85–86; RPC, i, 537–538.

147 *Jus Feudale*, 1.10.11.

148 In view of his relationship with the Bellenden family, it is worth noting that one of these clients was William Bellenden, Reader at Kilconquhar: CS7/55 fo 5v. See C H Haws (ed), *Scottish Parish Clergy at the Reformation 1540–1574* (Scottish Record Society, 1972), 123, 255.

149 G Donaldson, *The Scottish Reformation* (1960), 83–84.

Craig reduced his outside commitments in 1573 and, having by this time gained considerable experience of legal practice, he was reasonably placed to focus his energies on the Court of Session and to obtain an increased share of business there. His marriage at the end of 1573 introduced him to new contacts among former queen's men in the diverse collection of estates where the Hamiltons had influence. His pre-existing lines of patronage among the king's party may have given Craig the freedom and confidence to exploit this new environment. His uncle's return to the Craig patrimony in Aberdeenshire, and his reforming activities in Moray diocese, allowed Thomas an opportunity to benefit substantially from his presence in the north in 1574. Whatever the main reason, the evidence of this study strongly suggests that Craig's career in private practice took off in 1574 and that he managed to sustain and improve upon that level of business in the following year.

By 1575 Craig was moving towards the upper reaches of the profession and, if he still had far to go to reach its peak, he had achieved sufficient prominence by 1578 to be included in a law reform commission.¹⁵⁰ By the early 1580s his continuing prosperity is reflected in a loan he made to the king in 1581 of £400.¹⁵¹ But even four years later, he may not have been achieving as much business among the social elite as he might have hoped. Craig in the 1580s certainly acted for the Earl of Argyll, the Earl of Crawford, the Earl Bothwell and the Earl Marischal. But this compares more to an advocate like Henry Kinross, who in the mid-1570s could boast clients such as the Earls of Errol, Huntly, Sutherland and Montrose, rather than to the portfolio of a man such as John Sharp. The reason for this may, paradoxically, have been Craig's close link with the Bellendens. Purveyors of patronage to those equivalent or lower in rank, the Bellendens were at best of the lesser nobility; dedicated royal servants and prominent men in the legal world, they did not necessarily have the kind of influence with the highest ranks of society, which Craig could easily turn to his benefit.¹⁵²

Craig's early career gives some clues as to how contemporary advocates developed their practice in an increasingly crowded market. Particularly noteworthy in this respect were family links, both by blood and by marriage. Patronage no doubt always had a role; but it was of most importance during the early years at the bar as a source of employment and office through which experience might be gained and a reputation established. Craig was able to benefit from his Protestant

150 APS, iii, 105.

151 RPC, iii, 393.

152 See, for example, Lee, *Thirlestane*, 73. Sir John Bellenden was, for instance, one of the curators of Alexander, Earl of Sutherland: CS7/54 fo 326r. Bellenden was essentially a laird, although the definition of nobility in this period is controversial, see Brown, *Noble Society*, ch 1, esp 11–14.

connections and from his place among the king's party in the difficult civil war years; the wider political and religious circumstances of the day provided a favourable context for him as a practitioner that allowed expansion of his practice on a national basis.¹⁵³

The client list compiled for this analysis is a useful tool and the present discussion has by no means exhausted its potential to enlighten us about legal practice in the period. The value of prosopographical research of this kind, laborious and time-consuming though it may be, lies in the sum of its constituent parts; connections, safely vouched for, can demonstrate multifarious local dynamics that might otherwise lie hidden.

APPENDIX

Thomas Craig before the session¹⁵⁴

<i>Advocate</i>	1570	<i>percentage</i>	<i>Advocate</i>	1585	<i>percentage</i>
Sharp, John	177	19.32	Sharp, John	101	14.28
Kinross, Henry	96	10.48	Craig, Thomas	94	13.30
Strang, Richard	91	9.93	Russell, John	79	11.17
Borthwick, David	83	9.06	King, Alexander	58	8.20
Sym, Alexander	65	7.10	Hay, Edmond	53	7.50
Mauchane, Alexr	59	6.44	Oliphant, William	44	6.22
Hay, Edmond	55	6.00	Skene, John	38	5.37
McGill, David	52	5.68	Balfour, Henry	34	4.81
King, Alexander	46	5.02	Preston, John	29	4.10
Abercrombie	44	4.80	Spens, Richard	22	3.11
Litill, Clement	34	3.71	Donaldson, James	13	1.84
Moscrop, John	22	2.40	Linton, Robert	13	1.84
Baillie, Alexander	18	1.96	Bruce, Edward	9	1.27
Logie, John	17	1.86	Halyday, John	9	1.27
Weston, John	12	1.31	Logie, John	9	1.27
Craig, Thomas	9	0.98	McCalzeane, Henry	9	1.27
Ford, John	7	0.76	Moscrop, John	9	1.27
McCalzeane, Henry	6	0.65	Colt, Oliver	8	1.13
Spens, John	5	0.55	Gray, Thomas	7	0.99
McCalzeane, Thos	4	0.44	Leirmonth, John	7	0.99

153 Although his father appears to have remained "a convinced Catholic" until late in his life: Kerr, "John Craig", 5.

154 The tables indicate the absolute number of appearances in the record by each advocate during the years indicated; the right-hand column gives the percentage of total appearances by all advocates in the given year that this number represents.

<i>Advocate</i>	1585	<i>percentage</i>	<i>Advocate</i>	1600	<i>percentage</i>
Sharp, John	252	17.52	King, Alexander	418	9.96
McGill, David	157	10.92	Oliphant, Sir William	363	8.65
Kinross, Henry	152	10.57	Nicolson, John	301	7.17
Strang, Richard	135	9.39	Sharp, John	242	5.76
Sym, Alexander	132	9.18	Halliday, John	225	5.36
Hay, Edmond	102	7.09	Spens, Richard	217	5.17
King, Alexander	76	5.28	Craig, Thomas	204	4.86
Craig, Thomas	73	5.08	Hamilton, Thos, KA	181	4.31
Mauchane, Alexr	68	4.73	Linton, Robert	141	3.36
Litill, Clement	43	2.99	Balfour, Henry	140	3.33
Crichton, Robert	39	2.71	Blinsele, Umphra	136	3.24
Skene, Alexander	29	2.02	Dempster, John	133	3.17
Moscrop, John	27	1.87	Cockburn, Robert	132	3.14
Logie, John	22	1.53	Russell, John	114	2.71
Balfour, Henry	21	1.46	Learmonth, Robert	114	2.71
Weston, John	21	1.46	Donaldson, James	105	2.50
Henryson, Edward	20	1.39	Tennent, Cornelius	97	2.31
Ford, John	15	1.04	Nicolson, Thomas	81	1.93
McCalzeane, Henry	15	1.04	McGill, Lawrence	81	1.93
Harvie, Thomas	6	0.42	Mawer, Thomas	75	1.79