Robertson has been ranging over the seas for many years now to commit this type of crime in company with a band of men collected from every type of criminal: An exile and a man with no country, who attacks the property of everyone without discrimination. If he falls into our hands, he will pay the due penalty.1

Peace between Scotland and England in 1560 brought a degree of respite from violence at sea, both as perpetuated by and against the Scottish maritime community. This was not least due to Mary Queen of Scots’ previously mentioned suspension of letters of marque against any Christian prince.2 One serious threat remained which was that of piracy, both domestic and foreign. Unlike naval commanders or privateers, pirates worked for no state or potentate but for their own personal gain. The Dutch jurist Hugo Grotius described pirates as those whose ‘gain is dishonourable [and] which is acquired by individuals who despoil others through privately exercised force and without urgent reasons for so doing’.3 There was to be little mercy for them: even once they had fled to avoid the consequences of their crimes, the very instruments they had used to commit them were liable to confiscation. The Scottish pirate John Hamilton of Kilbowy sold his ship to some merchants of the east coast before seeking obscurity and refuge from the law in the wars of Flanders. Regent Morton, as acting Lord High Admiral, argued that since this was ‘a pyrattis ship bocht fra a pyrat, na doubt she is lauchfull prise and aucht to appertane to ws as admiral’.4 There was no compensation offered to those who

1 DRA, TKUA Skotland, A I. Dowager Queen Mary to Christian III, 13 August 1558. Translated out of Latin by Dr Peter Maxwell Stuart.
2 CSP, Scotland, I, p. 550. Mary to Elizabeth, 6 September 1561.
3 Grotius, Commentary on the Law of Prize and Booty, p. 447.
4 Sir George Douglas, Laird of Pittendreigh, was ordered to find her and arrest her, remove her sails and summon an admiralty court to judge her status—though Morton made it clear that the judgement should fall in his favour. In a subsequent letter he instructed Pittendreigh to go to Pittenweem where the ship lay and secure her until she could be properly dealt with. See Mary of Lorraine, pp. 445–446. Appendix. Earl of Morton to the Laird of Pittendreigh, 11 and 29 September 1578.
bought the ship. The message to merchants not to interact with pirates is clear in Morton’s decision. It typifies a prevalent attitude among the European nations that pirates, their confederates and anyone who dealt with them did not have the same recourse to law as other mariners engaged in violence at sea. Indeed, by the early modern period, it was generally agreed that there was not even a need to declare war on pirates and it was an expectation and right of ‘free nations’ that pirates would be attacked and punished whenever and wherever they were encountered.\(^5\) In terms of the state taking responsibility for such action, Grotius was clear:

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\text{it cannot be doubted that he who fails to prohibit that which he can and should prohibit, is liable for the consequences of the act in question, a principle applicable to debts involving punishment as well as to other debts.}^{6}
\]

Pirates targeted ships belonging to friends, foes and allies of their own nation with equal disregard for the legal implications of their actions. In 1561 the Court of Admiralty heard the case of the *Mekile Swallow* which had previously departed ‘in weirfair’ against the English fishing-fleet in Iceland. Given that war had been ongoing, there was an expectation she would have been involved in some kind of violence at sea. The reason John Hogge found himself charged with piracy was because some of his officers plundered Mousa in Shetland on the homeward voyage.\(^7\) These men were only fined for their action, and they should have considered themselves very fortunate. Under the new Marian regime Scots convicted of similar crimes were to be punished as severely as any foreign pirates. Elizabeth Tudor learned from her Scottish cousin Mary that three particular English pirates she was looking for would be tracked down in Scotland and handed over to Ambassador Thomas Randolph as soon as they were captured.\(^8\) Further, all Scots had again been forbidden from dealing with such men under severe penalty if caught. That said, Mary’s anti-piratical


\(^8\) CSP, *Scotland*, I, pp. 550, 553. Mary to Elizabeth, 6 September 1561 and Elizabeth to Randolph, 18 September 1561; Stanford Leith, *Skipper from Leith*, p. 271.