

*Dissolving Royal Marriages: A Documentary History, 860-1600*, David d'Avray (Cambridge: Cambridge U.P., 2014; pp. xii + 312. £69.99) and *Papacy, Monarchy and Marriage, 860-1600*, David d'Avray (Cambridge: Cambridge U.P., 2015; pp. xiv + 355. £65).

The premise for David d'Avray's studies of the papacy and royal marriages is an important but often overlooked insight: the social norms governing how high-status patriarchal males in medieval Europe approached the production of legitimate heirs were highly atypical – at least by the standards of most other human societies throughout documented history. As codified through the corpus of Canon Law, these social norms required such men to commit to just one legal wife at any one time and they made it extremely difficult to repudiate a wife once married. By contrast, polygyny has been extremely common in most societies outside Europe, in particular in Africa and the Islamic World, as indeed it was many parts of Europe before their medieval Christianization. The ancient Greeks and Romans had preferred monogamy but tempered this with easy divorce and remarriage. The emphasis on marriage as both sacramental and an insoluble bond, which twelfth- and thirteenth-century popes promoted with considerable vim, therefore took European societies into uncharted territory. The Church compounded this with further rules about who might marry whom: marriage between those within certain degrees of consanguinity was ruled out – originally seven, but revised to just four after the Fourth Lateran Council of 1215 – as was marriage between those with 'affinity' (marriage to a close relation of one's former spouse) or 'spiritual kinship' (marriage to a close relation of one's godparents). Acceptance of these ideas, which seems to have spread slowly but measurably from c.1000 to c.1200, had certain obvious effects, including that it encouraged clans and communities to expand their circle of kinship links. It also provided lucrative opportunities for popes and local bishops to earn revenue by granting dispensations to individuals throughout Christian societies when they wanted to marry within the family after all. But D'Avray points out that its effects at more exalted levels of state were much less benign: the chances of a succession crisis were greatly increased because each king was now entirely dependent on his queen to provide him with the necessary heirs. When such heirs were not forthcoming and his wife did not die of natural causes there was a significant problem for which the king no longer had any easy remedy.

The two books under review here constitute d'Avray's attempt to explore the ramifications of this problem and, in particular, the question of how individual medieval monarchs sought to extricate themselves from their marital predicaments. The first volume, in terms of the chronology of publication, offers documents relating to twenty legal processes in which princes sought papal dispensations to allow them to marry within the forbidden degrees or else wanted annulments to allow them to escape a marriage previously contracted. These documented cases vary considerably in length as well as in date and place: by far the most substantial is one annulling the marriage of Charles IV of France and Blanche of Burgundy in 1322. In total nine of d'Avray's cases come from France, five from Iberia, three from England, two from Germany, one from Scotland and one from Cyprus. Chronologically, most come from the thirteenth century, with two from the twelfth, one from the tenth and one from the ninth; the final five cases span the period 1491 to 1599. D'Avray supplements these documents with a further ninety-two-page appendix of primary sources in the second volume on *Papacy, Monarchy and Marriage*. The main body of *Papacy, Monarchy and Marriage*

analyzes this material and more, offering nineteen chapters of commentary on specific case studies and more general arguments about the evolution of canon law and the intersections between its concept of kinship and those of competing alternative value-systems that still held sway amongst the aristocracies of the medieval West. Much of d'Avray's approach rests on employing a further concept, which he identifies explicitly with Quentin Skinner ('Skinner's theorem'). This theorem states that 'if the justifications are incompatible with a given course of action, then the cost of taking it may be high in terms of public opinion - so the need to legitimate action tends to constrain it. To limit behaviour to what can be legitimated to other people whose opinion matters is often the rational choice irrespective of personal opinion' (p. 7). D'Avray uses this theory to interpret how the various cases of dispensation and annulment he engages played out in practice, arguing that both popes and princes were increasingly constrained by the need to satisfy the opinion of a wider clerical elite through plausible arguments that were rationally justified in Canon Law. D'Avray argues for two further specific trends over the late medieval period: that it became relatively easier to obtain dispensations for marriage within the forbidden degrees and other impediments but that it became significantly harder to win the pope's consent to annul a marriage, especially if he had previously provided a dispensation to allow it. For d'Avray explaining the contrast between these two trends is the key research problem (p. 207) and in his view discussion about them reveals something important about the evolving relationship between late medieval Church and State.

D'Avray's book is a work of considerable scholarly erudition in which the author shows considerable powers of synthesis. Amongst its most valuable contributions will surely be that it alerts all historians to the need for precision in our terminology about royal marriage. A discussion of the mistaken claims about Sixtus IV's actions towards Afonso V of Portugal and his wife Joana in 1478 is instructive in this regard: d'Avray carefully traces the history of the erroneous claim that Sixtus annulled their marriage – or, worse, 'divorced' them (pp. 191-92). Just as importantly, d'Avray makes a powerful case that we should take the canonical arguments seriously when we write about these cases of royal marriages gone wrong. For d'Avray, it is simply wrong to reduce every annulment to a political struggle in which the faction with greater leverage inevitably won out at the papal court. Equally, d'Avray successfully highlights the unusual, even in retrospect weird, nature of the Church-State settlement in medieval Europe. In what other historical societies have kings let third parties like the papacy rule on matters of such supreme internal importance as their ability to create new lines of legitimate succession? How this came about is self-evidently an important question and D'Avray, even if he cannot answer that, at least shows how both sides were more or less able to make it work for a considerable time. Yet there are problems with d'Avray's approach. One important one (for this reviewer) was the organizing principle d'Avray employs in both volumes. *Papacy, Monarchy and Marriage* contains no general introduction to, or chronological survey of, the cases d'Avray analyzes within it, which sometimes makes it hard to follow the thread of what he is saying. The 'Introduction' to *Dissolving Royal Marriages* remedies that to some extent, but Cambridge University Press have marketed that book separately. Will all readers have access to both? Just as significantly, d'Avray does not fully explicate the criteria by which he has decided which marriages to study either. The general rule seems to be that the pope had to be involved and that one party in the marriage had to be the monarch; however, that does not explain why d'Avray includes

the case of Jaume, son of Jaume II of Aragon and his wife Leonor (who later married Jaume's brother after he repudiated her to join the Knights Hospitaller) or Margaret Tudor's marriage to Archibald Douglas. Other cases where popes were involved but there was no formal process are also discarded lightly, for example that of Casimir III of Poland who repudiated his wife Adelheid of Hesse in favour first of his mistress Christina Rokiczana and then Jadwiga of Żagań. Moreover, why does the study stop in 1600? Did consanguinous royals who wanted to marry no longer seek papal approval? There were certainly a number of seventeenth-century royal marriages between Habsburgs that required dispensations. Moreover, one other royal marriage between the Braganza king of Portugal Afonso VI and his wife Marie Françoise was also later annulled (with Clement IX rubber-stamping it *post factum*). No doubt d'Avray has good explanations for his choices and perhaps the seventeenth-century material would add little to his discussion. It would be beneficial to have his reasoning spelt out.

Is d'Avray right to see it as having been considerably more difficult for monarchs to get out of unwanted marriages at the end of his chosen period than at the beginning of it? Prima facie the answer seems to be yes, on the evidence he presents. Pope Nicholas I's emotional rhetoric achieved little in the face of Lothar II of Burgundy's determination to repudiate his wife Theutberga in 860. On the other hand, Henry VIII of England failed utterly in his attempts to overturn the dispensation to marry Catherine of Aragon with which Julius II had obliged him in 1503. Other kings, though they got their way in the end, had to fight hard – it took Ladislaus Jagiellon the best part of a decade to resolve his matrimonial problems in the 1490s. Moreover, in d'Avray's view, kings could no longer obtain annulments simply by having prior dispensations revoked unless there were watertight legal arguments in favour of pronouncing the dispensation defective. Louis XII of France tried and failed to win an annulment from Jeanne of France on such grounds in 1498 and had to develop an alternative case that Jeanne was physically incapable of consummating her marriage. Henry VIII's problem was very similar: his argument was that Julius II's dispensation was unlawful in that it had transgressed biblical law. The implication of d'Avray's argument is that, even without the well-known political factors that intervened, Henry would never have won his annulment, at least not on the grounds he had presented before 1533. And yet, does d'Avray really believe that Clement VII would not have found a way to annul Henry's marriage without the complicating political factors that afflicted him? From an outside perspective one of the most notable things about d'Avray's examples is that kings eventually got their way in all of them. D'Avray has an answer to this: selection bias. 'Only the fittest cases survived to go to trial' (p.8) – an observation which also explains why the total number of royal annulments he discusses is comparatively small. But surely to prove his case d'Avray has to engage cases where a prince wanted to repudiate his wife but could not. D'Avray furnishes just one prince, Louis X of France. Louis clearly could not escape the terms of his dispensation and made no effort to initiate legal proceedings against his wife Margaret of Burgundy. However, Margaret died mysteriously in captivity just twelve months later – a sign both of the thuggish brutality of the late Capetians and also of viable alternative strategies besides annulment for disposing of an unwanted queen where the diplomatic implications were limited (Henry VIII also surely showed this in his treatment of Anne Boleyn and Catherine Howard). The long gap in d'Avray's chronology of cases from 1322 to 1491 may be less a function of papal prestige and the difficulty of obtaining annulment than of lack of demand amongst Western European monarchs in these generations. The case of Casimir III of Poland is surely more pertinent here than d'Avray

allows for in that he was able to repudiate Adelheid in the 1350s without much consequence. Would the same have been true for an English, French or Iberian king? Perhaps the most important point is d'Avray's observation that any king had to decide whether or not to pursue an annulment by balancing a number of factors: the value he placed on the opportunity to remarry and create further legitimate heirs, the alternative mechanisms to resolve the problem at his disposal and the willingness of the pope himself to contradict his predecessors. Clearly, the imperative to annul was much greater for a king with no sons and a wife past child-bearing age than it was in other circumstances. As d'Avray shows, kings were generally content to take mistresses and practice 'informal' polygyny when this was not the case.

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