

OCCGS REFERENCE ONLY

Maxwell
Family

ELIZABETH HAMILTON OF FINNART, WIFE OF JOHN MAXWELL, 8th LAIRD OF CALDERWOOD

by

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The Maxwells of Calderwood were one of the foremost cadets of the Maxwells, later Earls of Morton and of Nithsdale¹. Calderwood was in fact a cadet of Pollock, the earliest cadet of the Maxwell chiefly line. The estates in Strathclyde had been inherited through the marriage in about 1220 of Mary the heiress of Rolland of Mearns to Aymer Maxwell of Maxwell in Roxburghshire and Caerlaverock in Dumfriesshire, who was Justiciar of Galloway and Chamberlain of the King of Scots. He settled this estate on his younger son, Sir John Maxwell, who became of Nether Pollock. Pollock's grandson, another Sir John reputedly accompanied Sir James Douglas, when he took the heart of Robert the Bruce on pilgrimage. Yet another Sir John, elder brother of the first laird of Calderwood is recorded by Froissart as capturing Sir Ralph Percy, brother of Hotspur, in 1388 at the Battle of Otterburn.

Calderwood was part of the Mearns estate and was settled by Sir John Maxwell of Nether Pollock, the son of Percy's captor, on his younger son Robert. Calderwood Castle was sited on a rocky outcrop in a bend of the river called the Rotten Calder, by what is now East Kilbride, Lanarkshire. This was not only an easily defensible site but one of great beauty and grandeur, fit to satisfy the most ardent romantic. Sir Robert Maxwell, the 1st Laird of Calderwood, married in about 1402 Elizabeth heiress Sir Robert of Dennistoun, who brought with her, among other things, the barony of Mauldslic, near Carluke, Lanarkshire. Calderwood probably eclipsed Pollock in wealth because of the Dennistoun inheritance and it is noteworthy that the arms of Calderwood are the most common Maxwell cadet arms shown in Scots armorials of the 15th, 16th, and 17th centuries². Calderwood also had its own cadets, principally Newark, where the castle still stands near the Port of Glasgow, itself a wealthy family, also Cardoness, Dargavel, Saughton, and Stanley as well as that tribe of Maxwells which developed in Ireland, whose chief is the present Lord Farnham.

In 1627 Sir Robert James Maxwell, 11th Laird of Calderwood, was created a baronet of Nova Scotia, with the normal Scottish destination to heirs male (that is, a wider destination than heirs male of the body)³. In the 17th century the direct line failed and the title went to the heir of the half-brother of the first baronet. The last of that line, Sir William Maxwell, the 10th Baronet of Calderwood, died in 1885 leaving a beautiful and much younger widow, Jane Baird, Lady Calderwood, who remarried and continued to live at Calderwood until her death in 1901. The Calderwood name and baronetcy

were inherited by his sixth cousin twice removed, Sir James Pierce Maxwell, 9th Lord Farnham. The castle and policies eventually became a Country Park for the benefit of the citizens of Glasgow, but the castle no longer exists, while the northern part of the Calderwood estate became the site of the New Town of East Kilbride.

Sir William Fraser, the accomplished 19th century Scottish genealogist, scholar and author of two scholarly histories and genealogies of the Maxwells, stated that John Maxwell, 8th Laird of Calderwood, was married twice: (1) to Elizabeth, daughter of Alexander Hamilton of Innerwick, and (2) to Elizabeth, daughter of Sir Robert Stewart of Minto⁹. He is wrong on both accounts. Ironically, the marital history of John Maxwell is relatively easy to piece together because of the dissolution of his only legitimate marriage.

The confusion appears to have arisen because both an Elizabeth Stewart and an Elizabeth Hamilton are associated with the lands of Mauldslie in Lanarkshire, part of the Laird of Calderwood's estate, according to a royal charter dated 30 May 1553 at Hamilton:

The Queen etc. has granted and newly given to John Maxwell of Caldriwode, in liferent, and by inheritance to James Maxwell his inheriting son, his heirs and assignees, — the lands and barony of Maldialie with the tenants etc., County near Lanark; which the same John has surrendered:— Rent annually one pair of giltgilded spurs or 6s 8d in the name of *blench-ferme*:—Reserving to Elesabeth Hammiltoun wife of the said John the demesne lands and the manor of Maldislie, called Hall-Park, with the great third of the whole of the said lands etc. from the decease of Elesabeth Stewart then lady of the same third:— Witnesses as in other charters etc.⁵

Another charter of the same date relates to the similar grant of the lands of Calderwood to John Maxwell, but it is from the Queen as Prince and Steward of Scotland, these lands being part of the appanage of the heir to the throne⁶. Mary Queen of Scots was only eleven years old at this time, so there was as yet no heir.

Elizabeth Stewart of Minto

Despite holding as her terec the lands of Mauldslie, Elizabeth Stewart of Minto was never the wife of John Maxwell⁷. She could only have held this land as its mistress if her husband was deceased. However, John was still alive in 1553 and married to a different woman. Therefore it must be the case that her husband is was another Laird of Calderwood who was deceased now dead. The most likely candidate for her husband is Robert Maxwell, 7th Laird of Calderwood, the elder brother of John.

Robert Maxwell had a significant encounter with the Stewart of Minto family. As his father, Robert Maxwell, 6th Laird of Calderwood, died before 9 September 1532 and Robert was still a minor, James V, King of Scots, while at Perth, had granted his wardship and gift of marriage to John Drummond of Innerpeffry and his wife Margaret

Stewart⁸. On 17 November 1532 at Edinburgh, this same wardship and gift of marriage was given to William Stewart, Bishop of Aberdeen and Lord High Treasurer⁹. The Bishop who had just received his Episcopal appointment on 14 November 1532, so this wardship might have been given in recognition of his new position¹⁰. The gift of Robert's marriage eventually passed to Sir Robert Stewart of Minto, the nephew of the Bishop Stewart, and upon his death this gift went to his daughter, Elizabeth. On 11 February 1536/7, Robert was ordered by the legal representative of Elizabeth Stewart to marry Elizabeth Barclay, daughter of the late David Barclay of Cwllarnye (Colairmie) by 24 April 1537¹¹. Failure to do so would mean that Elizabeth Stewart would receive damages. There is no record that Robert ever married Elizabeth Barclay or paid damages to the Stewarts. One wonders if Robert defaulted on the marriage and then struck a bargain with Elizabeth Stewart's representatives to marry her in lieu of paying for damages and Elizabeth decided that marriage to each other was a more enticing proposition. Robert succeeded his father as the seventh laird of Calderwood around 20 October 1540 and died about 6 September 1547¹². No record of a marriage for Robert before his death has been located, but a marriage to Elizabeth Stewart is the most likely only viable explanation for her holding Mauldslie as her terce. Certainly, they had no surviving children who survived Robert as Robert's his brother John succeeded him as laird. It is easy to see how an unrecorded marriage of the elder brother Robert to Elizabeth Stewart could be mistakenly assigned to the younger brother John.

Elizabeth Hamilton of Innerwick

So who was the Elizabeth Hamilton, the wife of John Maxwell, mentioned as receiving Mauldslie as her terce in the 1553 charter? According to Fraser, she was of Innerwick. He is mistaken because he assigned the wife of the son as the wife of the father. He was not alone in making this mistake. John Anderson in the *House of Hamilton* also claims that John married Elizabeth Hamilton of Innerwick¹³. We know that there was a marriage contract between Sir James Maxwell, the son of John, and Isabel Hamilton, the daughter of Alexander Hamilton of Innerwick and Isabel Home, dated 12 February 1579/80 at Innerwick¹⁴. Therefore, Elizabeth Hamilton, the wife of John, could not be the same as of Elizabeth or Isabel Hamilton of Innerwick, her future daughter in law.

Elizabeth Hamilton of Finnart

It was Sir James Balfour Paul who properly identified the wife of John Maxwell of Calderwood as Elizabeth Hamilton of Finnart in his analysis of work on the records of the Lord High Treasurer¹⁵. No record has been found of the marriage of John and Elizabeth, but there is a record of the payment of her tocher (dowry) in April 1548. There Elizabeth is identified as the niece of the Lord Governor, James Hamilton, 2nd Earl of Arran, the legitimate half brother of Sir James Hamilton of Finnart¹⁶. This would be James Hamilton, 2nd Earl of Arran, the legitimate half brother of Sir James Hamilton of Finnart. Specifically, the record states: "*Item, to the laird of Calderwod,*

*in name of toucher, with his graces brothers doughter Elizabeth Hammiltoun, vjclxvj li. xij/s. iij/d. [£666: 13s: 4d: or 1000 merks]*¹⁷. She was also given other gifis, usually cloth, by her uncle the Lord Governor between 1547 and 1550¹⁸.

Elizabeth Hamilton was the illegitimate daughter of Sir James Hamilton of Finnart and Elizabeth Murray. Her father was the illegitimate son of James Hamilton, 1st Earl of Arran, and Mary Boyd¹⁹. He was a notorious scoundrel who built a huge fortune, was an architect of some fame, and ended his life on the scaffold²⁰. Her mother is mentioned in an instrument of sasine dated 29 August 1560 for the lands of Mekill and Litill Brighouss (Big and Little Brighouse) in West Lothian²¹. Mary turned this property over to her daughter, but reserved a liferent. There is also a legitimation granted to "*Elizabeth Hammyltoun, bastarde, filie naturalis Elizabeth Murray*" dated 22 March 1540/1 at Edinburgh²². Legitimation was important, for without it on her death her lands would have returned to the Crown, rather than have descended to her offspring. Despite, or perhaps one might say because of, her illegitimate birth, Elizabeth's ancestry includes James II, King of Scots²³.

The Divorce

The marriage between John Maxwell and Elizabeth Hamilton ended in a complex and messy divorce, but one that provides rich genealogical details²⁴. Initially, on 5 August 1563 the elders and deacons of Glasgow granted John a divorce from Elizabeth, charging her with adultery, on 5 August 1563²⁵. However, Elizabeth appealed this decision, and the recently established Commissary Court of Edinburgh overturned the divorce in her favor on 15 November 1564²⁶. The grounds for this reversal were that John was cohabiting with Elizabeth Lindsay²⁷. In Scottish law of this period, a divorced person was not allowed to wed the paramour of an adulterous affair if the former spouse was still living²⁸. The Commissary Court granted a final order in Elizabeth's favor on 16 March 1564/5²⁹. John was required to take Elizabeth back as his wife and to stop cohabiting with Elizabeth Lindsay. John and Elizabeth then submitted to arbitration starting at Mauldslic on 23 April 1566 and came to a final agreement, confirmed by a decret arbitral, on 18 February 1566/7³⁰. In this separation agreement, Elizabeth promises not to legally pursue John legally any further if he cohabitates with another. Furthermore, she renounced her rights to John's lands. The agreement allowed either party to seek a divorce, but Elizabeth's terec rights to the liferent of Mauldslic would be preserved. If she breaks the terms of this agreement, then she would forfeit her rights to Mauldslic.

The decret arbitral between John Maxwell and Elizabeth Hamilton is noteworthy because all their children are named and arrangements are made for their financial futures. The eldest son, James Maxwell, was granted Calderwood and the other lands of his father, who retained them in liferent³¹. James would also of course become the Laird of Calderwood at the death of his father. John was given curatorship of his son James. Should James die then the Calderwood estate would pass to the younger son,

Robert Maxwell³². In this same document, John also makes a promise involving his son Robert: “*And forder the said laird sall nurice and sustene Robert Maxwell his second sone at the scolis [school]*”³³. For her part, Elizabeth’s part, the Court promised: “*And alsua decretis decernis & ordains the said Elizabeth Hamiltoun to infest the said Robert Maxwell hir sone in fourtie merks of annuel rent pertening to the hir of the lands of Brighthouse liand within the sheriffdom of Linlithgow in fee blanche haldand of hir self for payment of ane penny yeirlie*”³⁴. She was to hold the liferent from these lands. Lastly, the settlement mentions three daughters: Margaret, Christine, and Isabel Maxwell. Each daughter was given a dowry of 200 merks³⁵.

Elizabeth Lindsay

This leaves the issue of Elizabeth Lindsay³⁶. Apparently, John Maxwell, thinking he had a valid divorce from Elizabeth Hamilton, married Elizabeth Lindsay between 5 August 1563 and 15 November 1564³⁷. In Scottish law of this period, a divorced person was not allowed to wed the paramour of an adulterous affair if the former spouse was still living³⁸. We have seen that However, the Commissary Court ruled that his relationship with Elizabeth Lindsay this was not proper invalid and that he had to go back to his wife Elizabeth Hamilton. No evidence has been found that John had any children with Elizabeth Lindsay or that he went back to her after he finally settled with Elizabeth Hamilton on 18 February 1566/7³⁹. Nor is it known if either party eventually received a final and legally binding divorce, but it seems likely that this was the ultimate outcome.

Elizabeth Hamilton’s Loss of Mauldslic

The last twist in this story is that Elizabeth Hamilton lost her interest in Mauldslic. On 20 December 1576 at Holyrood, Sir James Maxwell was granted the gift of the forfeiture of the manor house at Mauldslic, called Hall Park, and all its rents. This was the result of a complex legal procedure in which:

Gift to James Maxwell of Calderwood, ‘domesticall servand’ of the Regent, of the escheat of the liferent of the Mains and manor place of Mauldslic called the Hall Park, mails [rents], fermes [farm rents] and duties thereof, in the sheriffdom of Lanerk, wich pertained in liferent to Elizabeth Hammiltoun, sometime spouse of the deceased John Maxwell of Calderwood, by reservation contained in the infestment of the said James, the said Elizabeth being at the horn in virtue of letters in the four forms raised at the instance of the said deceased John for her failure to fulfil her part of a decret arbitral between the said John on one part and Alexander Hammiltoun of Netherfeild, ‘have-and respect to the weill [well being] of the hous of Calderwod and takand the burding upoun him for the said Elizabeth, his sister, and scheo [she] to releif the said Alexander, hir [her] brother, of the said burding, ’on the other part, and remaining at the horn beyond year and day⁴⁰.

It would appear that the Elizabeth failed to complete a financial commitment under

involving the 15676 decret arbitral. As her husband was dead by 1576, the forfeiture was granted to his heir and eldest son James. This grant clearly shows that Elizabeth Hamilton was the sister of Alexander Hamilton of Netherfield, another illegitimate child of Sir James Hamilton of Finnart⁴¹.

Conclusion

There is solid evidence that only Elizabeth Hamilton, the daughter of Sir James Hamilton of Finnart was the The only legal wife for John Maxwell, 8th Laird of Calderwood., for which there is solid evidence is Elizabeth Hamilton, the daughter of Sir James Hamilton of Finnart. John's marriage to Elizabeth ended in bitterness and strife, but it was successful in the sense that it produced children who left descendants in Scotland and Ireland.

A Genealogical Summary

1. **ROBERT MAXWELL**, 6th Laird of Calderwood, son of Sir Robert Maxwell, 5th Laird of Calderwood, and Sibilla Carmichael, born after 1489, succeeded his father as laird in 1510 as a minor, died before 1 November 1532, married between 12 and 17 March 1523, **ISABELLA ELPHINSTONE**⁴².

2. **ISABELLA OR ELIZABETH ELPHINSTONE**, daughter of Sir John Elphinstone, died after 1538, married first, as his second wife, David Lindsay of Dunrod, he died before July 1518, married secondly Peter Colquhoun, a burghess of Glasgow, married thirdly Robert Maxwell of Calderwood, and fourthly before 2 February 1537/8, David Stewart, brother of Andrew Stewart, Lord Avondale⁴³.

Robert Maxwell and Isabella Elphinstone were the parents of the following children:

- i. **ROBERT MAXWELL**, 7th Laird of Calderwood, d. ca. 6 Sep. 1547, succeeded his father 20 Oct. 1540, probably m. ca. 1537 **ELIZABETH STEWART**, daughter of Sir Robert Stewart of Minto⁴⁴.
3. ii. **JOHN MAXWELL**, m. **ELIZABETH HAMILTON**.
- iii. **ELIZABETH MAXWELL**, m. contract 31 August 1563, **ROBERT LINDSAY** of Dunrod⁴⁵.
- iv. —?— **MAXWELL**, another daughter married to **JOHN HAMILTON** of Orbiston⁴⁶.
3. **JOHN MAXWELL**, 8th Laird of Calderwood, son of Robert Maxwell, 6th Laird of Calderwood, and Isabella Elphinstone, probably died soon after 28 July 1572⁴⁷, married about 1547 or 1548⁴⁸, **ELIZABETH HAMILTON**⁴⁹, & most likely divorced after 18 February 1566/7. He might also have been wed to **ELIZABETH LINDSAY** between 5 August 1563 and 15 November 1564 when this arrangement was overturned. John succeeded his brother, Robert Maxwell, as Laird of Calderwood, in September 1547⁵⁰.
4. **ELIZABETH HAMILTON**, the illegitimate daughter of Sir James Hamilton of Finnart and Elizabeth Murray⁵¹, born well before 16 August 1540⁵², died after 20 December 1576⁵³.

John Maxwell and Elizabeth Hamilton were the parents of the following children:

- i. Sir JAMES MAXWELL, 9th Laird of Calderwood, d. Sept. 1622, m. (1) before 28 Jan. 1572, HELEN PORTERFIELD, d. ca. 1573, (2) marriage contract 12 Feb. 1579, Isabel Hamilton, daughter of Alexander Hamilton of Innerwick, (3) 8 Sept. 1610, MARGARET CUNINGHAME, third daughter of James Earl of Glencairn, widow of Sir James Hamilton of Evandale, d. ca. 1632⁵⁴. Ancestor of the Baronets of Calderwood in Scotland.
- ii. The Very Rev. ROBERT MAXWELL, M. A., Dean of Armagh, d. between 12 April. 1622 and Mar. 1625/26 in Ireland⁵⁵, m. before 26 Dec. 1581 (1) SUSANNA ARMSTRONG⁵⁶, (2) ISABELLA SETON⁵⁷. Ancestor of the Barons of Farnham in Ireland.
- iii. MARGARET MAXWELL⁵⁸.
- iv. CHRISTINE MAXWELL⁵⁹.
- v. ISABEL MAXWELL⁶⁰.

(We are indebted to Rosemary Bigwood for transcribing the divorce documents crucial to this case).

References

- ¹ Unless otherwise indicated, the background history of the Maxwells comes from Sir William Fraser, *Memoirs of the Maxwells of Pollok*, 2 vols. (Edinburgh: Privately printed, 1863), *passim*, or his *The Book of Carlaverock: Memoirs of the Maxwells, Earls of Nithsdale, Lords Maxwell and Herries*, 2 vols. (Edinburgh: Privately printed for William Lord Herries, 1873), *passim*.
- ² Maxwell of Calderwood arms: Quarterly, 1st and 4th, Argent a saltire Sable, within a bordure counter-compony of the last and first, 2nd and 3rd, Argent a bend Azure for Dennistoun. There is some confusion concerning the Maxwell of Calderwood arms and often they are incorrectly given as Argent, a saltire sable, on a chief of the first three pallets of the second. Though this latter blazon describes the arms used by the Maxwells in Ireland, the former are the true arms used by the Maxwells of Calderwood. For a nicely done illustration of these arms see George Anthony Maxwell, "Maxwell Heraldry," <<http://www.maxwellsociety.com/history/heraldry.htm>> (10 Mar. 2005). Colin Campbell, "The Arms of the Maxwell of Calderwood," *The Scottish Genealogist* 13 (Oct. 1966):7-15 24; 15 (Mar. 1968):24; 15 (June 1968):44-45. Bernard Burke, *General Armory of England, Scotland, Ireland and Wales* (Reprint, Baltimore: Genealogical Publishing Co., 1967), 672.
- ³ George Edward Cokayne, *Complete Baronetage*, 5 vols. (Exeter: W. Pollard & Co., Ltd., 1900-1906), 2:320-321.
- ⁴ Sir William Fraser, *Memoirs of the Maxwells of Pollok*, 2 vols. (Edinburgh: Privately printed, 1863), 1:471. We are indebted to Alexander Maxwell Findlater for kindly explaining the complexities of Scottish inheritance law regarding the passing of a terce from one woman to another, clarifying some difficult Latin, and retrieving photocopies of the key documents reviewed in this paper. We also thank Rosemary Bigwood for transcribing the divorce documents crucial to this case.

- ⁵ *Registrum magni sigilli regum Scotorum: The Register of the Great Seal of Scotland*, edited by John Maitland Thomson, et al., 11 vols., reprint ed. (Edinburgh, 1984). hereinafter *Reg. Mag. Sig.*, 4: item 784. Latin translated separately by Tom Holland (alias Quintus) and Duncan Harrington. *Blench-ferme*, or *Alba firma* in Latin, literally translates as white farm, but it is a technical Scottish legal term meaning that the property was held for a nominal payment. Scottish Archive Network, *Research Tools: The Glossary*, <<http://www.scan.org.uk/researchrtools/glossary.htm>> 4 August 2002, hereinafter "Glossary." Calderwood is near East Kilbride, Lanarkshire, and was inherited from the Maxwells of Pollok in 1400. Mauldslic is near Carluke, Lanarkshire, and was acquired through inheritance from the Dennistons in 1402. Fraser, *Maxwells of Pollok*, 1:460, 462. The Maxwells of Calderwood is the eldest cadet of Maxwells of Pollok who in turn are the eldest cadet of the Maxwell of Carluverock.
- ⁶ *Reg. Mag. Sig.*, 4: item 785.
- ⁷ *Reg. Mag. Sig.*, vol. 4: item 784. A teree is a one-third share of an estate that a widow is entitled to hold in liferent. "Glossary."
- ⁸ *Registrum secreti sigilli regum Scotorum: The Register of the Privy Seal of Scotland*, ed by Matthew Livingstone et al., 7 vols. in 8 (Edinburgh: H. M. General Register House, 1908-1966), hereinafter *Reg. Sec. Sig.*, 2: item 1403.
- ⁹ *Reg. Sec. Sig.*, 2: item 1442.
- ¹⁰ Sir James Balfour Paul, ed., *The Scots Peerage: Founded on Wood's Edition of Sir Robert Douglas's Peerage of Scotland; Containing an Historical and Genealogical Account of the Nobility of that Kingdom*, 9 vols. (Edinburgh: D. Douglas, 1904-1914), 2:77-79.
- ¹¹ Book Review of *Abstracts of Protocols of the Town Clerks of Glasgow* in *The Scottish Antiquary* 12 (1899): 144. Paul, *Scots Peerage*, 3:529-530.
- ¹² Fraser, *Maxwells of Pollok*, 1:469.
- ¹³ John Anderson, *Historical and Genealogical Memoirs of the House of Hamilton: With Genealogical Memoirs of the Several Branches of the Family* (Edinburgh: John Anderson, Jun., 1825), 310.
- ¹⁴ *Reg. Mag. Sig.*, 5: item 780. The marriage contract is cited in another document dated 10 January 1584/5. In her turn, Isabel Hamilton of Innerwick was associated with Mauldslic in a charter dated 17 February 1607. *Reg. Mag. Sig.*, 6: item 1858.
- ¹⁵ Sir James Balfour Paul, ed., *Compta thesaurariorum Regum Scotorum: Accounts of the Lord High Treasurer of Scotland* (Edinburgh: H. M. General Register House, 1887-1913), 9:lx-lxi. This correction is also found in George Hamilton, *A History of the House of Hamilton* (Edinburgh: J. Skinner & Co., 1933), 272.
- ¹⁶ Hamilton, *House of Hamilton*, 272.
- ¹⁷ Paul, *Compta thesaurariorum Regum Scotorum*, 9:lx-lxi, 175.
- ¹⁸ Paul, *Compta thesaurariorum Regum Scotorum*, 9:160, 361, 427, 429.
- ¹⁹ *Reg. Mag. Sig.*, 2: item 3803. "Manuscripts of the Duke of Hamilton," 20, item 27. James Somerville, *Memoire of the Somervilles: Being a History of the Baronial House of Somerville by James, Eleventh Lord Somerville....* (Edinburgh: A. Constable, 1815), 1:321, 315. George Crawford, *A General Description of the Shire of Renfrew. Including an Account of the Noble and Ancient Families...* (Paisley: J. Neilson, 1818), 126.
- ²⁰ *Dictionary of National Biography*, 22 vols. (London: Oxford University Press, 1921-1922), 8:1051. Jamie Cameron, *James V: The Personal Rule 1528-1542*, ed. by Norman Macdougall (East Lothian: Tuckwell Press, 1998), 191-227. Charles McKean, "Hamilton of Finnart," *History Today* 43 (January 1993): 42-7. Charles McKean, "Sir James Hamilton of Finnart:

A Renaissance Courtier-Architect," *Architectural History* 42 (1999): 141-72.

- ²¹ Scottish Record Society, *Protocol Books of James Foulis, 1546-1553, and Nicol Thounis, 1559-1564* (Edinburgh: J. Skinner & Co., Ltd., 1926), part 100, 5 [of second pagination], item 19.
- ²² *Reg. Sec. Sig.*, 2: item 3942.
- ²³ Her royal ancestry is outlined in John P. DuLong and Patricia A. (McGuinness) DuLong, "Thomas' W. Palmer, 1822-1865, of Ireland and Michigan," *The Genealogist*, published by the American Society of Genealogists, forthcoming in 2005.
- ²⁴ Hamilton, *House of Hamilton*, 272, deserves the credit for finding the documents relating to this divorce case. National Archives of Scotland, *Decrees and Deeds in Scottish Commissariots*, Edinburgh, CC8/2/1-222v-223r, hereinafter, "Elizabeth Hamilton contra John Maxwell." National Archives of Scotland, *Register of Deeds, Hornings, and Inhibitions*, RD1/7:372r-377v, hereinafter, "Contract Between the Laird of Calderwood and the Lady Thereof." (Photocopies of both documents in possession of the authors; abstracted and transcribed by Rosemary Bigwood).
- ²⁵ "Elizabeth Hamilton contra John Maxwell," 1:222v.
- ²⁶ "Elizabeth Hamilton contra John Maxwell," 1:222v-223r. Divorce was a relatively new innovation in Scotland that accompanied the Reformation in 1560. The Commissary Court was created on 28 Dec. 1563 and would have taken over control of this case from the reformed church authorities. Charles J. Guthrie, "This History of Divorce in Scotland," *The Scottish Historical Review* 8 (1910): 44-52. David Baird Smith, "The Reformers and Divorce: A Study on Consistorial Jurisdiction," *The Scottish Historical Review* 9 (1911):10-36.
- ²⁷ Apparently, John Maxwell had married Elizabeth Lindsay, "Elizabeth Hamilton contra John Maxwell," 1:223r.
- ²⁸ David M. Walker, *A Legal History of Scotland* (Edinburgh: W. Green, 1988-2001), 3:679-681. We are indebted to Rosemary Bigwood for pointing out this source.
- ²⁹ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:376r.
- ³⁰ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:372r-376r.
- ³¹ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:374v-375r. Specifically, James was to receive Jackton, Allerton, Newlands, Greenhill and Mekil (Big) Drypis. These lands are in the Barony of Kilbride near modern-day East Kilbride, in the sheriffdom of Lanark. All these lands, including Calderwood and Mauldslic, are south south-east of Glasgow and adjacent to the lands held by the Hamiltons. Brighthouse, the exception, which went to Robert, is in West Lothian (formerly Linlithgowshire).
- ³² "Contract Between the Laird of Calderwood and the Lady Thereof," 7:376v. When Sir William Maxwell, 10th Baronet of Calderwood, died without children on 4 December 1885, his sixth cousin twice removed, Sir James Pierce Maxwell, 9th Baron Farnham, in Ireland, inherited his property. Sir William Maxwell was the descendant and heir of Sir James Maxwell of Calderwood, while Sir James Pierce Maxwell was the descendant and heir of the Very Rev. Robert Maxwell, Dean of Armagh. The 1900 inheritance of the baronetcy of Calderwood by the Lord Farnham, as proven in the Lyon Court, This inheritance, centuries after their deaths of John and Elizabeth, confirm that James and Robert were brothers and fulfills the inheritance clause in the decret arbitral and proves the relationship between the Scottish and Irish Maxwells. *Burke's Peerage & Baronetage*, 106th ed., 2 vols. (Crans, Switzerland, 1999), 1:1036-1037. Cokayne, *Complete Baronetage*, 2:321.
- ³³ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:374v.

- ³⁸ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:375r.
- ³⁹ "Contract Between the Laird of Calderwood and the Lady Thereof," 7:374v.
- ⁴⁰ Alexander Lindsay, brother german of Robert Lindsay of Dunrod, was one of the witnesses to this settlement. They were the brothers-in-law of John Maxwell and his mother had as her first husband David Lindsay of Dunrod. See the Genealogical Summary. Was Elizabeth Lindsay related to the Lindsays of Dunrod? "Contract Between the Laird of Calderwood and the Lady Thereof," vol. 7, f. 377r.
- ⁴¹ "Elizabeth Hamilton contra John Maxwell," vol. 1, ff. 222v-223r.
- ⁴² David M. Walker, *A Legal History of Scotland* (Edinburgh: W. Green, 1988-2001), 3:679-681. (We are indebted to Rosemary Bigwood for pointing out this source).
- ⁴³ "Contract Between the Laird of Calderwood and the Lady Thereof," vol. 7, ff. 372r-377v.
- ⁴⁴ *Reg. Sec. Sig.*, 7:782. To be on put to the horn meant that the person had been charged with defaulting on an agreement. "Glossary."
- ⁴⁵ Alexander Hamilton of Netherfield appears on several charters involving Sir James Hamilton of Crawfordjohn, his half-brother and the legitimate son of Sir James Hamilton of Finnart and Margaret Livingston. *Reg. Mag. Sig.*, 4: item 1609, 5: item 1698, 6: item 1870.
- ⁴⁶ Paul, *Scots Peerage*, 3:530. Fraser, *Maxwells of Pollok*, 1:469. Sir William Fraser, *The Elphinstone Family Book of the Lords Elphinstone, Balmerino and Coupar*, 2 vols. (Edinburgh: T. and A. Constable at the Edinburgh University Press, 1897), 1:33.
- ⁴⁷ Paul, *Scots Peerage*, 3:529-530. Fraser, *Elphinstone Family Book*, 1:33-34.
- ⁴⁸ Fraser, *Maxwells of Pollok*, 1:469. Book Review of *Abstracts of Protocols of the Town Clerks of Glasgow in The Scottish Antiquary* 12 (1899): 144.
- ⁴⁹ Fraser, *Maxwells of Pollok*, 1:469.
- ⁵⁰ Fraser, *Maxwells of Pollok*, 1:469, n. 6.
- ⁵¹ The date he was accused of murder and the last known mention of his name. Fraser, *Maxwells of Pollok*, 1:471.
- ⁵² Hamilton, *House of Hamilton*, 272. *Reg. Mag. Sig.*, 4: items 257, 784, 785. *Reg. Sec. Sig.*, 4: item 217.
- ⁵³ Hamilton, *House of Hamilton*, 272.
- ⁵⁴ Fraser, *Maxwells of Pollok*, 1:469-470.
- ⁵⁵ Hamilton, *House of Hamilton*, 272. *Reg. Mag. Sig.*, 5: item 780.
- ⁵⁶ The date of the execution of her father.
- ⁵⁷ Last mention in Privy Seal records. *Reg. Sec. Sig.*, 7: item 782.
- ⁵⁸ Fraser, *Maxwells of Pollok*, 1:471-476.
- ⁵⁹ James B. Leslie, *Armagh Clergy and Parishes* (Dundalk: William Tempest, 1911), 12-13, states that Robert Maxwell died after 12 April, 1622, when the Chancellorship of Connor became vacant. However, the Maxwell pedigree at the Genealogical Office of Ireland gives his death date as March 1625[6]. "Pedigrees," ms. at the Genealogical Office, National Library of Ireland, Dublin, FHL microfilm 100126, ms. 177, 23:79. Another source claims he died in 1622 after being "taken with a dead palsie." Henry Cotton, *Fasti ecclesiae hibernicae: The Succession of the Prelates and Members of the Cathedral Bodies of Ireland*, 2nd ed., 5 vols. (Dublin: Hodges and Smith, 1851-1860), 3:31.
- ⁶⁰ Susanna Armstrong is called his wife in an obligation between Gavin Hamilton and Robert Maxwell, 26 Dec. 1591. National Archives of Scotland, "Register of Deeds in Court Session," RD1/39, 39:218r-9r. This same document refers to Robert as the "brother german" of Sir James Maxwell, Laird of Calderwood.