## III.

## NOTES ON A DISPENSATION FOR THE MARRIAGE OF JOHANNA BEAUFORT WITH THE BLACK KNIGHT OF LORN.

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[Having submitted this paper to the highest official authority in Scotland on all questions of genealogy, the Lyon King at Arms, that learned gentlemen has, with his usual courtesy, informed the writer that some years ago, when going through the Scottish dispensations in Andrew Stuart's History, and Father Theiner's *Monumenta* (in which last collection the present dispensation is not however included, he had come to the conclusion that, notwithstanding the error in the Queen's surname, she and her second husband were undoubtedly the persons meant; and that he has given effect to this opinion in the preface to the fifth volume of the Exchequer Rolls of Scotland, which was finished last July, though the publication of the volume has been delayed for various reasons, for which he is not responsible. Mr. Burnett adds, that after coming to that conclusion, he found Mr. Riddell had also latterly become aware of the fact, as appears in one of his note-books in the Advocates' Library, and likewise on the margin of his copy of Andrew Stuart's History, which last was transferred to that library only since the death of the late Earl of Crawford and Balcarres, under his lordship's munificent bequest. Mr. Burnett also thinks that Mr. Riddell's omission to notice the matter in his *Stewartiana* probably arose from the fact that his main object in referring to this and other dispensations was to illustrate the effect of *bona* and *mala fides*.

It is thus quite clear that the interesting point already settled by Mr. Riddell and Mr. Burnett, by an independent process of inductive reasoning, has been accidentally placed beyond doubt by the writer's discovery of the correct Vatican transcript].

The late Mr. Alexander Sinclair, who had a great liking for Scottish family history, contributed, in 1871, to Mr. J. G. Nichols' *Herald and Genealogist*, vol. vi. p. 589, a paper, styled "Notices of Ancient Scotch Families with regard to *Filii Carnales*. Chapter I.—The Lords of Lorn." He there pointed out, on the authority of a charter by King Robert II. (cited in *Origines Parochiales Scotie*, vol. ii. pp. 110–11, from the Argyle charter chest) that the Black Knight was not the son of Jonet, daughter and heiress of John of Lorn, as had been previously supposed; but that

the Lorn inheritance had been acquired by his father Sir John Stewart of Innermeath, by what lawyers call a singular title, from his brother Sir Robert Stewart of Schanbothy, who had married the heiress.

In 1388 the two brothers had made an exchange of lands; Sir Robert and his wife Jonet of Lorn, becoming owners of Durisdeer, Rosyth, and other lowland properties; while Sir John Stewart became Lord of Lorn territorially, without any of the blood of its old Celtic lords. And thus his son, the Black Knight, was not the son but the nephew of Jonet of Lorn. But in the beginning of this century this piece of evidence was not known, and the supposed relationship of James I. and the Black Knight, through their descent from half-sisters, the Princesses Marjory and Matilda, daughters of Robert I., brought them within the forbidden degrees of consanguinity, and would have invalidated the Queen Dowager's second marriage to Sir James Stewart without a papal dispensation, the Queen being related by affinity to the cousin of her first husband. In the Roxburghe case (in 1822), in which the learned John Riddell was the Duke's counsel, his object was to prove that "filius carnalis" meant a bastard son, and thus invalidate the pedigree of General Ker of Littledean, who opposed the Duke, one of the General's ancestors being styled "carnalis." Cases of the epithet occurring were sought for, and among others, it was discovered that on one occasion John Stewart, Earl of Athol, the eldest son of the Queen Dowager's second marriage with the Black Knight, had been styled "carnal." Mr. Riddell therefore argued that this signified his illegitimacy, and arose from there having been no papal dispensation,—none, in fact, ever having been produced. The case, however, was decided against the Duke, on special grounds, which were held to obviate the supposed illegitimacy of General Ker's ancestor. And Mr. Sinclair, after rejoicing in the defeat of Mr. Riddell, with whom it may be observed he had had some genealogical controversies, which were very frequent in the first half of the present century, remarked that there was no disability whatever, that "the baseless fabric was only a vision of its builder, the author [Mr Riddell]; and the Queen Dowager was free to marry Sir James; and the Earl of Athol and his

descendants are deprived of the blood of Isaac and Bruce, that singular *mésalliance* for those ancient times,[1] but thereby escape a taint of four centuries ago, recently attempted to be fastened upon them." Mr Sinclair adds some interesting particulars respecting the eldest son of the marriage, John Stewart—his receiving the Earldom of Athol from his uterine brother James II., and his own marriages, (1) to Margaret, the heiress of the elder line of the Douglases, and (2) to Eleanor St Clair, a daughter of the House of Orkney and Caithness. But he cannot have rightly read the following papal dispensation; and even Mr. Riddell for a time seems to have overlooked it.

Ann. IX. epist. pag. 232. liber vi. Tom. vi. Ex Regesto litterarum secretarum.

Eugenius iv. &c. . . Venerabili fratri . . Episcopo Dunkelden,[2] salutem, &c. Oblate nobis nuper pro parte dilecti filij nobilis viri Jacobi Stewart et dilecte in Xpo' filie nobilis mulieris Johanne Bewford[3] Sancte Andree diocesis petitionis series continebat, quod ipsi olim ignorantes se tertio et tertio, ac quarto et quarto, necnon tertio et quarto, consanguinitatis et affinitatis gradibus se esse coniunctos, credentes id sibi licere matrimonium invicem per verba legittime de presenti eorum[4] [coram] certis testibus clandestine contraxerunt, ac postmodum cum ad eorum notitiam devenisset, quod insimul ut prefertur prefatis consanguinitatis et affinitatis gradibus coniuncti erant, matrimonium ipsum per carnalem copulam consumarunt. Cum autem sicut eodem petitio subiungebat ipsi Jacobus et Johanna in huiusmodi sic contracto matrimonio remanere

[1] This refers to the "mean marriage" of Matildis, daughter of the great Robert de Brus, to an esquire Thomas Isaac. Jonet of Lorn was the grand-daughter of this marriage.

[2] James Kennedy, nephew of James I., was at this time Bishop of Dunkeld. —*Keith.*

[3] "Berrford" in Andrew Stuart's History, p. 443, where the name in the title of the dispensation is printed "Bureford."

[4] So in transcript.

nequeant, dispensatione super hoc ap'lica non obtenta, et si divortium fieret inter eos exinde dissensiones at scandala inter eorum amicos et parentes possent verisimiliter exoriri, ipsaque Johanna propterea remaneret perpetuo diffamata, pro parte ipsorum Jacobi et Johanne nobis fuit *humiliter supplicatum*, ut eis super hoc de absolutionis debite beneficio, ab excomunicationis sententia, quam propterea incurrerunt de oportune dispensationis gratia providere misericorditer dignaremur. Nos igitur qui salutem querimus singulorum, et inter Christi fideles libenter pacis et quietis commoda procuramus, cupientes prefatis dissensionibus et scandalis quantum cum Deo possumus salubriter obviare, huiusmodi supplicationibus inclinati, fraternitati tue, de quo in hiis et aliis gerimus in Domino *fiduciam specialem*, cum ipsi Jacobus et Johanna ordinarium suum[1] habeant in hac parte suspectum per ap'lica scripta committimus et mandamus, quatinus si est ita prefatis Jacobo et Johanna separatis ab invicem ad tempus, de quo tibi videbitur expedire, eos ab huiusmodi excomunicationis sententia, quam propter premissa incurrisse noscuntur auctoritate nostra absolvas in forma ecclesie consueta, iniunctis eis inter alia sub virtute iuramenti per eos prestandi, quod similia decetero non committant, nec facientibus prebeant *auxilium, consilium* vel *favorum*, ac pro modo culpe penitentia salutari, et alia que de iure fuerint iniungenda. Et demum si tibi expediens videatur quod huiusmodi sit dispensatio concedenda, super quo tuam conscentiam[2] oneramus cum ipsis Jacobo et Johanna, ut impedimentis, que ex consanguinitate vel affinitate huiusmodi proveniunt non obstantibus, matrimonium invicem de novo libere contrahere, et in eo postquam contractum fuerit licite remanere valeant auctoritate ap'lica dispenses, prolem susceptam, si qua est, et suscipiendam ex eis, legittimam nuntiando. Volumus quod ille ex predictis Jacobo et Johanna, qui vite superstis fuerit perpetuo remaneat innuptus. Datum Florentie anno Incarnationis Dominice Millesimo, quadringentesimo tricesimonono, undecimo Kalendas Octobris, Pontificatus nostri Anno nono. [21 Sept. 1439].

[1] Henry Wardlaw, Bishop of St. Andrews, 1404-1440.—*Keith.*

[2] So in transcript.

This remarkable document was lately observed by me casually in looking through with another object, vol. xxx. of a fine collection of transcripts from the Vatican Archives,[1] which seem to have been made with great care by Italian copyists. On noticing it, I at once saw from the date that it must refer to the Queen Dowager and Sir James Stewart, and felt sure that it could not have escaped the researches of the historian of the House of Stewart.[2] Nor has it, for it is given by him at the reference below. But the papal clerk employed[3] has mistaken the Queen's name, and read it simply Johanna "Berrford," and under this commonplace form Mr. Stuart failed to recognise the royal "Beaufort." And as is well known in these papal letters titles of dignity are not always given, often merely the parties' names, the Queen has hitherto passed unobserved. Even Mr. Riddell, on p. 29 of his *Stewartiana*, merely states the fact, that "previous to 1439, James Stewart and Johanna Bureford, &c., in the third and fourth degrees of consanguinity and affinity, had contracted a putative marriage," &c., and procured the dispensation in question, and gives reference to the History of the Stewarts. The document is not printed in Theiner's collection, or the true name might have been given there. I may therefore congratulate myself on my good fortune in being able to draw attention to an interesting point in Scottish family history that has escaped the eyes of such men as Andrew Stuart and Alexander Sinclair, and for a time these even of John Riddell.

There are some points in the document that call for special remark.

[1] The collection is entitled *Monumenta Britannica, ex Autographis Romanorum Pontificum deprompta*, and this volume contains the Pontificates of Martin V., 1417–1426 (1431); and Eugenius IV., 1431–1444 (1447). The whole collection was deposited about forty years ago in the British Museum, by order of the Secretary of State, and is indexed among the Additional MSS.

[2] Andrew Stuart of Torrance, author of the *Genealogical History of the Stewarts*, London, 1798, 4to. See Supplement to that work, p. 443.

[3] Whatever the practice at Rome may be now, in 1789, when Andrew Stuart obtained his official copies through the favour of the Papal Secretary of State and M. de Marini Keeper of the Archives, no stranger was allowed personal access to these records, all the searches being made by the archivist himself. Hence the strange errors in the names of Scottish persons and places often found in these copies.

(1) The Pope addresses his rescript to the Bishop of Dunkeld, for a reason given in the body of the document, viz. that the ordinary of James and Johanna[1] was "suspectus" in the business, having doubtless connived at their secret marriage.

(2) That they were related in the third and third, fourth and fourth, and third and fourth forbidden degrees of consanguinity and affinity, of which they were said to be ignorant.[2] This shows that although the Black Knight was not the son of Jonet of Lorn, as Mr. Sinclair said, he was closely related in some way to the late king. Mr. Riddell was thus right in his conclusion, though his premisses may have been wrong; the relationship may have been on the paternal side, as the Stewarts by this time were widely spread in Scotland.[3]

(3) Their marriage was "clandestine" before "sure witnesses," and this indicates the exalted rank of one of the parties (the Queen), and necessity for secrecy, as her second marriage to a subject *in facie ecclesie* would have caused much negotiation, perhaps quarrelling, on the part of other nobles. It also points at the connivance of the first ecclesiastical dignitary in the kingdom in the affair.

(4) They next incurred papal excommunication by consummation of their formal union, and living together as man and wife after they became aware of the forbidden relationship.

(5) The Pope, after the usual narrative in such documents, directs the Bishop of Dunkeld, after separating the delinquents for such time as he thinks expedient, and taking an oath from both not to do the like again, or abet others in so doing, to permit James and Johanna to marry anew, and remain as married persons, legitimating their issue, if any, born or to be born. As a punishment for their irregularity, however, the Pope adds the clause, which I see is only in one other of the forty dispensations

[1] The Bishop of St. Andrews, to which diocese they are said to belong.

[2] Mr. Burnett says he has not succeeded in tracing any one of these three relationships between the Queen and her second husband.

[3] It has sometimes occurred to me that the original petitions of persons asking dispensations must be in the Vatican. These, if accessible, would be extremely interesting, and give particulars not in the dispensations.

given by Andrew Stuart that the survivor of the two spouses shall for ever remain unmarried.

Mr. Sinclair, in treating of the eldest son of this marriage, John, Earl of Athol, his history, and descendants, says nothing of two other sons of the marriage, some particulars of whom are given in one of those many papers in which our eminent and learned Foreign Secretary, David Laing, used to pour forth his varied stores of learning for the delight and edification of us of a younger generation.[1]

Mr. Laing says the king was assassinated at Perth on [20] February 1436–37. The Queen Dowager, about the year 1439, married for her second husband Sir James Stewart, commonly called the Black Knight of Lorn. She died in the Castle of Dunbar in 1446, and was buried at Perth beside her first husband King James. Sir James was banished by means of the Earl of Douglas, and died in exile the following year. They cannot have been much over middle age at their deaths. Besides the Earl of Athol, their eldest son, from whom the Dukes of Athol are descended in the female line, they had James, Earl of Buchan, from whom the present Earl descends. The third son Andrew, a Churchman, was rector of Monkland and sub-dean of Glasgow in 1456, when he can only have been a boy, Provost of Lincluden in 1477, and Bishop of Moray from 1482 till his death in 1501.

The history of this dispensation, involving the legitimacy of the descendants of the second marriage of so celebrated a woman as Johanna Beaufort, the heroine of the King's Quhair, is not without interest, and I am glad to have been the instrument of bringing forth the true reading from the obscurity in which it has lain for so long, by the fortunate chance of availing myself of a short interval in other more engrossing labour.

[1] Historical Description of the Altarpiece of James III. and his Queen, in the Palace of Holyrood, originally in Trinity College Church, founded by Queen Mary of Gueldres.—*Proceedings*, vol. x. p. 310.