

Marital Breakdown in Scotland, 1684-1832

*this documentation has been created by the History Data Service
based on information supplied by the depositor*

Introduction

Divorce, which allowed remarriage, was available in Scotland to men and women from 1560 on the grounds of adultery, and from 1573 for 'malicious' desertion over four years (though for the latter it was necessary first to bring a suit for adherence before proceeding to a divorce action). Cruelty was not a ground for divorce but continued to be a ground for legal separation. Edinburgh Commissary Court was established as the national consistory court to handle all cases relating to marriage until 1830, when its functions were transferred to the Court of Session (cases in progress continued until their conclusion).

Only a few bundles of process papers survive for the late 16th and early 17th centuries, but from 1684 onwards a register of extracted decreets was kept, and process papers were also retained somewhat more systematically. There are cases referred to for which no papers have survived, so we cannot know the total number, but the overwhelming majority are certainly represented.

To 'extract' a decret meant to transcribe every word of the evidence in the process papers into the volume. But in the very early and very late volumes not all of the information was transcribed from the process papers, so process papers are needed as well. Not all successful cases were extracted, and for those that were not, as well as for abandoned cases, process papers are needed.

The data comprises transcriptions of the gist (i.e. everything considered of interest) of all cases - successful and unsuccessful - of divorce, separation, nullity and simple adherence (i.e. not combined with declarator of marriage), between 1684 and 1832, in Commissary Court registers of extracted decreets (volumes) and boxes of process papers at the Scottish Record Office (SRO).

Explanation of the Dataset

Cases

Files with the name prefix **cases** are concerned with successful divorce actions in volumes of extracted decreets. The sources for these cases have the SRO prefix CC8/5. Thus, a file called **cases11b.asc** contains material from CC8/5/11. Initially some annulment cases were included amongst the divorces, and their subsequent removal has led to gaps in the numbering sequence. Filenames with the suffix **X** indicate additions where cases previously missed were subsequently discovered (e.g. **cases11x.asc**).

Process Papers

Process papers have the SRO prefix CC8/6. The files containing material from these documents (used to supplement extracted decreets in the early and late volumes) have filenames prefixed with **Paper**.

Decreees transcribed from Process Papers

The material from cases for which the decreets were not extracted (i.e. where a divorce was granted but the decret does not appear in the volumes), and which have been transcribed from the process papers, is in files with the suffix **UD**.

Failed Cases

Extracted decreets in which the defender was absolved (i.e. the case failed) are in files with the suffix **ND** and a letter of the alphabet (e.g. **casesnda.asc**). Unextracted decreets absolving a defender, and cases which were abandoned before a decret, from process papers, are in files called **ND** and a number (e.g. **casesnd1.asc**; from 10 onwards the suffix is N plus the number, e.g. **casesn10.asc**).

Other types of case

The **UD** and **ND** suffixes are also used in conjunction with separation, annulment, and adherence cases. The filename prefixes for these latter types of case are: **separ**, **annul** and **adhere** respectively (e.g. **separ9.asc**; **annul.asc**; **adhere6.asc**).