Review


Being a study of prosecutions in the Aberdeen burgh court between 1541 and 1600, this book might have been called Crime and Community in Reformation Aberdeen. Still, the more ambitious title has merits. English social historians have delved enthusiastically into criminal court records in order to study various aspects of authority and social relations. J. R. D. Falconer applies some of these ideas to Scotland, using the rich Aberdeen burgh records as a case study of petty crime and judicial responses to it.

“Negotiating power” is the subtitle’s key phrase, and two main arguments emerge from the occasionally diffuse discussion of this concept. First, the ruling authorities—the burgh magistrates—took a flexible approach to offenders rather than applying fixed rules to everyone. They used discretion in deciding how to enforce laws and local statutes, especially when deciding on appropriate penalties. Falconer demonstrates this with numerous and varied examples, although he admits that the magistrates rarely recorded their reasoning. There is a particularly original section on “Restorative Justice” (pp. 58-61).

The second main argument is that petty criminals were themselves “negotiating power” by asserting a right or desire to get away with actions of which the magistrates might disapprove. Falconer narrates the Aberdeen craftsmen’s challenge to the burgh’s ruling elite in the 1570s and 1580s, showing that the magistrates treated as “petty crime” serial affronts to burgh statutes seen by the craftsmen as unjust. Moreover, he persuasively argues that many others convicted of petty crimes do not seem to have regretted their actions. Employing the concept of legitimacy, as understood by political scientists, would have helped the author’s social-scientific approach: which of the laws and burgh statutes were seen as legitimate? Future work, using sources that elucidate offenders’ motives, may enable scholars to build on Falconer’s work by
developing the idea of a spectrum of offences ranging from legitimate to illegitimate in the eyes of the perpetrators.

It is interesting to see the Reformation in action from the perspective of the burgh court. Falconer has also studied the kirk session records, though these are less complete. The kirk session cooperated with the burgh court in the areas where their jurisdictions overlapped, while the court used its greater coercive powers to back up the session. This approach widens the study of godly discipline, which often features only the kirk session. Falconer, by arguing that a moderate version of godly discipline was promoted even by those who were not committed Reformers, confirms an argument long advocated by Michael Lynch.

Falconer’s book can profit anyone interested in the social life of sixteenth-century Aberdeen. It contains many and varied vignettes of social interactions, loosely categorized in chapters such as “Property.” However, he spends many pages on topics like slander, adding little to interpretations advanced by Elizabeth Ewan and others. These cases may still interest local historians. More could also have been made of the manuscripts. Many of Falconer’s transcriptions contain odd or apparently meaningless words that required explanation in order to avoid the suspicion that they arise from misreadings. He has certainly mistranscribed “merchandis” as “merchandise” from a printed source (p. 34), and misinterpreted at least one case, writing that “The records are silent on why the council determined these cordiners should be made free of their craft at this point” while the quoted source shows that the council had done no such thing (p. 69).

The book is not entirely up to date; Falconer’s citations to secondary works fall away significantly after about 2002. He writes, for instance, that “The Gordon Earls of Huntly have not yet been the subject of any full-length study” (p. 166), unaware of Ruth Grant’s 2010 PhD thesis on the sixth earl. More attention to the town’s economy would have helped, and Falconer’s limited engagement with legal history is most disappointing. Among the recent works of which he seems to be unaware, he could have benefited considerably from Mark Godfrey’s studies of litigation and arbitration.

Overall, the strength of this book lies in its depth of focus
rather than its breadth. Falconer has commendably examined the burgh court alongside the kirk session. A holistic approach to the question of “negotiating power” would also take into account other local courts like the sheriff court and the commissary court, and local royal officers like customs officials, plus central bodies like the court of session and court of justiciary. Falconer himself can hardly be criticized for giving us only a part of this picture, and indeed his part is coherent. There is, nevertheless, much prolixity and repetition; Falconer’s most original arguments about “negotiating power” could have been made in a couple of articles. Still, readers should persevere with his book, since these arguments are well worth having. This book will surely be welcomed for the many vignettes that it offers of sixteenth-century social life, the fruit of detailed archival research.

*Julian Goodare*

*University of Edinburgh*