THE CIVIC GOVERNMENT OF THE SCOTTISH HIGHLANDS DURING THE RESTORATION, 1660-88

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Declaration

I hereby declare that this thesis has been composed by myself. The work it embodies

has been undertaken by me alone, and has not been included in any other thesis.

Signed:

Date:

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Abstract

Recent developments in Scottish historiography have done much to resurrect the Restoration from the obscurity in which it had conventionally languished. Lacunae remain, however, and one of these surrounds the Highlands, which has often had to make do with broad generalisation. The present thesis aims to address this deficiency through exploration of two general themes.

Firstly, it considers the place of the Highlands within the broader Scottish and British contexts. Focusing on the linkages between central government and the local elite, and on the extent to which the Highlands were socially and culturally distinct, it argues that historians' continuing treatment of the Highlands as a self-contained entity is misguided. Instead, it is suggested that the region should be viewed as simply another locality within Britain, a locality which, while displaying a unique hybridised identity, was nevertheless heavily integrated with the rest of the country.

Secondly, the thesis traces the development of government policy towards the Highland periphery. Recognising that policy was usually aimed at curbing the perceived problem of endemic animal theft, it uncovers opposing intellectual underpinnings – 'direct' and 'indirect' – to the government's approach. It then considers in detail the various policy initiatives launched over the period, arguing that most of these were shaped by the interplay of the underlying strategic impulses. It also acknowledges the influence of wider developments in British politics.

Ultimately, the thesis seeks to recast the prevailing understanding of the Highlands. Moving away from well-worn stereotypes of endemic lawlessness and violence, it also questions the notion of a fundamental cleavage between central and local elites. Instead, it argues that, during the reigns of Charles II and James VII, the prevailing pattern was one of partnership and mutual reinforcement.

Abbreviations

Bod.   Bodleian Library, Oxford

BL   British Library, London

CSPDC   *Calendar of State Papers, domestic series, of the reign of Charles II,*
                        1660-1685, 28 vols (London, 1860-1947)

CSPDJ   *Calendar of State Papers, domestic series, of the reign of James II,*
                        1685-1689, 3 vols (London, 1960-77)

EUL   Edinburgh University Library, Edinburgh

HARC   Highland Archive and Registration Centre, Inverness

NLS   National Library of Scotland, Edinburgh

NRAS   National Register of Archives for Scotland

NRS   National Records of Scotland, Edinburgh [formerly National
                        Archives of Scotland]

PKA   Perth and Kinross Council Archives, Perth

RGSS	J.M. Thomson (ed.), The *Register of the Great Seal of Scotland*, 11 vols (Edinburgh, 1882-1914)
RPCS	P. Hume-Brown, *et al* (eds.), *Register of the Privy Council of Scotland, Third Series, 1661-1691*, 16 vols (Edinburgh, 1908-70)
RPS	K.M. Brown, *et al* (eds.), *Records of the Parliaments of Scotland to 1707* (St Andrews, 2007), www.rps.ac.uk
SA	Stirling Council Archives, Stirling
SCA	Scottish Catholic Archives, Edinburgh
SHR	*Scottish Historical Review*
WSRO	West Sussex Record Office, Chichester

Notes

All dates are given according to the Old Style (Julian) calendar, although the year is taken to begin on 1 January, rather than 25 March.

Sums of money are in pounds (£) Scots unless otherwise stated. A merk is equal to 13s 4d, or nearly two-thirds of a pound.

John Campbell of Glenorchy (1636-1717) should correctly be designated 'Earl of Caithness' between 1672 and 1681. However, to avoid confusion with the Sinclair earls, the thesis refers to him as Laird of Glenorchy until his elevation to the earldom of Breadalbane in 1681. The Caithness title is used exclusively to refer to George Sinclair, 6th earl of Caithness (1643-76) and George Sinclair, 7th earl of Caithness (1681-98).

Lists of Tables and Figures
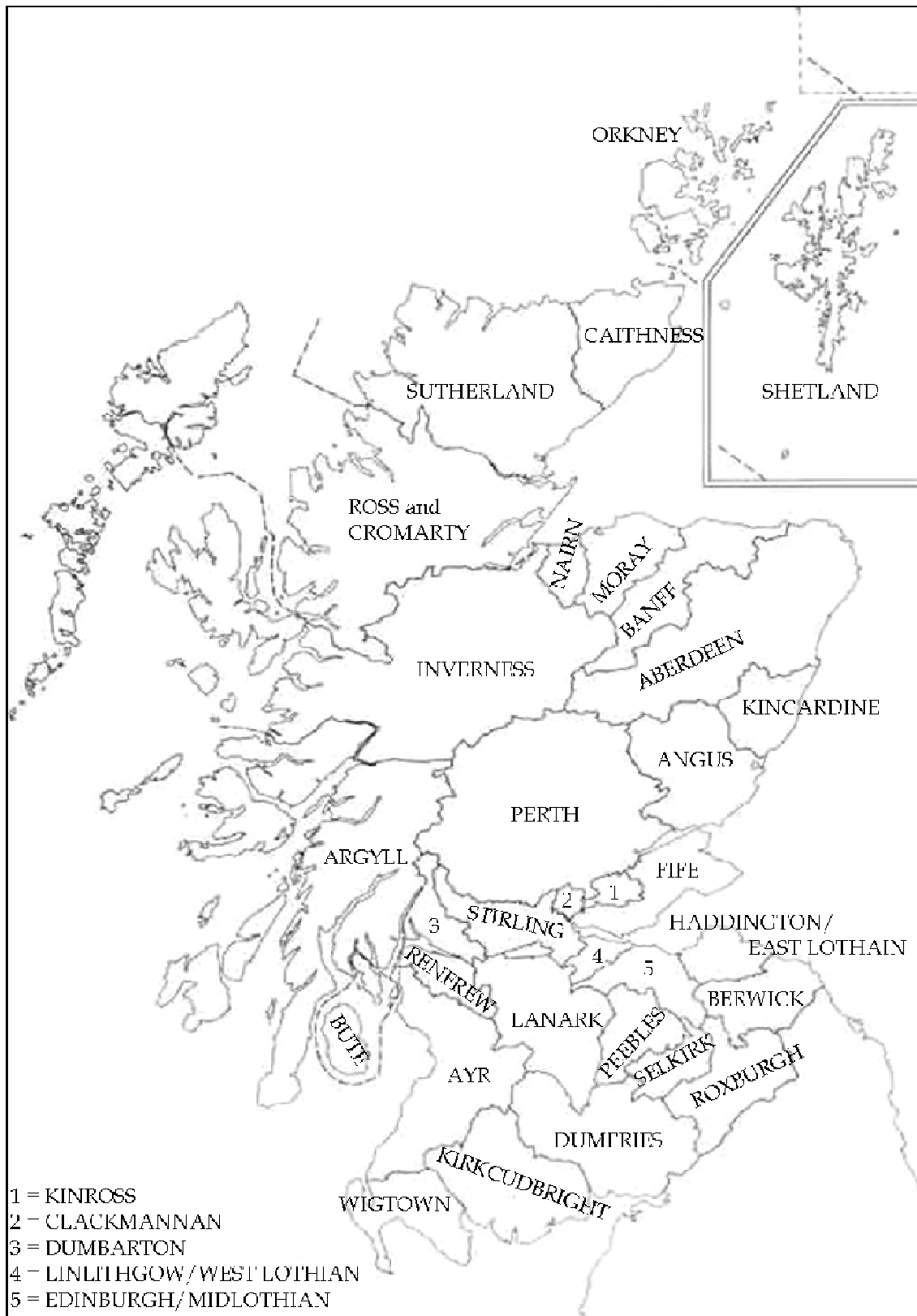
<u>Acknowledgments</u>

It is a truism that, despite the ostensibly solitary nature of their endeavour, academics depend upon extensive support networks. In my case, acknowledgment of that assistance must begin with the Arts and Humanities Research Council, from whom I was privileged to receive a three-year Doctoral Scholarship. Without the financial security provided by this grant (or, indeed, the one year Research Preparation Masters Scholarship that preceded it), there is no doubt in my mind that this thesis would simply not have been written.

At the University of Stirling, my primary debt is to Dr Alastair Mann, who has acted as my supervisor in an unbroken run since I was a final year undergraduate. For his guidance and enthusiasm over the course of nearly six years, not to mention for his role in directing me towards the under-tilled expanse of the seventeenth-century, I am eternally grateful. Insightful input also came from Dr Alasdair Ross, whose extensive knowledge of Highland social structures proved invaluable. Indeed, profound thanks are due to all of the staff at the Division of History and Politics, in particular Professor Richard Oram, Dr Colin Nicholson, Dr Jim Smyth, Dr Emma MacLeod, Dr Kirsty McAlister and Sheilah Greig, all of whom have, in various ways, helped keep me afloat over the years.

In common with all historians, I am deeply indebted to the staff of the various archives and libraries I visited – their patience and professionalism ensured that my research ran much more smoothly. Particular acknowledgment is due to the staff of the National Records of Scotland without whom I would have been hopelessly adrift. I am grateful also to Lord Doune, His Grace the Duke of Argyll, Thirlestane Castle Trust and the owners of the Blair Castle collection for kind permission to view their private papers.

Maps

ORKNEY

CAITHNESS

SUTHERLAND

SHETLAND

ROSS and
CROMARTY

NAIRN

MORAY

BANFF

ABERDEEN

INVERNESS

KINCARDINE

ANGUS

PERTH

ARGYLL

FIFE

STIRLING

2

1

HADDINGTON/
EAST LOTHAIN

3

4

5

RENFREW

BUTE

LANARK

AYR

PEEBLES

SELKIRK

BERWICK

ROXBURGH

DUMFRIES

KIRKCUDBRIGHT

WIGTOWN

1 = KINROSS
2 = CLACKMANNAN
3 = DUMBARTON
4 = LINLITHGOW/WEST LOTHIAN
5 = EDINBURGH/MIDLOTHIAN

Map 1: Traditional shires of Scotland
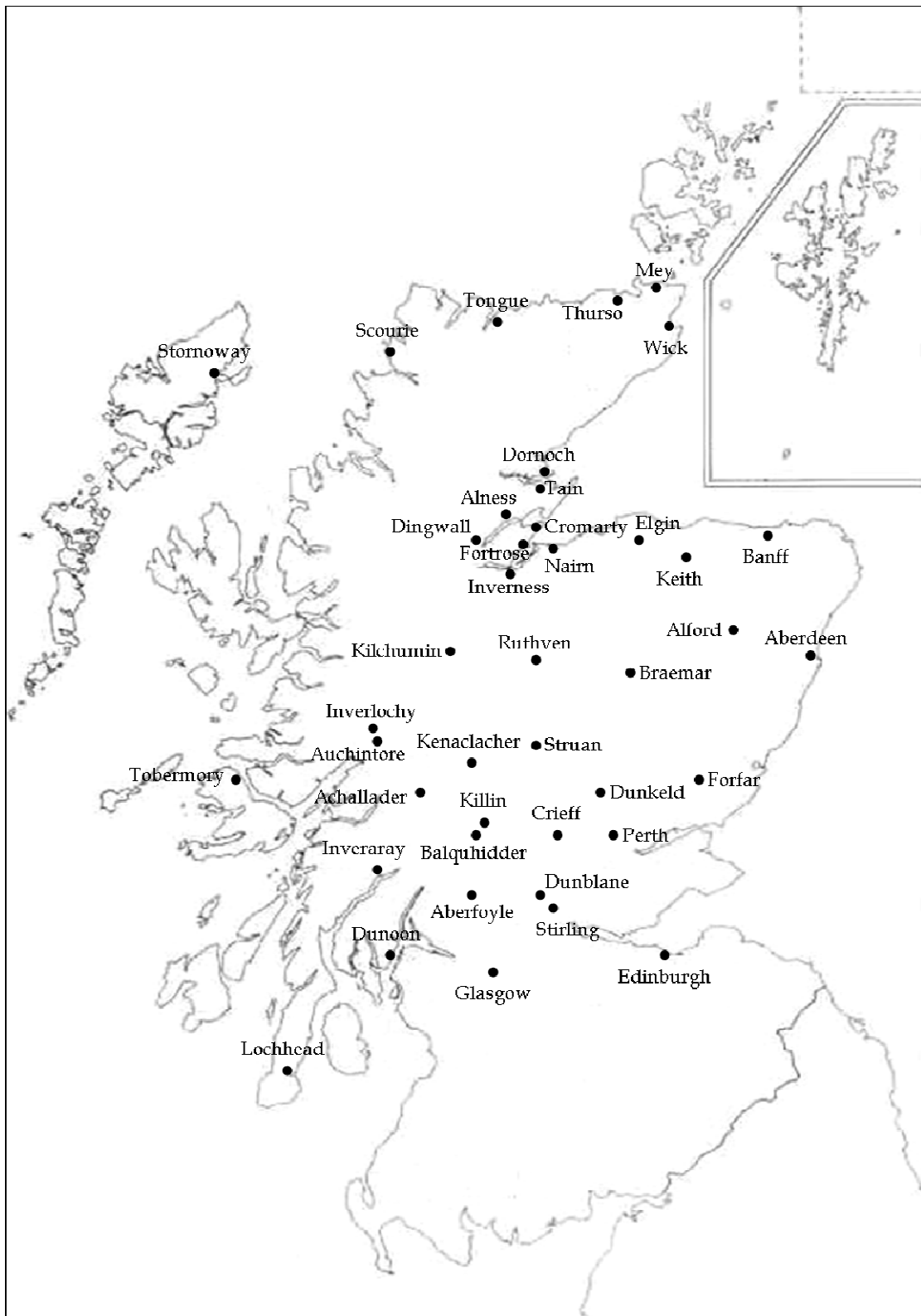
Map 2: Major towns and settlements mentioned in the text

Map 3: Islands and Locales of the Highlands

Map 4: The Highlands as defined in this thesis

Map 5: The Commission for Securing the Peace of the Highlands, 1682

Introduction

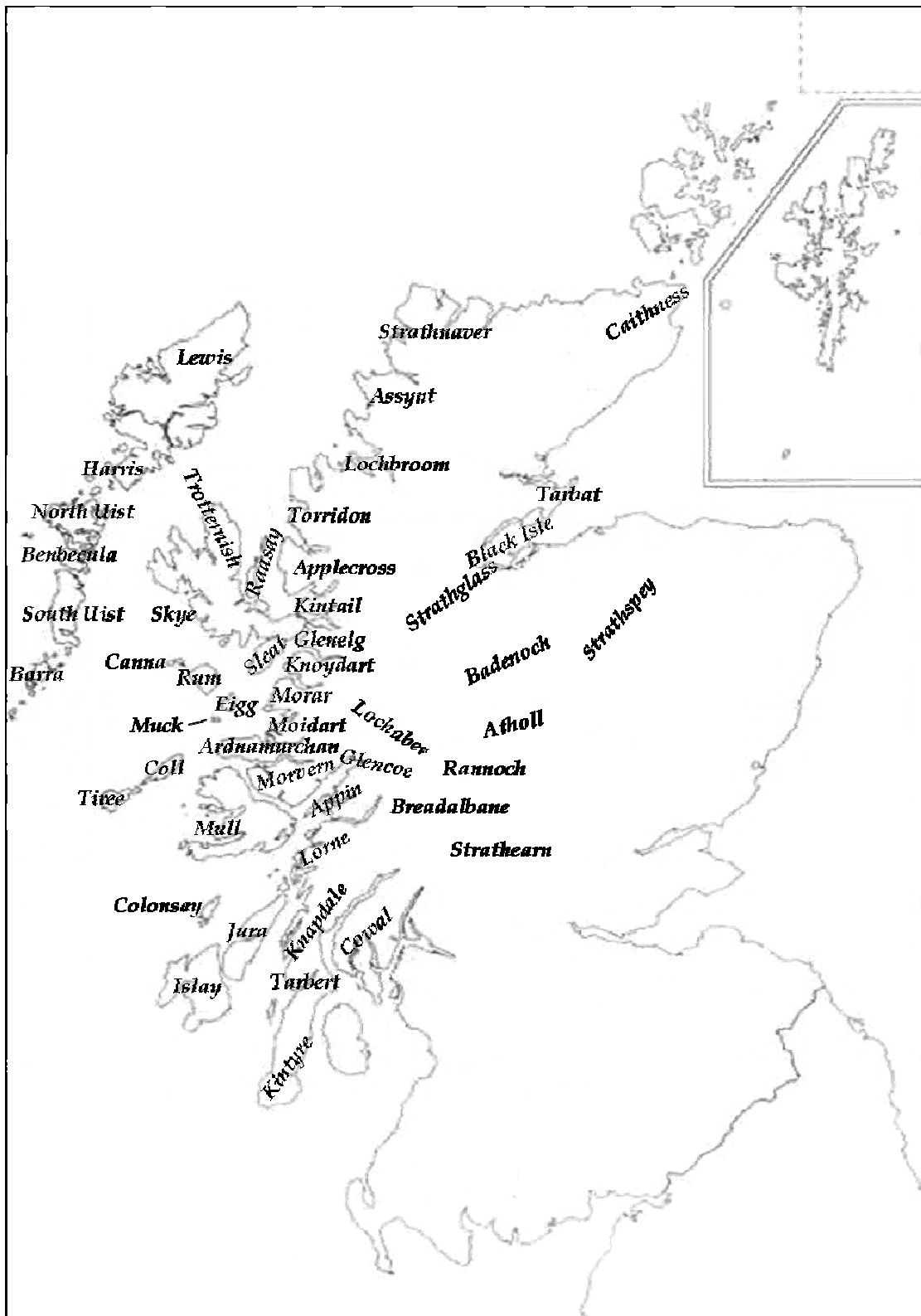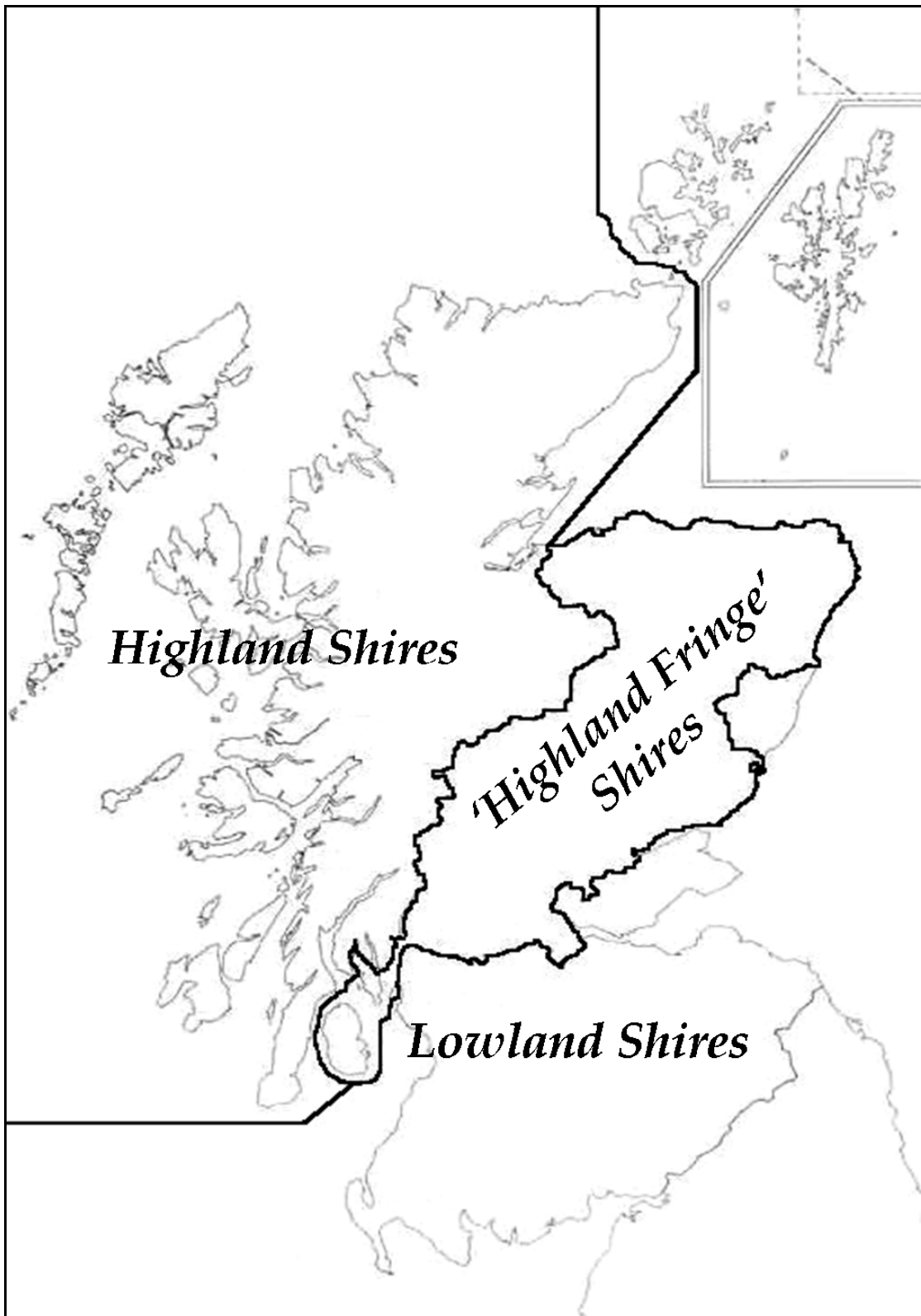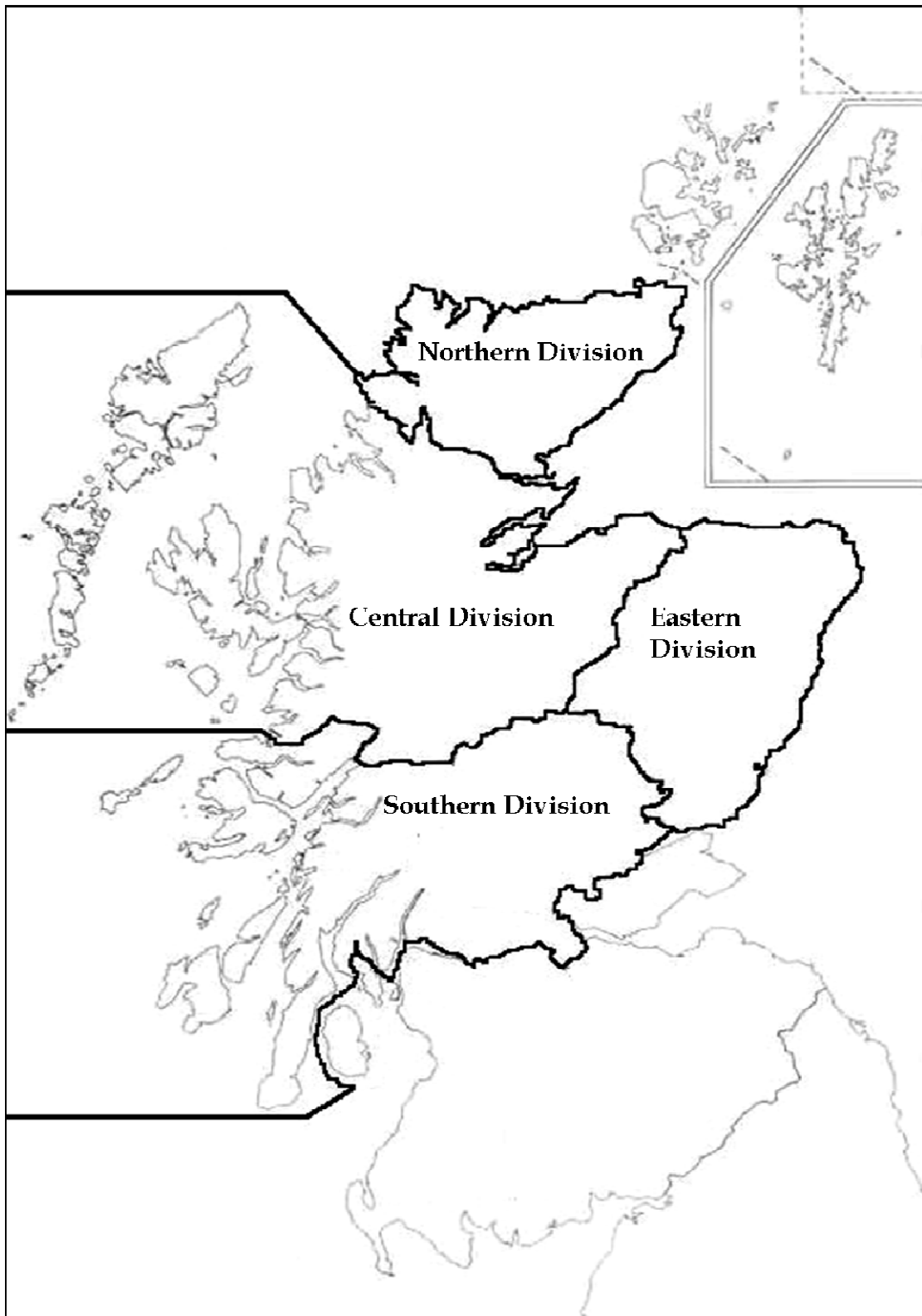Until fairly recently, any historian seeking to investigate Scotland during the Restoration faced a daunting task. Beyond a few scattered biographies dealing with some of the major politicians, there were very few texts upon which to draw.[1] This paucity no doubt reflected the apparent difficulty of locating a compelling meta-narrative for the period. While European historians grappled with grand themes such as 'absolute monarchy' or 'military revolution', and English commentators could approach the period through any number of colourful and compelling topics – the rise of party, the development of court culture, the struggle between crown and parliament, or the ever-swelling paranoia about Popery – their Scottish counterparts (largely taking their cue from the mammoth antiquarian efforts of the eighteenth-century Presbyterian historian, Robert Wodrow) seemed unable to perceive anything other than a dreary cycle of pedantic and esoteric religious squabbles. Moreover, those works which were produced tended to generate rather more heat than light. Take, for example, the competing views of the Covenanting movement offered at the start of the twentieth century by Alexander Smellie and William Mathieson. For Smellie, the Covenanters were heroic opponents of tyranny who refused to surrender their liberty; for Mathieson, they were a rabble of vicious, rebellious fanatics.[2] This disagreement says much

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[1] J. Willcock, *The Great Marquess: Life and Times of Archibald, 8th Earl, and 1st (and only) Marquess of Argyll (1607-1661)* (Edinburgh and London, 1903); J. Willcock, *A Scots Earl in Covenanting Times: Being Life and Times of Archibald 9th Earl of Argyll* (Edinburgh, 1907); A. Lang, *Sir George Mackenzie, King's Advocate, of Rosehaugh, his Life and Times, 1636(?)-1691* (London, 1909); W.C. MacKenzie, *The Life and Times of John Maitland, Duke of Lauderdale (1616-1682)* (London, 1923).

[2] A. Smellie, *Men of the Covenant: The Story of the Scottish Church in the Years of Persecution* (London, 1904), p.14; W.L. Mathieson, *Politics and Religion: A Study in Scottish History from the Reformation to the Revolution*, 2 vols (Glasgow, 1902), ii, p.286.

more about the ecclesiastical and political circumstances of the Edwardian period than it does about the later seventeenth century.

Fortunately, historiographical developments since the late 1960s have done much to enliven this arid landscape.[3] The pioneering efforts of Ian Cowan and Julia Buckroyd provided fresh scholarly perspectives on the religious issue.[4] Combined with studies of constitutional and political affairs penned by Athol Murray, John Patrick and Ronnie Lee, this ensured that, by the end of the twentieth century, the Restoration was beginning to reclaim its place in historical consciousness.[5] Since the Millennium, this steady stream of interest has not abated. The work of Raymond Campbell Paterson has attempted to resurrect the period's

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[3] At least part of the explanation for this renaissance was the brief vogue of the 'New British History'. Taking its cue from John Pocock's 1975 rallying cry, this movement sought to replace supposedly myopic histories of England, Scotland, Ireland and Wales with an holistic approach that respected the differences between the constituent parts of the British Isles while stressing the intimate connections between them. The result, it was hoped, would be a largely new subject that transcended national histories without replacing them. Moreover, because it was the first period during which all four British nations shared a single monarch, the seventeenth century became a particularly fashionable stomping-ground for proponents of 'New British History'. The approach has now fallen out of fashion, largely because it often failed to overturn the entrenched Anglo-centricism against which it was ostensibly reacting. Yet despite being no paradigm-shifter, 'New British History' did serve to remind historians that national histories are at their most effective when placed in wider contexts. Along the way, it also stimulated renewed interest in, and research into, the early-modern era, particularly in the previously neglected pastures of Scotland and Ireland. See J.G.A. Pocock, 'British History: A Plea for a New Subject', *Journal of Modern History*, 47:4, 1975, pp.601-21. The impact of 'New British History' on seventeenth-century studies is best understood through perusing the plethora of multi-author volumes on the British dimension that appeared in the 1990s. See, for example, S.G. Ellis and S. Barber (eds.), *Conquest and Union: Fashioning a British State 1485-1725* (London, 1995); A. Grant and K.J. Stringer (eds.), *Uniting the Kingdom? The Making of British History* (London, 1995); B. Bradshaw and J. Morrill (eds.), *The British Problem, c.1534-1707: State Formation in the British Archipelago* (Basingstoke, 1996); G. Burgess (ed.), *The New British History: Founding a Modern State 1603-1715* (London, 1999).
[4] I.B. Cowan, *The Scottish Covenanters 1660-88* (London, 1976); J. Buckroyd, *Church and State in Scotland 1660-1681* (Edinburgh, 1980); J. Buckroyd, 'Anti-clericalism in Scotland during the Restoration' in N. MacDougall (ed.), *Church, Politics and Society: Scotland 1408-1929* (Edinburgh, 1983), pp.167-86; J. Buckroyd, *The Life of James Sharp, Archbishop of St Andrews, 1616-1679: A Political Biography* (Edinburgh, 1987).
[5] A.L. Murray, 'The Scottish Treasury 1667-1708', *SHR*, 45: 1966, pp.89-104; J. Patrick, 'The Origins of the Opposition to Lauderdale in the Scottish Parliament of 1673', *SHR*, 53:155, 1974, pp.1-21; J. Patrick, 'A Union Broken? Restoration Politics in Scotland' in J. Wormald (ed.), *Scotland Revisited* (London, 1991), pp.119-28; R. Lee, 'Government and Politics in Scotland, 1661-1681' (University of Glasgow, PhD thesis, 1995).

profile amongst the general public.[6]   Within academia, published contributions

from Clare Jackson, Gillian MacIntosh and Maurice Lee Junior have shed further

light on political culture, parliament, and high politics respectively.   Kirsty

McAlister's doctoral thesis has provided detailed reconstruction of the early- to

mid-1680s, while another unpublished study by John Toller stresses the political

importance of the often overlooked royal burghs.[7]   Other aspects of the period, if

they have not yet attracted detailed study, have nonetheless benefited from

inclusion in wider surveys.[8]

One area for which the picture remains patchy, however, is the history of

the Scottish Highlands. Indeed, there is a long-established tendency, particularly

in general and popular works, to assume that the Restoration was a period of little

or no importance in the Highlands. W.C. Mackenzie's 1937 survey of Highland

history declares airily that 'the Restoration which in its disturbing effects turned

the Lowlands of Scotland upside down, scarcely raised a ripple on the surface of

Highland life', and proceeds to dispose of the period in three paragraphs. John

MacLeod's popular history of the Highlands, published in 1996, devotes a chapter

of twenty-six pages to the seventeenth century, of which just fewer than four deal

with the Restoration – with the focus exclusively on the national religious question,

rather than the Highlands. Alasdair Moffat's brief survey of Highland history is

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[6] R.C. Paterson, *King Lauderdale: The Corruption of Power* (Edinburgh, 2003); R.C. Paterson, *No Tragic Story: The Fall of the House of Campbell* (Edinburgh, 2001).

[7] C. Jackson, *Restoration Scotland, 1660-1690: Royalist Politics, Religion and Ideas* (Woodbridge, 2003); G.H. MacIntosh, *The Scottish Parliament under Charles II 1660-1685* (Edinburgh, 2007); M. Lee, *'Dearest Brother': Lauderdale, Tweeddale and Scottish Politics, 1660-1674* (Edinburgh, 2010); K. McAlister, 'James VII and the Conduct of Scottish Politics *c.*1679 to *c.*1686' (University of Strathclyde, PhD thesis, 2003); J.M. Toller, ''Now of little significance'? The Convention of the Royal Burghs of Scotland, 1651-1688' (University of Dundee, PhD thesis, 2010).

[8] See, for example, W. Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh, 1994) on foreign relations; K.M. Brown, *Noble Society in Scotland: Wealth, Family and Culture from Reformation to Revolution* (Edinburgh, 2000) and K.M. Brown, *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh, 2011) on the nobility; and J. Goodare, *State and Society in Early Modern Scotland* (Oxford, 1999) on state-building.

even less interested; he, like Mackenzie, accords the Restoration only three paragraphs. The only sustained popular treatment has come from John Roberts, although even here it is telling that twice as much space is reserved for the 'Highland War' of 1689-92 (four chapters) as for the Restoration (two chapters).[9]

In truth, the historian of the Restoration Highlands must be content with a mere handful of viable contributions. David Stevenson and Bruce Lenman have offered brief surveys, although in both cases their primary interests lie elsewhere and, as a result, their work lacks detail.[10] This leaves only two dedicated studies. Paul Hopkins, although his main focus is the Glencoe massacre, provides a lengthy and meticulously detailed political narrative of the preceding decades.[11] The influential work of Allan Macinnes offers a stimulating revisionist assessment which downplays the lawlessness of Highlanders and emphasises the cynical militarism of the Stuart regime.[12] Both of these texts, however, have their limitations. Hopkins views the period through the prism of Clan Campbell; his narrative is largely, though not exclusively, limited to the two major Campbell feuds of the period (Archibald Campbell, 9th earl of Argyll *versus* clan Maclean, and John Campbell of Glenorchy, later 1st earl of Breadalbane, against the Sinclairs). Macinnes' contribution, meanwhile, is not full length, and is more of an exploratory thrust into the period than a concerted study. Neither, as a result, offers sustained analysis of Highland policy, or the area's relationship to central government. This is the gap which the present thesis attempts to address.

[9] W.C. MacKenzie, *The Highlands and Isles of Scotland: A Historical Survey* (Edinburgh and London, 1937), p.250 and at p.252; J. Macleod, *Highlanders: A History of the Gaels* (London, 1997), pp.121-47; A. Moffat, *The Highland Clans* (London, 2010), pp.71-72; J.L. Roberts, *Clan, King and Covenant: History of the Highland Clans from the Civil War to the Glencoe Massacre* (Edinburgh, 2000).

[10] D. Stevenson, *Highland Warrior: Alasdair MacColla and the Civil Wars* (Edinburgh, 1980); B.P. Lenman, *The Jacobite Clans of the Great Glen 1650-1784* (Dalkeith, 1995).

[11] P. Hopkins, *Glencoe and the End of the Highland War* (Edinburgh, 1990).

[12] A.I. Macinnes, *Clanship, Commerce and the House of Stuart, 1603-1788* (East Linton, 1996), at pp.122-158.

The resulting text has two aims. On a more basic level it seeks to understand how the Highlands were governed and controlled. Just as importantly, it also attempts to achieve a broader understanding of the relationship between centre and locality. The thesis can therefore be roughly divided into two parts. The opening section, chapters one to three, addresses the more general question of how the Highlands related to the rest of Scotland and Britain. Chapter one is an historiographical review which attempts to place existing accounts of the Highlands within the wider framework of centre-periphery studies across early-modern Europe. Chapters two and three build upon this theoretical framework – the former explores the linkages between Highland elites and the rest of Scotland and Britain, while the latter assesses the notion of the 'Highland Problem' as a means of understanding the extent of Highland individualism.

The second part of the thesis (chapters four to seven), which is more chronological in structure, considers the ways in which the government dealt with the Highlands. Chapter four provides something of a baseline by looking at the nature of the Restoration settlement. Chapters five and six then narrate developments in policy, dividing in the late 1670s (so that, in general terms, chapter five focuses on the ascendency of John Maitland, 2nd earl and duke of Lauderdale, while chapter 6 is concerned with the period in which James, duke of Albany and later king, guided public affairs). These chapters analyse how the government approached the Highland periphery, why it adopted the strategies it did, how they changed over time and how effective they were. The final chapter deals with the extent to which these policies exposed the Highlands to the fiscal and military ambitions of the Stuart kings.

The thesis makes use of a wide range of primary sources, both printed and manuscript. Broadly, this material can be divided into five classes. First is

governmental material, which is vital in providing the period with an overarching

administrative and political framework.[13] Second are judicial records. These are a

valuable counterpoint to administrative documents, insofar as they reveal the gaps

in governmental control, and the ways in which the authorities sought to address

them.[14] Third are ecclesiastic records, principally the minute books of the various

church courts. Given that the Kirk in the seventeenth century was the most

ubiquitous agent of regional control, its records offer unrivalled insights into the

dynamics of society at its most basic level.[15] Literary material, the fourth source-

type, is rather more amorphous. It incorporates a range of chronicles, memoirs,

diaries, pamphlets, notebooks and poetry, and can offer unique and idiosyncratic

perspectives on the period.[16] The final class of source is estate collections. As *ad*

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[13] This refers, in particular, to the records of the Scottish Parliament (published as the online database *RPS*) and of the Privy Council (published as *RPCS*). Governmental material also includes much manuscript material, such as financial records and town council minutes. One particular governmental source should be specially mentioned, namely the manuscript register of the commissioners for pacifying the Highlands. This sizeable minute-book has never before been comprehensively analysed, and such an exercise forms a substantial portion of chapter six.

[14] Amongst the judicial records in print are W.G. Scott-Moncrieff (ed.), *The Records of the Proceedings of the Justiciary Court, Edinburgh, 1661-1678*, 2 vols (Edinburgh, 1905) and J. Cameron and J. Imrie (eds.), *The Justiciary Records of Argyll and the Isles, 1664-1742*, 2 vols (Edinburgh, 1949-69). Much judicial material, especially sheriff court processes, exist only in manuscript.

[15] A very small number of church records have been printed, most notably W. Mackay (ed.), *Records of the Presbyteries of Inverness and Dingwall* (Edinburgh, 1896). Most, however, remains in manuscript only. Patterns of survival mean that the middle-layer of the ecclesiastical hierarchy, the presbytery, is best represented in the record, but where possible the thesis also incorporates session and synod material.

[16] Many important literary sources are available in print, of which the most valuable are probably John Lauder of Fountainhall's *Historical Notices of Scottish Affairs* and James Fraser of Wardlaw's *Chronicles of the Frasers*. Also of importance are the published editions of Gaelic poetry written by the likes of Iain Lom, Mary Macleod and Roderick Morrison. However, some literary material remains confined to manuscript. The most obvious example is the eccentric but fascinating run of notebooks left by Robert Kirk, minister of Balquhidder and later Aberfoyle, preserved at the National Library of Scotland and Edinburgh University Library.

hoc bundles of documents collected over time by prominent families and individuals, they boast unparallel richness.[17]

In addition to locating and utilising a sufficient range of source material, there is another methodological challenge to be overcome. Any study dealing with the Scottish Highlands must grapple with the question of what 'Highland' actually means, and where 'the Highlands' are, or were, to be found. Numerous competing definitions have been offered. Some are cultural, equating the Highlands with the *Gàidhealtachd*.[18] Others are sociological, assuming that 'Highland' refers to that part of Scotland where a recognisably Celtic, clannish social structure prevailed.[19] Still others are geographical, applying the label 'Highland' to all lands beyond a given boundary, real or imagined.[20] Finally, some definitions are political, taking 'Highland' to refer to those parts of the north and west in which the authority of central government was weakest.[21] Each of these definitions would yield slightly different areas of study. Equally, they are all imprecise; the surviving sources do not allow us to gauge exactly where Gaelic gave way to English, where 'clanship' became 'landlordism', or where the writ of central government ran out of steam. Nor is there any uniformity as to where a notional 'Highland Line' should be drawn. Should it follow the Great Glen fault? Should it incorporate the mountainous terrain of the Grampians and northern Perthshire? Should it exclude

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[17] Four estate collections demand special acknowledgment: the Lauderdale manuscripts in the British Library; the Breadalbane muniments in the National Records of Scotland; the Yester papers in the National Library of Scotland and the Argyll manuscripts at Inveraray Castle. Each one of these vast collections has offered a proverbial goldmine of information without which this thesis would have been vastly diminished.

[18] C.W.J. Withers, *Gaelic Scotland: The Transformation of a Culture Region* (London, 1988).

[19] R.A. Dodgshon, *From Chiefs to Landlords: Social and Economic Change in the Western Highlands and Islands, c.1493-1820* (Edinburgh, 1998).

[20] M. Fry, *Wild Scots: Four Hundred Years of Highland History* (London, 2005), p.xvi.

[21] Goodare, *State and Society*, pp.264-82.

low-lying areas like Easter Ross and Caithness? Should the Hebrides be included alongside the mainland, or kept separate?

In deciding which areas of Scotland to include in this study, contemporary opinion has been used as a guide, and 'Highland' is taken to incorporate those sheriffdoms which were described by contemporaries as predominantly Highland in character. The Highlands are therefore understood as an essentially geographical, rather than ethnic, cultural, or social entity. The resulting area of study is illustrated in map 3. Caithness, Sutherland, Ross, Cromarty, Inverness and Argyll, the six sheriffdoms usually described by contemporaries as indisputably 'Highland', form the core of the thesis. In addition, there were a number of other shires which contemporaries did not regard as truly 'Highland', but were nevertheless acknowledged to include peripheral zones displaying 'Highland' characteristics. In this category were Nairn, Moray, Banff, Aberdeen, Angus, Perth, Stirling, Dumbarton and Bute, together forming a 'Highland fringe' with which the thesis also engages where relevant. The rest of Scotland, understood at the time as being the Lowland core of the kingdom, is not considered in the thesis, except for comparative or contextual purposes.

Using this definition, and exploiting the range of sources discussed above, the thesis will attempt to outline the relationship between central government and the Highlands. Of course, exhaustive treatment of this topic would require a very broad approach incorporating issues such as the Church, social structures and commercial relationships. While all of these were profoundly important in shaping the relationship between core and locality, their inclusion would have entailed a shift in focus away from the intitutional and political linkages with which the thesis is primarily concerned. As a result, the text restricts itself to civic government, while remaining conscious that this represented only one facet of the

centre-periphery relationship. Nonetheless, it is hoped that this will provide an original perspective on the Restoration regime and its impact at a local level. At the same time, it may also help to modify the widespread perception of Highland parochialism by setting the area firmly within its broader Scottish, British and European contexts.

<u>**CHAPTER 1**</u>

<u>**Centre-Periphery Historiography and the Highlands**</u>

Historians' attention to the process of state-formation in the European world of the seventeenth-century has traditionally focused heavily on the erection of bureaucratic government structures. From such a perspective, one cannot help but view Europe's 'absolute' monarchs as the most significant state-builders of their age. Yet the growth of central government, absolutist or otherwise, cannot be the only focus of attention. The development of 'states' also involved a complex dialogue between those emergent bureaucracies and outlying peripheries which, in boasting their own traditions and systems of authority, were sometimes radically different from the core state.[1] Naturally, this relationship between centre and periphery has stimulated a considerable stock of historical writing and this chapter will attempt, with particular reference to the Scottish Highlands, to analyse that literature. It will be divided into three broad sections. The first will look at the general conceptual approaches that have been adopted by historians for understanding the relationship between central authority and peripheral regions. The second section will then discuss the various mechanisms of interaction that have been posited in the historiography. The final section will analyse one particular sub-genre of centre-periphery historiography, which has recently emerged as a crucial motif of seventeenth-century British historiography – namely, the idea of a 'British Problem'.

Centre-periphery historiography is by definition rather amorphous, since the nature of the relationship varied between states and localities. Nevertheless, at a conceptual level it is possible to discern two general approaches that have informed

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[1] M. Greengrass, 'Conquest and Coalescence' in M. Greengrass (ed.), *Conquest and Coalescence: The Shaping of the State in Early Modern Europe* (Sevenoaks, 1991), pp.1-24, at p.6.

historians' thinking. The first of these may be labelled 'imperial', and posits a colonial, one-way relationship between peripheral regions and the core state. This approach can be seen clearly in the work done by Anthony Upton on Sweden. Upton identifies three distinct zones within the Swedish empire, and for each he maintains that the relationship involved Sweden acting and the peripheries reacting. In the Danish and Norwegian frontier provinces won from the Oldenburg monarchy, Danish elites were made to assimilate with Swedish political and social mores, while in the territories of the Eastern Baltic taken during the various Northern Wars, as well as in the German lands conquered during the Thirty Years War, local estates were forced, sometimes brutally, to accept decisions passed down from Stockholm.[2] Two related observations underlie Upton's assessment. The first is the victimisation of the peripheries, or at the very least their subordination to the interests of the centre. For Upton, Karl XI's (r.1660-97) interest in his German and Eastern Baltic territories was strictly limited to ensuring that he squeezed as much money from them as possible through his *reduktion*, the policy of reclaiming royal lands alienated prior to 1680.[3] The second observation is the emasculation of the locality. Upton stresses that no part of the empire had either the right or the strength to defy the crown, and those which tried – like Livland – found that Karl 'steamrollered the opposition and asserted the fullness of royal power'.[4] Upton's picture is therefore unequivocal; Sweden's peripheral possessions were treated as colonies, ruled by and in the interests of the bureaucracy of the core state.[5]

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[2] A. Upton, *Charles XI and Swedish Absolutism* (Cambridge, 1998), pp.179-99.

[3] *Ibid*., p.185 and at p.198.

[4] *Ibid*., p.197.

[5] This kind of approach has been applied by other historians to a diverse range of peripheral regions in the seventeenth century. See C. Ingrao, *The Habsburg Monarchy 1618-1815* (Cambridge, 1994), pp.69-87 on Hungary; A. Lottin, 'Louis XIV and Flanders' in M. Greengrass (ed.), *Conquest and Coalescence: The Shaping of the State in Early Modern Europe* (Sevenoaks, 1991), pp.84-93, at pp.86-92 on Flanders and J.G. Simms, 'The Restoration, 1660-

The second overarching approach to centre-periphery interaction may be termed 'collaborative', because it tends to argue for a more mutual and consensual relationship than is allowed under the 'imperial' umbrella. An important example of the collaborative approach is William Beik's study of Languedoc. Beik stresses that the French monarchy lacked the resources to impose a fully rationalised or centralised administrative structure, and consequently could not adopt an 'imperial' attitude. At the same time, he argues that the structure of provincial government was too fragmented, and power too widely dispersed, for the locality to govern itself effectively. Put simply, Beik's argument is that neither the core nor the periphery could control Languedoc without help.[6] From this basis, Beik offers a vision of Languedocian government centred on cooperation, the kernel of which was that Louis XIV allowed established local elites and institutions to retain (in his name) the functions of day-to-day government, while simultaneously intruding a light supervisory machinery in the form of the *intendants*.[7] The result was that 'the king and the rulers had been linked in one larger unit which guaranteed the king support and lent the rulers glamour and favour as never before'.[8] If this emphasis on collaboration sets Beik apart from the 'imperial' school, equally striking is his insistence that the impetus behind the process of integration came as much from the locality as from the centre. The provincial elite, he argues, sought to use the power of the crown to reinforce and entrench their accustomed privileges.[9] Beik's assessment is therefore strikingly distinct from those 'imperial' readings discussed

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85' in T.W. Moody, F.X. Martin, and F.J. Byrne (eds.), *A New History of Ireland, iii, Early Modern Ireland 1634-1691* (Oxford, 1976), pp.420-53, at pp.438-43 on Ireland.
[6] W. Beik, *Absolutism and Society in Seventeenth-Century France: State Power and Provincial Aristocracy in Languedoc* (Cambridge, 1998), pp.177-219.
[7] *Ibid.*, pp.243-316.
[8] *Ibid.*, p.244.
[9] *Ibid.*, p.332.

above: Languedoc consented to and co-operated with the integrationist policies of the crown, which in turn worked through established local power structures.[10]

If the 'imperial' and 'collaborative' schools represent general theoretical approaches to the problem of centre-periphery relations, more detailed examination of how historians have approached the actual mechanisms of interaction reveals three distinct models. The first of these is political, a clear exemplar of which has been offered by J.L. Price in reference to the Dutch Republic:

> Political authority was more clearly established at local and provincial levels, and the nature of the Dutch polity was determined by the degree to which circumstances compelled these bodies in practice to cede powers to a central government.[11]

For Price, the relationship between centre and periphery in the Republic was conditioned by the disparate nature of political power, and the authority of the States General was in constant balance with the autonomous pretensions of the provinces and towns. There is an overlap here with the treatment of Swedish imperialism. Upton's account implies throughout that Sweden's relationship with its exterior territories rested essentially on asserting the authority of government institutions, and David Kirby makes this point explicit:

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[10] Again, Beik's 'collaborative' approach mirrors that taken by a number of other historians working on different regions. See R.J.W. Evans, 'The Habsburg Monarchy and Bohemia, 1526-1848' in M. Greengrass (ed.), *Conquest and Coalescence: The Shaping of the State in Early Modern Europe* (Sevenoaks, 1991), pp.134-54, at pp.143-45 on Bohemia; H. Kamen, *Spain in the Later Seventeenth Century 1665-1700* (London, 1980), pp.16-17 on the Spanish kingdoms; H.W. Koch, 'Brandenburg-Prussia' in J. Miller (ed.), *Absolutism in Seventeenth Century Europe* (Basingstoke and London, 1990), pp.123-56, at pp.141-42 and at p.147 on Brandenburg-Prussia and M.J. Braddick, *State Formation in Early Modern England, c.1500-1700* (Cambridge, 2000), pp.45-46 and at pp.92-93 and J.R. Kent, 'The Centre and the Localities: State Formation and Parish Government in England, Circa 1640-1740', *Historical Journal*, 38:2, 1995, pp.363-404, at p.403 on England.

[11] J.L. Price, *The Dutch Republic in the Seventeenth Century* (Basingstoke and London, 1998), p.55.

> Karl XI was content to reduce the political power of the Baltic nobility and to strengthen his grip on the provinces through the introduction of Swedish church law and the Swedish legal system.[12]

The complexity and ambiguity of politics as a medium of interaction is a major theme in Anthony McFarlane's account of early colonial North America. He argues that the political ties between the British Crown and its colonies were minimal for most of the seventeenth century, consisting largely of a shared ideological attachment to liberty and representative government which, in practice, meant that each colony was largely self-governing.[13] After 1670, however, McFarlane detects a very different impulse emanating from London:

> The policy of tightening royal control over colonial government was part of a wider political pattern, based on the desire of the Stuart monarchy to exercise greater power over its subjects and to increase its revenues, coupled with the interests of powerful politicians who were personally interested in the colonies and their trade.[14]

This more interventionist policy – which, for McFarlane, lasted until the Glorious Revolution (1688-89) – was enforced in a number of ways, such as the establishment of the Lord Commissioners of Trade and Plantations (1675), the military occupation of Virginia (1677), the erection of New Hampshire as a Crown colony (1679) or, most infamously of all, the rearrangement of the entire north-east into the Dominion of New England (1685). Alan Taylor is in agreement with the narrative thrust of McFarlane's work, although he is more robust in attributing the turmoil of the 1670s and 1680s to a desire on the part of James VII and II in particular to use 'the

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[12] D. Kirby, *Northern Europe in the Early Modern Period: The Baltic World 1493-1772* (London, 1990), p.281.
[13] A. McFarlane, *The British in the Americas 1480-1815* (London and New York, 1994), p.193
[14] *Ibid.*, p.200.

American colonies as cash cows to fund a more authoritarian crown'.[15]   If the American example shows how volatile and brittle political integration could be, it nevertheless remains true that historians have tended to view institutional linkages as the most fundamental form of interaction between centre and periphery.

The political model is well established in the historiography of the Highlands, and has been utilised by historians working from both the 'imperial' and 'collaborative' positions. The 'imperial' line, much the more traditional, is well summed up by Gordon Donaldson's vision of centre-periphery relations in the Highlands in terms of 'the extension of the power of central government.'[16] A more extensive restatement of this view has been offered by Julian Goodare in his exploration of Jacobean policy:

> The primary aim, of course, was to get the Highland chiefs to submit to the authority of the state. James [VI] recognized that they would not do so voluntarily; they would have to be coerced.[17]

According to Goodare, the Scottish state's Highland policy took the form of the forcible imposition of central government's power upon a reluctant populace. Moreover, he is adamant that the political institutions intruded by the Crown deliberately excluded local elites and sought to exploit the resources of the Highlands for the benefit of the core; an 'imperialistic' relationship in the purest sense.[18] If Goodare offers a rather hypothetical vision – and once which, despite the author's claim to the contrary, has little relevance beyond the adult reign of James VI (r.1567-1625) – most historians adhering to an 'imperial' political position focus more

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[15] A. Taylor, *American Colonies: The Settling of North America* (London, 2001), p.276.

[16] G. Donaldson, *Scotland: James V to James VII* (Edinburgh, 1965), p.227.

[17] Goodare, *State and Society*, p.264.

[18] *Ibid.*, pp.280-82. For an alternative view, which shares Goodare's 'imperial' understanding of the political relationship between centre and periphery but is much less impressed by the government's effectiveness at securing obedience, see Brown, *Noble Power in Scotland*, p.222.

specifically on the concept of law and order. For example, Isobel Grant and Hugh Cheape view seventeenth-century Highland policy as a gradual process of co-opting clan chiefs as agents of the law through expedients such as bonding, oaths of allegiance and enforced arbitration of land disputes, a thesis which, if considerably less colonial than Goodare's, is nonetheless 'imperial' and exclusively political in focus.[19] Roberts, on the other hand, maintains that government interaction with the Highlands after 1660 was limited almost entirely to containing the region's supposedly endemic lawlessness, a view which, while echoing Grant and Cheape in focus, is ideologically closer to Goodare.[20] Despite such nuances, there is a very clear thread connecting all these readings; the centre's relationship with the Highlands involved the imposition from above of political mechanisms for control and integration.

The 'collaborative' vision of political interaction is subtly different, if rather less widespread. Lenman offers perhaps the most sustained statement of it, and his argument is based upon a much more restrained assessment of Highland lawlessness than is usually allowed under the 'imperial' position. For Lenman, the landowning status of the Highland elite meant that their interest in peace and order accorded with the government's. From this basis, Lenman argues that closer political integration, especially after 1660, was fundamentally a consensual process:

> In the last analysis, there was no serious alternative to cooperation with the local elites […] Cooperation offered both state and chiefs great benefits. The state increased its effectiveness, while decreasing its costs. The chiefs could participate in a Scottish social and economic system which for most of the Restoration was buoyant and satisfying, while retaining vast local autonomy.[21]

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[19] I.F. Grant and H. Cheape, *Periods in Highland History* (London, 1997), pp.140-43.
[20] Roberts, *Clan, King and Covenant*, pp.134-40.
[21] Lenman, *Jacobite Clans*, p.43.

If Lenman's tone is manifestly distinct from those of Goodare, Roberts, and Grant and Cheape, a more mixed assessment is that of Ian Whyte. He concurs with Goodare's 'imperial' position insofar as he considers the extension of political links between Edinburgh and the Highlands under James VI to have been imposed on an unwilling locality. Yet he also maintains that the relationship altered over the course of the seventeenth century, so that, after the 1640s, many leading families came to appreciate the advantages of allying with the crown and became themselves proponents of political integration.[22] If Whyte illustrates that there is scope for overlap between the 'imperial' and 'collaborative' understandings of political integration, the two nevertheless display substantive differences. On the one hand, an 'imperial' approach views the periphery as the passive recipient of an acquisitive centre; on the other, the 'collaborative' understanding emphasises the vested interest of local elites in strengthening the relationship. In both cases, however, the emphasis is placed on high-level or institutional linkages, the implication being that the assimilation of the Highlands was a product of Scotland's 'state building' experience.

The second model is socio-economic in focus, and perhaps the most obvious theatre within which historians have applied such theories is early colonial America. Nuala Zahedieh argues that, as early as the Elizabethan period, England had developed a concept of empire which stressed the value of colonial possessions in distinctly economic terms:

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[22] I.D. Whyte, *Scotland before the Industrial Revolution: An Economic and Social History c.1050-c.1750* (London, 1995), p.268.

> The colonies provided Britain [*sic*] with substitutes for a wide range of imports and an overplus for sale in European markets [...] The colonies also provided a growing market for British manufactured goods.[23]

For Zahedieh, this economic justification of empire shaped the socio-political landscape of colonial America, since the need to service English and later British wants stimulated many of the colonies to adopt commercial agricultural practices based on staple crops – tobacco in Virginia, sugar in the West Indies and rice in the Carolinas.[24] In this view, economic factors both facilitated and conditioned the relationship between the British core and the colonial periphery.[25] Zahedieh's model, although definitely imperial, is not exploitative; both England and America, by her reading, gained lucrative and captive markets for their produce. Toby Bernard's assessment of post-Restoration Ireland, however, offers a much more brutal understanding of socio-economic integration:

> New English victories opened Ireland to enforced settlement from Britain, rather than the gentler infiltration which had been bringing immigrants for generations. In early modern Ireland land abounded; people, especially with capital or specialized skills, were scarce. After prolonged warfare, the population reduced by famine and disease, many of the indigenes dead, exiled, or marked down for expropriation and resettlement, opportunities beckoned to new British settlers.[26]

For Bernard, schemes for integrating Ireland involved attracting British settlers with the promise of land and economic opportunity, and then relying on these people to

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[23] N. Zahedieh, 'Economy' in D. Armitage and M.J. Braddick (eds.), *The British Atlantic World, 1500-1800* (Basingstoke, 2002), pp.51-68, at p.67.
[24] This was especially true after the Navigation Acts of the later seventeenth century enshrined in law both the subordination of the colonies to the mother country, and the exclusivity of their economic relationship.
[25] *Ibid.*, *passim.*
[26] T. Bernard, 'New Opportunities for British Settlement: Ireland, 1650-1700' in N. Canny (ed.), *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century* (Oxford, 1998), pp.309-27, at pp.309-10.

augment the Protestant ruling class and slowly 'Briticise' the island – economic integration would, therefore, ultimately lead to social and cultural revolution, all of which would benefit native society not at all.[27] Of course, the idea of offering the adventurous spirit betterment in a virgin land has also been seen as crucial in the colonisation of the New World: Taylor, for example, notes that the opportunity of generating money was one of the most powerful stimulants to the earliest schemes for the settlement of Virginia from the 1580s, while Kamen observes that 'the expansion of horizons in the imperial age offered to Spaniards an almost endless range of opportunities to better themselves'.[28] Essentially, Zahedieh and Bernard are dealing with the same process from different ends. In both cases, they highlight the use of economic pressures to initially attract volunteers, who would replace a familiar social system with an alien one and, latterly, to regulate the relationship between mother country and colony. Both models, however, pivot on asserting that the process of integration between centre and periphery was carried forward by socio-economic factors.

Again, Scottish historiography contains a notable clutch of socio-economic arguments about Highland integration, both 'imperial' and 'collaborative'. Perhaps the most notable 'imperial' approach is that of Michael Hechter, who advances the idea of the British state practicing 'internal colonialism' on its peripheries. The foundation of Hechter's thesis is that Britain contained two distinct socio-economic systems by the early-modern period. The first, found in all Highland areas, was 'Celtic', marked by a pastoral economy and sparse, kin-based social structures. The second, found in the Lowlands, was 'English' and marked by a more centralised,

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[27] *Ibid.*, pp.310-15.
[28] Taylor, *American Colonies*, p.119; H. Kamen, *Spain's Road to Empire: The Making of a World Power 1492-1763* (London, 2002), p.239.

bureaucratic society and arable economy.[29]   Integration between the two, which occurred at different times in each of Britain's 'Celtic' regions, involved the forcible realignment of the periphery's society and economy so that they became addendums to those of the core.   In practice this meant agricultural specialisation, so that all Celtic regions, beginning with Wales in the sixteenth century and spreading to Ireland and Scotland thereafter, rapidly came to concentrate even more heavily on pastoral farming, financed by English money and geared towards the English market.   This, in turn, had the significant social consequence of forcing substantial migration away from Celtic areas, because the consolidation of land into commercially-orientated farms necessarily involved the eviction of peoples who had previously lived by subsistence.[30]   Hechter's thesis is problematic in a number of ways, most significantly because it is excessively schematic, which often leads either to gross generalisation (the very notion of clear-cut 'English' and 'Celtic' socio-economic structures is highly questionable, as is the idea that Scotland, Wales and Ireland formed one homogeneous culture zone ranged against England) or uncertain terminology (his definition of 'Celtic' is vague, and he seems to assume that all of Scotland can be labelled 'Celtic' for political purposes, but only the Highlands can be so called in economic terms).   There are, however, other, less extreme readings which overlap ideologically with Hechter.   One of the most bullish is James Hunter's, who maintains that the Statutes of Iona (1609) inaugurated a deliberate policy of attacking and undermining the social system of the Highlands, a policy which would remain intact, with modification, right up to the Highland Famine of 1846.[31]   Jenny Wormald adopts a comparable, though less shrill, approach to Jacobean Highland policy,

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[29] M. Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966* (London, 1975), p.58.
[30] *Ibid.*, pp.30-4 and at pp.81-87.
[31] J. Hunter, *Last of the Free: A Millennial History of the Highlands and Islands of Scotland* (Edinburgh, 1999), p.176 and at p.264.

stating explicitly that the abortive experiment of settling Fife merchants on Lewis between 1602 and 1606 'closely paralleled' the Irish plantations discussed by Bernard.[32] For Hechter, Hunter and Wormald, then, integration involved the deliberate manipulation of socio-economic structures with a view to subordinating the periphery to the authority of the core.

The 'colloborative' position on socio-economic integration, by contrast, tends to stress the formative role of both the locality and impersonal factors. Douglas Watt has explored the impact of debt, and argues that rising expenditure and easier access to credit after the Reformation plunged much of the Highland elite into chronic indebtedness in the seventeenth century. Strategies for servicing these debts (such as commercialisation, rent raising and agricultural improvement) had the additional effect of undermining traditional ties of kinship and lordship.[33] Watt's thesis builds upon earlier work focusing on specific regions. Macinnes, for example, has studied the estates of the Campbells of Argyll after 1660, and concluded that the need to service debts caused the clansmen themselves to implement commercial styles of land management; economic change, and by implication social realignment, therefore began with the locality.[34] Frances Shaw concurs, maintaining that the prevalence of short-lease rentals in the southern Hebrides reflected the drift towards commercialism as a mechanism for raising liquidity, again to service debts and again initiated by the Campbells.[35]

However, the most extensive study of socio-economic interaction from a 'collaborative' standpoint has been offered by Robert Dodgshon. He accepts the

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[32] J. Wormald, *Court, Kirk and Community: Scotland 1470-1625* (Edinburgh, 1991), p.164.
[33] D. Watt, ''The laberinth of thir difficulties': the Influence of Debt on the Highland elite, *c.*1550-1700', *SHR*, 85:219, 2006, pp.28-51, *passim*.
[34] Macinnes, *Clanship*, pp.143-48.
[35] F.J. Shaw, *The Northern and Western Isles of Scotland: Their Economy and Society in the Seventeenth Century* (Edinburgh, 1980), p.45 and at p.51.

validity of the 'imperial' approach to the extent that he views the Statutes of Iona as part of a general governmental drive towards eradicating clanship as a socio-economic construct through attacking its keystone, which for him was the control and conspicuous consumption of food.[36] But this, he argues, was only part of the story, since 'at best, the Crown and its commissioners can only be credited with helping to start this process', and the impulse away from food-orientated display behaviour (essentially, feasting and feuding) and towards a commercial, cash-based socio-economic model was reinforced by internal pressures.[37] For landlords, cash rents were more useful for servicing the debts incurred through increasing interest in Lowland social mores, while for tenants, the option of paying in cash made for greater flexibility in how they could manage the land.[38] The distance between these accounts and those of Hechter and Hunter is stark, for while the latter view socio-economic change as a tool employed deliberately by government for enforcing national unity, the 'collaborative' vision is that the implementation of this change was not solely the work of the core state. Nevertheless, what all socio-economic readings share is a conviction that integration between the Highlands and the wider Scottish (or British) polity represented more than merely the extension of government competence, and that some form of deeper assimilation was involved.[39]

The final model of centre-periphery integration is cultural. A clear application of this motif in a European context has come from Ingrao in his study of Bohemia. He is in alignment with Evans' thesis of Bohemian 'provincialisation' after

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[36] Dodgshon, *Chiefs to Landlords*, pp.102-7.

[37] *Ibid.*, p.107.

[38] *Ibid.*, pp.108-15.

[39] It should be noted, incidentally, that the work of these historians, and others, has comprehensively discredited the traditional thesis that socio-economic integration in the Highlands was a phenomenon of the post-1746 era. For an example of the older view, see E. Cregeen, 'Tradition and Change in the West Highlands of Scotland: A Case Study' in S. Dyrvik, K. Mykland, and J. Oldervoll (eds.), *The Sattelite State in the 17th and 18th Centuries* (London, 1979), pp.99-120, at pp.117-18.

1627, but offers the further argument that the Czech elite (willingly) adopted German as their main language and sought to ape the artistic tastes of the Austrian court and aristocracy. This 'Germanisation' was crucial not only for reconciling Bohemia to firmer imperial control, but also for allowing the provincial elite greater access to office and patronage in Vienna.[40] A less mutual arrangement has been traced by James Merrell in his assessment of Native relations with English colonists in North America. He notes that Indians living within the boundaries of English settlements struggled against 'the insults, the laughter, the abuses spawned by the conqueror's hatred', and this, alongside the necessity of dealing with alien linguistic, trading and legal traditions forced many Natives to adopt a kind of camouflage, outwardly conforming to colonial norms while privately retaining a sense of distinctiveness.[41] Although there is a clear division between these two accounts in terms of why local peoples are considered to have aped the mores of the core state, Ingrao and Merrell arrive at broadly similar conclusions – namely that integration and consolidation were carried forward by cultural alignment.

This motif links to another vital cultural theme in the historiography. Taylor points out that in English political thought 'social cohesion and political order depended on ethnic and religious uniformity', which is what made governing the heterogeneous 'Middle Colonies' of New York, New Jersey and Pennsylvania after 1664 such a challenge.[42] This idea, of course, was not limited to the English. Ingrao's account of Czech 'Germanisation' depends upon a similar impulse existing in Central Europe, and Paul Douglas Lockhart argues that Swedish aims of 'standardization and incorporation' throughout its empire had 'a necessary cultural

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[40] Ingrao, *Habsburg Monarchy*, p.64.
[41] J.H. Merrell, '"The Customes of Our Countrey": Indians and Colonists in Colonial America' in B. Bailyn and P.D. Morgan (eds.), *Strangers within the Realm: Cultural Margins of the First British Empire* (Chapel Hill and London, 1991), pp.117-56, at pp.152-56.
[42] Taylor, *American Colonies*, p.271.

component' (especially in terms of imposing the Swedish language), even if he agrees with Upton that this policy was only implemented with any consistency in the old Danish provinces such as Skåne.[43]   But the implications of pursuing cultural homogeneity have been traced further in Braddick's work on the notion of 'civility'. For Braddick, civility was believed to express itself through 'settled, commercial agriculture', and achieving this mode of social organisation was seen as a vital prerequisite for order and good government.   Therefore, 'claims to legitimacy' in alien culture zones could be powerfully reinforced by denigrating native society for its lack of organised agriculture and, by extension, its lack of civility.[44]   The crucial point highlighted by Braddick is that the direct connection drawn by contemporaries between cultural uniformity and political stability was reinforced by an equally unequivocal belief in the innate superiority of European society and culture.   Thus, if diversity was a political problem, the theory of 'civility' offered a solution, and it became legitimate, if not obligatory, to replace (barbaric) Native culture with its (civilized) European counterpart.

Such ideas do indeed powerfully mark the historiography.   J.M. Powell offers a succinct application of them to the North American theatre:

> The Europeans clearly entered the New World with a vital sense of mission. Part of that mission entailed a conversion of the native peoples to 'civilized' ways, and it incorporated a strongly ethnocentric application of the increasing emphasis in post-Reformation Europe on the 'perfectibility of man'.   So, for example, the Indians could only be 'improved' if they were settled upon their own cultivated farms.[45]

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[43] P.D. Lockhart, *Sweden in the Seventeenth Century* (Basingstoke and London, 2004), p.135.

[44] M.J. Braddick, 'Civility and Authority' in D. Armitage and M.J. Braddick (eds.), *The British Atlantic World, 1500-1800* (Basingstoke, 2002), pp.93-112, at pp.100-3.

[45] J.M. Powell, *Mirrors of the New World: Images and Image-Makers in the Settlement Process* (Folkestone, 1977), p.85.

Similarly, Nicholas Canny argues that English rule in Ireland during and after the reign of Elizabeth I (r.1558-1603) was predicated upon conceptualisation of the native Irish as pagan and barbaric, which led in turn to an idea of 'cultural process'; the Irish were 'far behind the English on the ladder of social development'' and would have to be 'painfully dragged to modernity'.[46] The thesis of denigration to justify cultural extirpation is not limited to the historiography of British expansion, however. In Brazil, the the perception of barbarity – particularly relating to the cannibalistic rites of the coastal Tupi tribes – convinced Portuguese settlers that the indigenous peoples were a lower form of humanity. This, in turn, variously justified enslavement, aggressive missionary endeavour, and, by the later seventeenth century, wholesale extirpation to make way for cattle ranches.[47] Connecting all of these points is the idea that a stark division between the civilised and the uncivilised was a fundamental means of reinforcing and legitimising central claims to hegemony over distant or culturally distinct peripheries. This, in turn, meant that integration necessarily involved ensuring not just cultural uniformity, but uniformity under the *metropolitan* culture, something which could either take the form of voluntary assimilation in the locality (as in Ingrao's account of Bohemia) or the forcible removal of native elements (as in Merrell's vision of North America). Either way, the suppression of peripheral distinctiveness was crucial.

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[46] N. Canny, 'The Ideology of English Colonization: From Ireland to America', *William and Mary Quarterly*, 30:4, 1973, pp.575-98, at p.592. As a caveat, it should be noted that, according to Kathleen Noonan, this notion of 'cultural process' began to be replaced after the Irish uprising of 1641 by a more hard-line perception that the Irish were incorrigibly barbarous and could never be made to accept 'civilised' ways, an attitude which took its cue from John Temple's 1646 treatise *The Irish rebellion*. K.M. Noonan, ''The Cruell Pressure of an Enraged, Barbarous People': Irish and English Identity in Seventeenth-Century Policy and Propaganda', *Historical Journal*, 41:1, 1998, pp.151-77.

[47] S.B. Schwartz, 'The Formation of Colonial Identity in Brazil' in N. Canny and A. Pagden (eds.), *Colonial Identity in the Atlantic World, 1500-1800* (Guildford, 1987), pp.15-50, at p.26; J. Hemming, *Red Gold: The Conquest of the Brazilian Indians* (reprint London, 2004), p.34, pp.83-84, and at pp.351-83.

In the context of the Highlands, the most frequently cited cultural factor is the spread of Scots or English at the expense of Gaelic, and the vast majority of historians have adopted an 'imperial' position on this issue. Hunter, for example, maintains that an integral component of the reforming policies which he identifies as having started in 1609 was to root out Gaelic and replace it with English, as a means of undermining the separate identity of the Highlands.[48] In a similar vein, Grant and Cheape argue that the school-planting policy which evolved throughout the seventeenth century was based upon a belief that schools could act as beacons for disseminating English, which was in turn deemed vital because Gaelic culture was seen to foment lawlessness.[49] Macinnes is almost alone in offering a dissenting 'collaborative' voice by arguing that:

> The erosion of Gaelic was an insidious development, a by-product of the assimilation of the chiefs and leading gentry into the Scottish landed classes: not the direct result of an official declaration of war against the language.[50]

Thus, either the decline of Gaelic was a crucial prerequisite to 'imperial' drives towards political and socio-economic integration, or it was emblematic of the successful completion of 'collaborative' assimilation.

The idea of cultural transformation in the Highlands has received its most rigorous treatment from Charles Withers, whose analysis combines the theme of cultural assimilation with an investigation into the underlying intellectual processes used to justify it. He argues that there developed in the seventeenth-century Lowlands a distinct mental construct of Gaeldom and the Gaels as backward and lawless, which development he considers to have been crucial:

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[48] Hunter, *Last of the Free*, p.176.
[49] Grant *et al*, *Periods*, p.166.
[50] Macinnes, *Clanship*, p.76.

> This ideological and intellectual production had two principal functions: of, firstly, identifying the region and its people as inferior, an 'inferiority' which demanded amelioration by 'superiors'; and secondly, of legitimating and rationalising those processes of change directed by superiors at cultural forms in which rested, to the outside ('superior') eye, the region's material and intellectual backwardness.[51]

So, according to Withers cultural transformation implied the wholesale eradication of the ideological foundations upon which Highland society was based, and their replacement with Lowland or English variants. Anglicisation was certainly part of this – indeed, Withers sees the spread of English through education and the Kirk as a vital first step because effective transformation had to be 'mediated and legitimated through the same language' – but in its entirety it involved all aspects of Highland life, including the distribution of political power and agricultural production.[52] Moreover, despite the fact that local collusion could be relied upon for each individual transformative project, the strategy of which they were all part was emphatically 'imperial' in nature, since it was driven forward by a core state which found the distinctiveness of the Highlands offensive and threatening. Yet Withers' thesis is not entirely convincing, partially because his underlying idea of a transformative discourse emanating from the centre attaches an implausible degree of homogeneity to the attitudes of successive governments towards the Highlands, and partially because his geographical area of study includes some regions which cannot comfortably be described as 'Gaelic' in the period he considers (seventeenth to twentieth centuries), including Caithness, Easter Ross and, especially, Moray. Nevertheless, his key point of the Highlands becoming increasingly synonymous in

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[51] Withers, *Gaelic Scotland*, p.404. See also C.W.J. Withers, 'The Historical Creation of The Scottish Highlands' in I. Donnachie and C. Whatley (eds.), *The Manufacture of Scottish History* (Edinburgh, 1992), pp.143-56, at pp.143-45.
[52] Withers, *Gaelic Scotland*, pp.72-8, p.112 and at pp.255-56.

the minds of Lowlanders with barbarity and incivility has found widespread support. Stevenson, for example, gives sweeping expression to these preconceptions:

> To the Lowlanders who formed the majority (perhaps two thirds) of Scotland's population the Gaelic culture of the Highlands, with its close links with native Irish culture, hardly seemed worthy of the name 'culture' at all [...] And, like most people in most ages, the Lowlander assumed that a culture different from his own must be inferior.[53]

If few historians have offered a model of cultural integration as bold as Withers', there is a clear general trend to such readings; cultural uniformity, backed up by the denigration of the Gaels, acted to reinforce political and socio-economic forms of integration, either as a prop to them, or a marker of their success.[54]

It will be obvious from the forgoing discussion that the three models of centre-periphery interaction – political, socio-economic and cultural – are rarely proffered in isolation, least of all in reference to the Highlands.[55] Dodgshon, for

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[53] Stevenson, *Highland Warrior*, p.17. It should be noted, of course, that some historians have traced the same kind of racism working in the opposite direction, with the *Gael* developing negative attitudes towards the *Gall*. See A. Williamson, 'Patterns of British Identity: 'Britain' and its Rivals in the Sixteenth and Seventeenth Centuries' in G. Burgess (ed.), *The New British History: Founding a Modern State 1603-1715* (London, 1991), pp.138-73, at p.156.

[54] For a more detailed investigation into the perception of the Highlands during the Restoration, see chapter 2. It is worth noting that the concept of Lowlanders developing negative mental constructs regarding Highland society is not limited to the historiography of the seventeenth century. Historians such as Withers himself, along with Robert Clyde and Tom Devine, carry this theme forward into the eighteenth and nineteenth centuries. Similarly, Alexander Grant, Michael Newton and Martin MacGregor have all argued for that similar thinking was in evidence during the Middle Ages. R. Clyde, *From Rebel to Hero: The Image of the Highlander, 1745-1830* (East Linton, 1995), pp.181-88; T.M. Devine, *Clanship to Crofters' War: The Social Transformation of the Scottish Highlands* (Manchester, 1994), pp.93-98; A. Grant, *Independence and Nationhood: Scotland 1306-1469* (Edinburgh, 1991), pp.200-20; M. Newton, *Warriors of the Word: The World of the Scottish Highlanders* (Edinburgh, 2009), pp.17-22; M. MacGregor, 'Gaelic Barbarity and Scottish Identity in the Later Middle Ages' in D. Broun and M. MacGregor (eds.), *Mìorun Mòr nan Gall, 'The Great Ill-Will of the Lowlander'?: Lowland Perception of the Highlands, Medieval and Modern* (Glasgow, 2009), pp.7-48, *passim*.

[55] Such nuanced readings of Highland/Lowland interaction have tended to experience some difficulty in diffusing out beyond specialist Scottish historiography – English historians in particular have tended to deal with the Highlands using one-dimensional political models. However, for one recent attempt to absorb the complexities of Scottish writing on this issue, see Braddick, *State Formation*, pp.371-74.

example, primarily champions the socio-economic theory, but leaves room for political pressures as a catalyst for change and, moreover, links the whole process to a culture-shift away from native and towards Lowland mores – essentially, the abandonment of conspicuous consumption of food in favour of conspicuous consumption of consumer goods. Goodare, whose ideas of state expansion are thoroughly political in focus, nevertheless hints at an economic impulse as well, claiming that 'government policy also had a secondary aim: to open up the economic resources of the Highlands to exploitation by lowlanders'.[56] Withers, the most important proponent of cultural integration in the early modern Highlands, ties his model into a barrage of political, social and economic transformative projects. It is Newton, however, who provides one of the clearest examples of an historian drawing upon all three models, for he argues that the assimilation of Gaeldom from the sixteenth century was driven by a 'Scottish Crown [which] became more organised, intrusive and demanding'.[57] At the same time, he acknowledges the socio-economic and cultural aspects of the process, as well illustrating the potential overlap between the 'imperial' and 'collaborative' approaches:

> Between being educated in English in the Lowlands, frequent and extended sojourns outside of their home territories, and mounting debt, Gaelic chieftains increasingly compromised the social contract of clanship.[58]

It can be said, in other words, that historians' treatment of centre-periphery interaction tends to involve a blend of the different means of state consolidation, with differences usually being of emphasis rather than kind. By contrast there is a much more sharply defined spectrum of opinion as regards the

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[56] Goodare, *State and Society*, p.265.
[57] Newton, *Warriors of the Word*, p.28.
[58] *Ibid.*, p.32.

'imperial'/'collaborative' dichotomy – something which can be seen running through every level of Highland historiography, from the rabidly 'imperialist' visions of Goodare and Hunter to the much gentler 'collaborative' approaches of Dodgshon and Lenman. The real debate, then, is not over the nature of integration as a process (which, it is widely agreed, was complex and multifaceted) but centres on where the impulse towards consolidation originated, and why.

An important subsection in the centre-periphery historiography of early modern Britain is the debate over the 'British Problem'. In simple terms, discussion pivots on the nature of the relationship between the three kingdoms of England, Scotland and Ireland, and the difficulties involved in moulding them into a single coherent polity. Within the historiography of the post-1660 'British Problem', three themes have been accorded special significance. The first concerns the degree of similarity, or otherwise, between the three kingdoms. Ronald Hutton stresses that the various Restoration Settlements ensured that there were a number of points of convergence, such as the rehabilitation of traditional elites, episcopal church government and radical fiscal innovation.[59] Yet Hutton also acknowledges that these superficial similarities concealed important differences, and it is this idea of divergence that is much the more dominant. As has already been noted, one of the crudest delineations is that of Hechter, who boldly divides the British Isles into two incompatible socio-economic systems; 'Celtic' and 'English'.[60] Hardly more sophisticated is the old-fashioned understanding, restated by some modern historians such as John Miller and Gary De Krey, that the 'British Problem' involved

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[59] R. Hutton, 'The Triple-Crowned Islands' in L.K.J. Glassey (ed.), *The Reigns of Charles II and James VII and II* (Basingstoke and London, 1997), pp.71-89, at pp.72-75.
[60] Hechter, *Internal Colonialism*, pp.52-57.

a bureaucratic and advanced English state struggling in vain to coexist with two much more primitive satellite kingdoms.[61]

Others, however, have offered more nuanced and convincing assessments, especially with regards to England and Scotland. Mark Goldie rejects the notion that the union of 1707 was the climax of a slow-burning process of convergence between the two kingdoms, focusing instead on five broad differences that 'drove a wedge between the two nations' in the thirty years after 1660.[62] These are: the failure of the Cromwellian union; the vitality of Presbyterianism in Scotland; the greater extremity of the Royalist reaction in Scotland and, by extension, its experience of royal absolutism; the vitality of the Scottish legal system; and the more primitive social structures of the northern kingdom. All this leads Goldie to believe that union resulted not from the similarity of the Scottish and English kingdoms, but from the need to paper over their differences in the wake of post-1688 dynastic crises.[63] A similar thesis of divergence has been offered by Keith Brown in his analysis of Scottish lordly culture in the seventeenth century:

> What is clear is that the Scottish aristocracy retained a very strong attachment to their own national identity. A distinct aristocratic Scottish culture did not simply roll over and die in 1603, or even in 1707.[64]

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[61] J. Miller, 'Britain' in J. Miller (ed.), *Absolutism in Seventeenth Century Europe* (Basingstoke and London, 1990), pp.195-224, at pp.217-223; G.S. De Krey, *Restoration and Revolution in Britain: A Political History of the Era of Charles II and the Glorious Revolution* (Basingstoke, 2007), pp.53-56.

[62] M. Goldie, 'Divergence and Union: Scotland and England, 1660-1707' in B. Bradshaw and J. Morril (ed.), *The British Problem, c.1534-1707: State Formation in the Atlantic Archipelago* (Basingstoke, 1996), pp.220-45, at pp.222-23.

[63] *Ibid.*, at pp.223-30.

[64] K.M. Brown, 'The Origins of a British Aristocracy: Integration and its Limitations before the Treaty of Union' in S.G. Ellis and S. Barber (eds.), *Conquest and Union: Fashioning a British State 1485-1725* (London, 1995), pp.222-49, at p.249.

Brown looks at three broad channels of possible Anglo-Scottish elite integration –

marriage, education and office-holding – for each of which he concludes that a

degree of interaction and cross-fertilisation did take place, but never in a manner, or

to an extent, that threatened the independent identity of either Scots or English

aristocrats. [65]

However, Brown provide an important caveat elsewhere in his work, since he

argues that the growth of a 'British' military establishment, especially after 1660,

allowed Scottish nobles to win commissions and so become 'integrated into a British

military elite committed to [...] a view of the world shaped by the interests of a

British state'.[66]   Similarly, Jackson's examination of judicial torture in post-1660

Scotland makes the crucial point that difference did not necessarily mean divergence.

Torture was illegal in England but still used occasionally in Scotland. Jackson shows

that this stark difference in fact helped to create a political culture which transcended

national borders, both because official Scottish thinking gradually came to accord

with England by attaching 'a broader range of juridical, political, moral, and

epistemological anxieties' to the use of torture, and, more crucially, because the

availability of torture as a tool to the monarchy in Scotland aroused universal fears

about the potential emergence of Stuart tyranny.[67] This idea has been broadened out

by Braddick. He observes that, from the mid-sixteenth century, Scotland underwent

a process of state formation which ran independently from England's and which

took it in some different directions. Yet he maintains that the overall Protestant,

Anglophone ethos of Scotland's state building experience 'did create the possibility

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[65] *Ibid.*, *passim.*

[66] K.M. Brown, 'From Scottish Lords to British Officers: State Building, Elite Integration and the Army in the Seventeenth Century' in N. MacDougall (ed.), *Scotland and War AD79-1918* (Edinburgh, 1991), pp.133-69, at p.152.

[67] C. Jackson, 'Judicial Torture, the Liberties of the Subject, and Anglo-Scottish Relations, 1660-1690' in T.C. Smout (ed.), *Anglo-Scottish Relations from 1603 to 1900* (Oxford, 2005), pp.75-101, at p.81 and p.98.

[...] of coalescence'.[68]   Such points illustrate that historians must be careful of applying simple labels like 'convergence' or 'divergence' to developments after 1660, but an awareness that the situation was complex and fluid does not alter the general consensus that the British polity was in the Restoration composed of three distinct and in some ways very different kingdoms.

Work highlighting the differences in socio-political structure between the discrete units of the British monarchy should be read alongside that of Barnard, who has sketched out divergences in their relations to one another, specifically the different approaches taken by Whitehall to the governments of Scotland and Ireland after 1660. Bernard's thesis is rooted in the different constitutional positions of the two outlying kingdoms – Scotland was an ostensibly separate and independent kingdom, while Ireland was a long-standing dependent of the English crown. As a result, although government policy in each country stressed devolution to traditional elites, the outcomes were radically different; for Ireland, it heightened elite dependence on London, while for Scotland, it reinforced the sovereignty of Edinburgh's governmental machinery.   Delegation, in other words, sustained Scottish autonomy but heightened Irish subordination.[69] A related point has been made by Macinnes through his analysis of Gaelic poetry in both Ireland and Scotland. He traces a notable difference in the subject-matter of the two corpora, because while Ireland concentrated on criticising and denigrating English settlers and the English government, Scottish Gaelic poets were much more inclined to criticise native elites who involved themselves too freely in Lowland or English affairs. This, for Macinnes, reflected the differing positions of Gaelic elites within the

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[68] Braddick, *State Formation*, pp.355-71.
[69] T. Bernard, 'Scotland and Ireland in the Later Stewart Monarchy' in S.G. Ellis and S. Barber (eds.), *Conquest and Union: Fashioning a British State 1485-1725* (London, 1995), pp.250-75, at pp.253-63.

Scottish and Irish polities; while Scottish Gaeldom had undergone a partial assimilation into the Scottish state, native Irish remained comprehensively excluded from public life.[70] There is therefore a broad consensus that the decades after 1660 generally witnessed strong divergences between the three kingdoms, not only in their internal structures but also in their modes of interaction. This, in turn, is seen as producing a degree of tension which made the British regal union a decidedly problematic arrangement.

The second major theme in the historiography of the 'British Problem' after 1660 is the concept of an intimate interplay between national interests and those of the broader British state. Jim Smyth offers a detailed discussion of this tension in the religious sphere. For him, the erection of monolithic, episcopalian and Erastian systems of church government in each kingdom after 1660 was viewed by the imperial monarchy as a vital mechanism of control. At the same time, however, pressures from within each kingdom pushed towards the same end, as political elites reacted against the confessional toleration of the Commonwealth or, in Scotland, the theocratic pretensions of the Covenanting movement.[71] Smyth concedes, of course, that the ecclesiastical settlements led to destabilisation in the medium- to long-term, especially in Scotland, but the point of an initial convergence of interest remains. Smyth emphasises the potential accord between English, Scottish or Irish needs on the one hand, and British requirements on the other, but the alternative view is vocalised by Macinnes, who signposts the central weakness of the relationship when

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[70] A.I. Macinnes, 'Gaelic Culture in the Seventeenth Century: Polarization and Assimilation' in S.G. Ellis and S. Barber (eds.), *Conquest and Union: Fashioning a British State 1485-1725* (London, 1995), pp.162-94, at p.185. This thesis should be balanced with more recent work which has sometimes downplayed the distinction between Gaelic and English ethnicity in Restoration Ireland. See S.J. Connolly, *Divided Kingdom: Ireland 1630-1800* (Oxford, 2008), pp.168-69.
[71] J. Smyth, *The Making of the United Kingdom, 1660-1800: State, Religion and Identity in Britain and Ireland* (Harlow, 2009), pp.19-31.

he states that 'the extent to which non-anglocentric interests could be accommodated within the English body politic was the historic nub of the British problem'.[72] To this can be added Wormald's argument that the overriding importance of English issues in the eyes of the Crown directly and negatively impacted on Scotland:

> The chill wind of neglect was now fully felt. Under Cromwell, there had been a measure of order in the way in which Scotland was ruled. For the rest of the century, it became very clear that it was English, not Scottish, interests which were paramount. Political life was chaotic.[73]

At a more forensic level, Hutton highlights the occasional damage done to the Scottish and Irish economies under the regal union: the interests of the London-based monarchy in fighting the Dutch Wars of the 1660s and 1670s directly conflicted with Scottish trade patterns, for which the Low Countries were crucial, while Ireland suffered a more direct setback through the banning of Irish cattle imports as a means of boosting the livestock industry in England.[74]

If Macinnes, Wormald and Hutton emphasise the problems faced by the Stuarts' two smaller kingdoms in dealing with the larger, the inverse has been explored by Jackson, for whom it was a frequent tactic of the Restored monarchy to exploit its 'British identity' for domestic gain in England – not least by advertising the relatively stable loyalty of the Scottish political elite as a means of cowing opposition, most notably during the Exclusion Crisis (1679-82).[75] This theme of the monarchy becoming more aware of the potential value of the British dimension has also informed the work of Bernard on the military:

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[72] A.I. Macinnes, *Union and Empire: The Making of the United Kingdom in 1707* (Cambridge, 2007), p.61.

[73] J. Wormald, 'Confidence and Perplexity: The Seventeenth Century' in J. Wormald (ed.), *Scotland: A History* (Oxford, 2005), pp.143-76, at pp.162-63.

[74] Hutton, 'Triple-Crowned Islands', p.76 and at p.85.

[75] C. Jackson, 'Restoration to Revolution 1660-90' in G. Burgess (ed.), *The New British History: Founding a Modern State 1603-1715* (London, 1999), pp.92-114, at pp.94-97

By the early 1670s, as royal policy was more loudly disputed, the political tractability of the regular forces encouraged Charles II and his advisers to regard army officers as reliable agents of a supranational monarchy. All three kingdoms, together with overseas outposts, were increasingly organized as a single military unit through and between which men moved freely.[76]

Bernard points out that the early years of the Restoration had seen the building up of national militias, especially in England and Scotland. The partial replacement of these with a more professional force, recruited from, and deployed throughout, the entirety of the Stuart lands represented not only the government's monopolisation of violence, but also (and much more sinisterly) the development of a coercive machinery that could be used to override national interests - as, indeed, Barnard considers to have happened when Richard Talbot, 1st earl of Tyrconnell established a militarised, Catholic regime in Ireland for James VII and II.[77] Taken together, interpretations such as these illustrate the sometimes convergent but more often conflicting outlooks of the three British kingdoms, as well as the tension between 'national' and 'imperial' interests, and the extent to which these stresses shaped the Restoration polity.

The final major issue prominent in historiographical discussion of the Restoration 'British Problem' is the divergence between English, Scottish and Irish attitudes to, and hopes for, union. This was not of course a new issue, and Wormald has shown that James VI and I's attempts to create a united imperial monarchy before 1607 foundered on the fact that Scots considered their kingdom to be England's equal while the English emphatically did not.[78] Pursuing a similar theme,

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[76] Bernard, 'Scotland and Ireland', p.271.

[77] *Ibid.*, pp.270-75.

[78] J. Wormald, 'The Creation of Britain: Multiple Kingdoms or Core and Colonies?', *Transactions of the Royal Historical Society*, 6th Series:2, 1991, pp.175-94, at p.187

Smyth argues that the issue of union was after 1660 treated very differently in each of the three kingdoms. England remained enthusiastic about its partial unions with both Ireland and Scotland, since 'the *status quo* […] afforded the English court real political and […] commercial advantages' because "John Bull's other kingdoms' were both, in their different ways, subordinate'.[79] Scotland shared English conservatism, but for a very different reason; she was disinclined to consider fuller union because of the taint of national humiliation associated with the last such project under the Commonwealth. Ireland was the most receptive of the three, largely because a more formalised union was seen as a means of tackling the constitutional anomaly whereby the Irish crown was at once separate from and subordinate to the English monarchy.[80] Union, therefore, meant different things in each of the three kingdoms, and for Smyth these aspirations were sufficiently irreconcilable to preclude Anglo-Scottish and Anglo-Irish union until contexts were altered by emergency circumstances in 1707 and 1801 respectively.

Macinnes shares this idea of differing agendas, and he theorises that there existed in the seventeenth-century four distinct models of union – 'Britannic', 'Gothic' (both originating in England), 'Scottish' and 'Irish'. The 'Britannic' vision advocated the creation of a fresh imperial entity out of the constituent nations of the British Isles; the 'Gothic' outlook aimed at fashioning a state based upon English dominance over the lesser kingdoms; 'Scottish' ideas ran towards a federal union of equals; and the 'Irish' position, like the 'Scottish', emphasised equality, but within a much looser, 'associative' relationship. For Macinnes, the Restoration, which

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[79] Smyth, *United Kingdom*, pp.78-79.
[80] *Ibid.*, pp.81-2. It should be noted that Smyth's characterisation of Restoration Ireland (or, rather, its Anglo-Irish elite) as broadly receptive to the idea of closer union with England has not gone without challenge. See J. Kelly, 'Public and Political Opinion in Ireland and the Idea of an Anglo-Irish Union, 1650-1800' in D.G. Boyce, R. Eccleshall, and V. Geoghegan (eds.), *Political Discourse in Seventeenth- and Eighteenth-Century Ireland* (Basingstoke, 2001), pp.110-41.

witnessed the triumph of English ideas (with both 'Britannic' and 'Gothic' elements in evidence) across the three kingdoms, challenged only by a brief resurgence of the 'Scottish' alternative in the form of the abortive Anglo-Scottish negotiations over commercial confederation in the late 1660s, should be seen as one episode in the ongoing rivalry between these programmes.[81]

The most in-depth discussion of seventeenth-century conceptions of union has been offered by Brian Levack, who views the issue in terms of four distinct types of Anglo-Scottish union: parliamentary, royal, executive and religious. All four models, in Levack's view, were discussed at some point during the Restoration period, but all foundered because English and Scottish attitudes towards union were shaped by the different historical experiences of the two kingdoms, as well as by the shared, but usually incompatible, desire to ensure that national integrity was not compromised. This reinforces the idea that union meant different things to different groups, and that the lack of an agreed agenda made the relationship between the Stuart kingdoms highly fluid and volatile.[82]

The themes that mark the historiography of the Restoration 'British Problem' – divergence, competing interests, and incompatible aspirations for union – have led many historians to conclude that the three-way regal union injected a bewildering degree of complexity into British politics after 1660 and was, therefore, a source of insuperable destabilisation. Yet this focus on difficulties should not disguise the fact that some have offered far more optimistic readings. Conrad Russell is the most notable, maintaining that the Stuarts' 'unwieldy combination of states […] must be counted a success', mainly because all the tensions working towards immediate incompatibility – such as religious and legal plurality, competing oversees interests

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[81] Macinnes, *Union and Empire*, pp.54-61, pp.81-83, pp.107-8 and at pp.120-25.

[82] B.P. Levack, *The Formation of the British State: England, Scotland, and the Union 1603-1707* (Oxford, 1987), pp.45-49, pp.52-57, pp.59-64, pp.103-22 and at pp.130-32.

and English constitutional rigidity – tended to bring about stability in the long term.[83] If Russell's contribution serves as a reminder that the destabilising impact of the British multiple monarchy has not been universally accepted, there is nevertheless a general consensus that the vast differences between England, Scotland and Ireland in the period after 1660 made it highly problematic for the Stuart kings to rule each simultaneously, let alone construct an overarching 'British' interest that incorporated all three within a single whole.

The historiography of centre-periphery interaction in the seventeenth-century is highly multifarious, as would be expected from a topic that incorporates such a diverse range of experiences. Nevertheless, the two schools – 'imperial' and 'collaborative' – provide a robust and helpful means of organising the corpus, for they reflect a very real division between those studies which focus on the role of the centre in initiating and driving integration, *versus* others which accord a more substantial role to the locality itself. The contrast is particularly valid in the historiography of the Scottish Highlands, and can be traced running through the more detailed discussion on the mechanisms of interaction. Yet if this latter discourse, involving the political, socio-economic and cultural models of assimilation, has served to reinforce the 'imperial'/'collaborative' dichotomy, it has also, perhaps more importantly, illustrated the range of factors involved in centre-periphery assimilation, and the extent to which the interplay of these pressures shaped the process of state formation. All this is a crucial prerequisite for understanding the historiography of the 'British Problem', probably the most powerful motif in the recent historiography of seventeenth-century Britain, and one whose dominant contention is variety. The sheer divergence of traditions, interests

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[83] C. Russell, 'Composite Monarchies in Early Modern Europe: The British and Irish Example' in A. Grant and K.J. Stringer (eds.), *Uniting the Kingdom? The Making of British History* (London, 1995), pp.133-46, *passim.*

and aspirations between England, Scotland and Ireland have led many (although not all) historians to emphasise the inherent instability of the Stuart multiple monarchy, as well as the difficulties involved in fashioning from it a 'British' state. The most striking feature of this historiography, however, is the extent to which the instability of the British union is ascribed to the lack of firm political, social or cultural links between the ruling elites of the three kingdoms, or at least any which tied all three and not just two. The 'British Problem', then, represents a case of the centre-periphery problem writ large, a project in state-formation whose weaknesses, whatever their extent, have been attributed to the inability of an as yet ill-defined centre to maintain any of the machinery of interaction which is normally considered to sustain centre-periphery assimilation.

CHAPTER **2**

The Highlands in Britain

In May 1965, Donaldson argued that there existed in Scotland a 'conservative north' throughout the early-modern period. As part of his model, Donaldson offered an assessment of the role of the Highlands during this era:

> The highlands proper barely come into the subject under discussion, for they played hardly any part in the main stream of Scottish affairs in the sixteenth century and intervened only occasionally in the seventeenth.[1]

Donaldson's bold assessment neatly encapsulates one of the most enduring motifs of historical writing in Scotland – the notion that the Highlands supported a distinct and insular society, remaining isolated from the British mainstream until at least the second half of the eighteenth century (and, some would argue, never quite managing to integrate).[2] Yet historians are becoming increasingly willing to question this orthodoxy, and to recognise signs of Highland integration pre-dating the '45.[3] This chapter seeks to balance these differing perceptions through a detailed exploration of the place of the Highlands within the Restoration polity. It begins with an assessment of the region's image, as constructed both by external and native observers. It then proceeds to analyse the identity espoused by the Highland elite, as well as the degree of their integration into wider Scottish society. Finally, it considers the role of the government bureaucracy in binding the locality to the centre.

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[1] G. Donaldson, 'Scotland's Conservative North in the Sixteenth and Seventeenth Centuries', *Transactions of the Royal Historical Society, Fifth Series*, 16: 1965, pp.65-79, at p.74.

[2] A more recent restatement of this position, complete with romantic nostalgia for the Highlands' lost contentment, can be found in Hunter, *Last of the Free*, pp.382-83.

[3] See, in particular, Dodgshon, *Chiefs to Landlords*; Macinnes, *Clanship*; S. Nenadic, *Lairds and Luxury: The Highland Gentry in Eighteenth-century Scotland* (Edinburgh, 2007).

Contemporary conceptualisation of the Highlands was dominated above all by a sense of its peripheral status. Part of this was simple physical inaccessibility. Archibald Campbell, Lord Lorne was perhaps guilty of some affectation when he explained to Lauderdale that 'I liue at such a distance [tha]t I know nothing of what is doing at London scarce at Ed[inbu]r[gh]', but his refrain was not unique.[4] The Irish Catholic priest John Cahassy, who spent several years as a missionary in the western Highlands during the early 1680s, was equally aware of the region's challenging geography:

> The uayes are the more paine full [tha]t a man cannot goe from one countrie to another but by climbing hye and Rockie mountains uhose uerie tops are so boggie and uatrish that neuer a man can tr'auaile their uith dry foot and much lesse make use of a horse.[5]

The practical constraints imposed by this geographical isolation were a constant headache. The Scottish Parliament declared in 1661 that the landscape was so wild that 'it is impossible for heraulds to travell' there; Lorne, now 9th earl of Argyll, noted in 1665 that 'it is much harder catching men in the Highlands'; and in 1680 Colonel James Menzies, commander of one of the two Highland companies, reported that a military commission intended for Glenorchy had been lost *en route* to the north.[6] Moreover, it had long been recognised that these difficulties could have potentially sinister results. One-time archbishop of Canterbury George Abbot (1562-1633) noted that:

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[4] BL, Lauderdale Papers 1630-60, Add. Mss. 23113, f.86r.

[5] SCA, Blair Letters, BL/1/90/2.

[6] *RPS*, 1661/1/29; G. Sinclair (ed.), *Letters from Archibald, Earl of Argyll to John, Duke of Lauderdale* (Edinburgh, 1829), p.30; NRS, Breadalbane Muniments, GD112/39/131/13.

[Scotland] is generally divided into two parts [...] the High-land, which lyeth further the North [...] is more rude and savage, and whither the King hath not so good accesse, by reason of Rocks and mountains, as to bring the Noblemen, which inhabite there to such due conformity of Religion, or otherwise, as he would.[7]

Abbot's recognition that topographical challenges had political implications struck a cord, and the possibility that the Highlands might act as a 'black hole', harbouring unsavoury or seditious elements, constantly exercised the government. John Leslie, 7th earl of Rothes, frustrated in 1666 by the difficulties involved in catching those who had been involved in the Pentland Rising, reported rumours that some of them had fled 'to our owne Highlands, ther to lurke'.[8] Similar concerns were also voiced by the Ogilvies of Airlie regarding thieves.[9] All this was hardly paranoid, since the protection of geography was often invoked. In 1662, the Catholic priest Father Winster, employed by the marchioness of Huntly, was advised that, in order to escape governmental attention, he should simply 'goe home quyetlie towards the hylands; wher they will neuer looke after [you]'.[10] Similarly, Argyll himself, when pressed in 1676 by the advocate Rory Mackenzie for repayment of an 8,000 merk debt, scuppered the citation simply by retreating to Inveraray, and carrying 'away all his plenishing to a secure place in the Hylands above Stirling'.[11]

In addition, the Highlands were seen as economically peripheral. The English cleric Joshua Childrey dismissed the 'Soil in the High-lands' as 'very poor and barren generally'.[12] Cahassy offered more detail:

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[7] George Abbot, *A briefe description of the whole world* (London, 1664), pp.206-7. This tract was originally published in 1617, but reprinted in its fifth edition in 1664.

[8] O. Airy (ed.), *The Lauderdale Papers*, 3 vols (London, 1884-5), i, p.257.

[9] NRS, Airlie Papers, GD16/41/379.

[10] SCA, BL1/26/1.

[11] John Lauder, *Historical Notices of Scottish Affairs*, 2 vols ed. D. Laing (Edinburgh, 1848), i, p.109.

[12] Joshua Childrey, *Britannia Baconica: or, The natural rarities of England, Scotland, & Wales* (London, 1662), p.175.

The countrie is one of the roughest and uithout any exception the barenest that is in europe they haue no corn at all but some litle oats uhich they soue in the litle parcels of land uhich they comonly dige uith spades for no pleugh can stand uher they haue them because of the precipices, thes oats is scarce rype to perfection euer because of the frequent Raines hail snou and thunder so that comonly their pouision of bread is consumed by Patrick messe or sooner.[13]

Similar expressions of poorness were made by some Highlands landlords; Sir Hugh Campbell of Cawdor complained in 1674 that 'Bot for this countrey, ther is noe money in it at all', while in 1683 John Campbell, 1st earl of Breadalbane agreed that 'these poor highland places' were not 'desyrable'.[14] A rather different complaint exercised the burgh of Cromarty in 1672, when it applied to the Scottish Parliament to be relieved of its status as a royal burgh. Local trade, it claimed, was so poor that many of its inhabitants had moved to other burghs, leaving the town to sink into abject poverty.[15] Perhaps the most strident expression of the Highlands' reputation for economic backwardness came in 1690 from the English statistician Sir William Petty. He suggested that the populations of both Ireland and the Highlands should be transported to England and Lowland Scotland. Petty calculated that this exodus would cost the crown some £17 million sterling in costs and lost revenues, but would ultimately yield some £75 million sterling, thanks to the greater value of rents in England and the Lowlands. As an added bonus, it would free up more people to work in trade and manufacturing, generating yet more income. Petty's partially

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[13] SCA, BL/1/90/1.

[14] Hugh Rose, *A Genealogical Deduction of the Family of Rose of Kilravock* ed. C. Innes (Edinburgh, 1848), p.371; NRAS234, Atholl Estates, box 29/I/3a, item 8.

[15] *RPS*, 1672/6/24. The Convention of royal burghs did not recognise Cromarty's removal from the roll of royal burghs until 1685, at which point it became the only burgh to be so excused during the Restoration. It should also be noted that two other burghs – Anstruther Wester and Kilrenny – made similar, unsuccessful petition also in 1672. Toller, ''Now of little significance'?', pp.152-54.

jocular proposal principally concerned Ireland, but the fact that the Highlands were also included emphasises the perceived barrenness and economic uselessness of the region.[16]

Awareness of the Highlands' peripheral status existed in tandem with a pervasive sense of its difference. Of this the physician and geographer Sir Robert Sibbald was keenly aware in 1683:

> [Scotland] is also divided by the Mountains, and by the Qualitie of the Soil, and Nature of the Inhabitants and their different manner of life, into the High-Lands and Low-lands, and the Highlanders and Low-land-men.[17]

But the discourse went further, and the Highlands were often characterised not just as distinct, but as 'other'. This manifested itself in a willingness to associate the region with the strange and unusual. Childrey felt comfortable in 1662 asserting the waters of Loch Ness were miraculously warm throughout the year, that Loch Lomond supported a mobile floating island, that Sutherland and Caithness were peppered with mountains made entirely of white marble, and that Atholl was infested by 'witches, and wicked women'.[18] Still more outlandish was the cautionary tale set down by an anonymous author in 1674, which asserted that a usurer in John o' Groats had been abducted by the Devil and flown around the skies above 'the cold and barren Countrey' of Caithness for several days, being tortured all the while, before his mutilated corpse was finally dropped back to earth.[19] A common component of the Highlands' supposed 'otherness' was the reputed longevity of its inhabitants, particularly in the western isles. Even the Skye-born writer Martin

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[16] William Petty, *Political arithmetick, or, A discourse concerning the extent and value of lands, people, buildings* (London, 1690), pp.65-73.

[17] Robert Sibbald, *An account of the Scottish atlas, or, The description of Scotland ancient & modern* (Edinburgh, 1683), p.5.

[18] Childrey, *Britannia Baconica*, pp.177-79.

[19] Anonymous, *Terrible and Wonderful News from Scotland* (London, 1674), *passim*.

Martin, generally a sober chronicler, succumbed to this notion. The inhabitants of Jura, he swore, were almost never unwell, and it was relatively common for them to live well beyond 100 years – one, Gillouir MacCrain, had recently attained the near-biblical age of 180.[20] Irishness was another, rather less fanciful, marker of Highland 'otherness'. The mathematician John Taylor declared quite baldly in 1687 that 'the Highlands are Irish-Scots, and the Lowlands English-Scots', while the Irish historian Edmund Borlase, looking back on the Irish rebellion of 1641, opined that 'Highlanders, Redshanks in Scotland [are] for the most part descended out of Ireland, holding the Irish Language and Manners still'.[21] Taken together, all of this added up to a powerful characterisation of Highland Scotland as different, alien and mysterious.

Native commentators were often keen to reinforce this perception, none more so than Gaelic poets. They often dwelt upon the ethnic and cultural distinctiveness of their people – Roderick Morison, the 'Blind Harper' in the service of the MacLeods of Dunvegan, sweepingly dismissed Lowlanders as 'southron strangers' in a poem from the 1680s.[22] Rather more combatively, the bombastic Iain Lom, of the Keppoch MacDonalds, relished the idea that the clans of Lochaber might 'strike fear into men of the English speech'.[23] The Irish connection was significant in this context. The anonymous author of a song in praise of the MacNaughtons was at pains to highlight the strength of their Irish links:

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[20] Martin Martin, *A Description of the Western Islands of Scotland circa 1695* ed. C.W.J. Withers (Edinburgh, 2002), pp.144-45.

[21] John Taylor, *Tresaurarium mathematicae, or, The treasury of mathematicks* (London, 1687), p.142; Edmund Borlase, *The history of the execrable Irish rebellion trac'd from many preceding acts of the grand eruption the 23 October, 1641, and thence persued to the Act of Settlement* (London, 1680), p.19.

[22] Roderick Morison, 'Oran do Iain Breac Mac Leòid' [A Song for John Macleod of Dunvegan] in *An Clarsair Dall* ed. W. Matheson, (Edinburgh, 1970), pp.4-11, at pp.4-5.

[23] John MacDonald, 'Cumha do Mhac Mhic Raghnaill na Ceapaich agus a Bhràthair' [A Lament for MacDonald of Keppoch and his Brother] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.108-13, at pp.180-89.

Ge b'e thagradh ort gun reusan,
Bu cham a chòmhdhail da nuair dh'èireadh,
Thig iomadh connspann leat à Eirinn:
Thig Iarl Anndram nan each ceumnach
Bheir a bhàrcan is còig ceud leis'

[Whosoever would accuse you without reason, rough on him the tryst when it happened. Many a hero will rise with you from Ireland: the Earl of Antrim of the stepping horses will bring his ships and five hundred].[24]

At the same time, poets retained a strong sense of Gaelic solidarity. Mary MacLeod, a poetess from Harris, upon hearing false rumours in 1699 that the male line of the MacLeods of Dunvegan had become extinct, greatly feared that the family would lose its lands, but consoled herself with the belief that the rest of Gaeldom would naturally leap to its defence:

Gun éireadh 'nad aobhar
Clann Raghnaill 's Clann Domhnaill
Agus tigh Mhic Ghille Eathain
Bha daingeann 'nur seòrsa,
Agus fir Ghlinne Garadh
Nall thairis á Cnòideart,
Mar sud is Clann Chamshroin
O champ Inbhir Lòchaidh.

Is beag an t-iongnadh Clan Choinnich
Dhèanamh oireachd mu d' ghualainn
Is gun robh thu 'nam fineachd
Air t-fhilleadh trì uairean.

[To thy cause would rally Clan Ranald and Clan Donald, and the house of Maclean firmly knit to friendship with thee; over from Knoydart the men of Glen Garry would come, and Clan Cameron withal from the stronghold of

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[24] Anonymous, 'Luinneag Mhic Neachdainn' [Mac Neachdainn's Song] in *Gàir nan Clàrsach* ed. C. Ó Baoill (Edinburgh, 1994), pp.166-73, at pp.168-69.

Inverlochy.   No marvel though the Mackenzies should gather round thy shoulder, since thou hast a threefold bond of kinship with their clan].[25]

Gaelic poetry, therefore, tended to complement the work of exterior image-makers by investing the Highlands with a distinct identity which was consciously different from the rest of Scotland.

The sense of peripheral 'otherness' rendered the Highlands vulnerable to denigration.   As discussed in chapter one, this was a common feature of centre-periphery relations across Europe.   Sweden, even during its 'age of greatness', was painfully aware that mainland Europe viewed it as a cultural backwater.   Its inhospitable climate and geographical isolation were widely held to preclude any form of cultural or intellectual sophistication; Swedes were good at war, but not much else.[26]   Farther south, urban dwellers in medieval and early-modern Italy readily poked fun at the peninsula's rural mountain communities, appalled by their failure to embrace the habits and values of the great cities.[27]   Indeed, even within Britain, Highlanders were hardly the only group to suffer abuse.   Scottish nobles in London remained the butt of English jokes throughout the seventeenth century, caricatured as penurious and greedy, and criticised for their uncouth accents, while Cornwall was regularly derided throughout the medieval and early-modern periods as rude, poverty-stricken and alien.[28]   In a society where civility was defined in

[25] Mary Macleod, 'Cumha do Mhac Leoid' [Lament for Macleod] in *Gaelic Songs of Mary Macleod* ed. J.C. Watson (Edinburgh 1965), pp.52-9, at pp.56-57.
[26] Kirby, *Northern Europe*, p.288; Lockhart, *Sweden*, pp.85-86. For Lockhart, this perception was broadly accurate.
[27] S.K. Cohn, 'Highlands and Lowlands in Late Medieval Tuscany' in D. Broun and M. MacGregor (ed.), *Mìorun Mòr nan Gall, 'The Great Ill-Will of the Lowlander'?: Lowland Perception of the Highlands, Medieval and Modern* (Glasgow, 2009), pp.110-27, at pp.110-12.
[28] Brown, 'British Aristocracy', at p.226 and at pp.232-3; M.J. Stolye, ''Pagans or Paragons?': Images of the Cornish during the English Civil War', *English Historical Review*, 111:441, 1996, pp.299-323, at pp.299-302.

opposition to barbarity, belonging to a peripheral society almost always invited

sneering dismissal from core cultures.[29]

For the Highlands, denigration began with the notion of primitivism.

Highland society was portrayed as archaically tribal. For Duncan Forbes of

Culloden, writing shortly after the 1688-89 Revolution, Highland clans were a throw-

back to Scotland's medieval past. Tribal structures had, he claimed, been the normal

form of social organisation before the Reformation, but had been largely eradicated

across Scotland in the century after 1560. In the Highlands, however, progress had

been dramatically halted after the Restoration:

> But the designes of the two last reignes being to introduce Popery and
> arbitrary power [...] it was found necessary to overturn all the good
> establishment already made in the nation, and act contrary to the Pollitick of
> former Kings, by setting up Superiors and Cheeffs again, demolishing the
> streinths built amongst the Highland Clanes; so giving them loose reines to
> rob, and reassume ther former barbarity; whereby they became fitt
> instruments for destroying Men of conscience, who were like to stand in the
> way of thes alterations that were intended to be made upon the Religion and
> liberty of the Nation.[30]

For Culloden, then, the social structure of the Highlands was antiquated not simply

because it was outdated, but because it failed to embrace Lowland ideals of order

and personal liberty. As a confirmed supporter of William and Mary, Culloden had

an obvious axe to grind, but the notion of an obsolete value system was upheld

elsewhere. In his treatise on the occult, published in 1685, George Sinclair scoffed at

Highlanders' ongoing belief in the existence of brownies and faeries, which he

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[29] J. Leerssen, 'Wildness, Wilderness, and Ireland: Medieval and Early-Modern Patterns in the Demarcation of Civility', *Journal of the History of Ideas*, 56:1, 1995, pp.25-39, at p.34.
[30] H.R. Duff (ed.), *Culloden Papers* (London, 1815), p.14.

considered more appropriate for the 'ignorance and superstition' of years past.[31] The

Highland convention of charming, which involved using incantations or tokens to

treat a wide variety of physical and mystical ailments, attracted similar

opprobrium.[32] Robert Kirk, minister of Balquhidder, dismissed it as irrational

because it violated the laws of nature. Worse, it was also blasphemous, being

explicitly forbidden in the Bible; any cure which did follow upon the use of a charm

could thus only signal intervention from the Devil.[33] Attention was also attracted to

the militaristic ethos of Highland society, as expressed in 1685 by the Scottish

historian William Alexander:

> The Highlanders live in the North and West Parts, or in some out Islands; being a bold and hardy People, much given to Warlike Exercises; being always in readiness, when ever Commanded by their Cheif [...] they are a People that can endure as much hardships of War, as any People in the World.[34]

These accounts all suggest a prevailing discourse which viewed Highland society as

both structurally anachronistic and intellectually backward.

Again, Gaelic poets added to the stereotype by celebrating those features of

chiefly display which had underpinned conventional clan society and praise

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[31] George Sinclair, *Satan's invisible world discovered, or, A choice collection of modern relations proving evidently against the saducees and atheists of this present age, that there are devils, spirits, witches, and apparitions* (Edinburgh, 1685), pp.215-16. Today, of course, it seems ironic that Sinclair should have been so scathing about Highland folk beliefs, while vehemently asserting the existence of witches, ghosts, and other supernatural happenings perpetrated by the Devil.
[32] Anonymous, 'A Collection of Highland Rites and Customs' in M. Hunter (ed.), *The Occult Laboratory: Magic, Science and Second Sight in the Late Seventeenth-Century Scotland* (Woodbridge, 2001), pp.54-76, at pp.67-68.
[33] NLS, Notebook of Reverend Robert Kirk, MS.3932, p.182.
[34] William Alexander, *Medulla historiae Scoticae* (London, 1685), p.212.

poetry.[35] Iain Lom, for instance, gloried in the lavishness of the household kept by

Sir James MacDonald of Sleat before his death in 1678:

> *Biodh do ghillean mu seach*
> *A' lìonadh dibhe b'fheàrr blas,*
> *Fìon Spàinteach dearg aca 's beòir.*
>
> *Uisge-beatha nam pìos,*
> *Rachadh 'n t-airgead g'a dhìol,*
> *Ghibhte 'n glain' e mar ghrìogan òir.*
>
> [Your servants one after one poured out liquor of choicest taste; Spanish wine
> crimson-hued they had and beer. Whisky that fills the silver cups – it would
> be paid for with silver – could be had, glistening like golden beads in glass].[36]

Martial prowess was still more central, and Gaelic praise-poetry invariably dwelt

upon the fighting ability of its subjects. Mary MacLeod lauded John MacLeod of

Raasay (d.1671) as her 'dear warrior' who could skilfully 'bend a bow from behind

[his] head'; Roderick Morison celebrated John MacLeod of Dunvegan (d.1693) as 'a

manly, active soldier' who could fight equally well with sword or pistol; and Iain

Lom, in praising around 1663 Angus MacDonald, 1st lord Macdonnell as the

legitimate chief of Clan Donald, painted him as 'a skilled rider of a battle charger'

and 'an excellent leader of hundreds'.[37] In lieu of actual warfare, a chief's prowess in

the hunt could be viewed as an equally crucial marker of his virility. As Martin

reported, 'the chieftain is usually attended with a numerous retinue when he goes a-

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[35] Dodgshon, *Chiefs to Landlords*, pp.84-92; Newton, *Warriors of the Word*, pp.148-54.
[36] John MacDonald, 'Marbhrann do Shir Seumas Mac Dhòmhnaill' [An Elegy to Sir James
MacDonald] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie
(Edinburgh, 1964), pp.136-41, at pp.136-37.
[37] Mary Macleod, 'Marhbrann do Iain Garbh' [Dirge for Iain Garbh] in *Gaelic Songs of Mary
Macloed* ed. J.C. Watson (Edinburgh, 1965), pp.26-31, at pp.28-31; Morison, 'Oran do Iain
Breac Mac Leòid', at pp.8-9; John MacDonald, 'Oran do Aonghas Og Morair Ghlinne
Garaidh' [A Song to Angus Og Laird of Glengarry] in *Orain Iain Luim: Songs of John
MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.94-101, at pp.94-95.

hunting, this being his first specimen of manly exercise'.[38]   Such enthusiastic

celebration of the 'feasting and fighting' culture of traditional Gaelic lordship

strikingly paralleled the Lowland perception that Highland society was a relic of a

past age.

This observation links to another important theme. As discussed in chapter

one, historians have long recognised that notions 'barbarity' and 'civility' were

crucial prerequisites for the development of colonial relationships in the early-

modern period. Some historians, most notably Hechter and Withers, have applied

this model to Highlands, arguing that cultural denigration was exploited to justify

'civilising' policies on the part of early-modern governments – the Highlands, in this

view, were essentially treated as internal colonies.[39] But before Restoration attitudes

towards the Highlands can be accorded the imperialistic overtones suggested by

Hechter and Withers, the extent to which 'old-fashioned' was equated with 'uncivil'

must first be understood.

There certainly was an established rhetoric of Highland barbarism. Randle

Holme, a Cheshire herald painter, declared in 1688 that the 'Irish Scots' were 'a Wild

and Barbarous people, worse than the Wild Irish'.[40] William Cleland, a prominent

Covenanter, who after the Revolution served in the Earl of Angus' Regiment, offered

a rather more detailed (and amusing) outline of Highlanders' 'barbarous' character

traits:

> It's marvelous how in such weather,
> Ov'r hill and hop they came together,
> How in such stormes they came so farr,
> The reason is, they're smear'd with Tar.

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[38] Martin, *Description of the Western Islands*, p.75.
[39] Hechter, *Internal Colonialism*, pp.112-15; Withers, *Gaelic Scotland*, p.404.
[40] Randle Holme, *The academy of armory* (Chester, 1688), p.234.

> Which doth defend them heel and neck,
> Just as it doth their Sheep protect;
> But least ye doubt that this is true,
> They're just the colour of tar'd Wool:
> Nought like Religion they retain,
> Of moral Honestie they're clean.
> In nothing they're accounted sharp,
> Except in Bag-pipe, and in Harpe.[41]

Cleland's mocking assessment was delivered in the aftermath of the deployment in 1678 of the 'Highland Host' raised to subdue the Covenanters of the south-west. This policy played upon the Highlanders' fearful image as 'a barbarous savage people, accustomed to rapine and spoil' in an effort to terrify south-western nonconformists into submission.[42] In turn it strengthened the stereotype, ensuring that Highlanders, particularly in the Presbyterian historiographical tradition, became synonymous with cruelty and incivility.[43] The alarmist account of the Host's activities offered by the Presbyterian Alexander Shields is perhaps the most notorious example of this:

> But all this is nothing to what followed: when, thinking these blood-hounds were too favourable, they brought doun from the Wild Highlands a host of Savages upon the western Shires, more terrible than Turks or Turtars, men who feared not God nor regarded man; And being also poor pitiful Skybalds, they thought they had come to a brave world, to waste [and] destroy a plentiful Country, which they resolved before they left it to make as bare as their oun.[44]

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[41] William Cleland, 'A Mock Poem, Upon the Expedition of the Highland Host, Who came to destroy the Western Shires, in Winter 1678' in *A collection of several poems and verses composed upon various occasions* (1697), pp.3-47, at p.13.

[42] Robert Wodrow, *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, 4 vols (1828-40), ii, p.375.

[43] *Ibid.*, pp.421-3; Hopkins, *Glencoe*, pp.62-3; Macinnes, *Clanship*, p.134; Stevenson, *Highland Warrior*, pp.284-5; J.R. Elder, *The Highland Host of 1678* (Glasgow, 1914), pp.126-38.

[44] Alexander Shields, *A hind let loose, or, An historical representation of the testimonies of the Church of Scotland for the interest of Christ with the true state thereof in all its periods* (Edinburgh, 1867), p.190.

It should be noted, of course, that not all commentators agreed with Shields' interpretation; George Hicks, a one-time chaplain to Lauderdale, maintained for instance that the Highlanders had been models of restraint and loyalty.[45] Nevertheless, the sheer power of the Highlands' barbaric image more generally can be understood by considering the frequency with which the name was used, particularly by Englishmen, as a byword for incivility. In 1661, the royalist Roger L'Estrange asserted the villainy of Presbyterians by declaring that 'ye shall never find with any Highlands or Border-thieves, greater ingratitude, and more lies and vile perjuries, than with these Phanatique spirits'.[46] Even more obscurely, the English pamphleteer George Care, criticising in 1685 the style of another author, asked rhetorically 'What stuff is this! Could a man fetch any thing more savage out of the Highlands of Scotland'.[47] That the Highlands should have been invoked in this manner illustrates not only that they were viewed as barbarous, but that this perception must have been very widespread.

Notions of Highland rudeness informed attitudes towards the relationship between the Highlands and the law. 'In those remote places' sneered Argyll in 1668, 'they knew not the order of processe', and this attitude naturally fostered an assumption that the law could be applied less scrupulously in the Highlands than elsewhere.[48] John Lauder of Fountainhall captured this mood eloquently in his assessment of the treatment meted out by Sir James Campbell Lawers to three Highland thieves in 1676:

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[45] George Hicks, *The spirit of popery speaking out of the mouths of phanatical-Protestants* (London, 1680), preface.

[46] Roger L'Estange, *Interest mistaken, or, the Holy cheat proving from the undeniable practises and positions of the Presbyterians, that the design of that party is to enslave both king and people under the masque of religion* (London, 1661), p.124. The fact that L'Estrange believed villanous thieves were just as likely to be found in the Borders as in the Highlands says much about the ongoing poor reputation of the 'Middle Shires'.

[47] George Care, *A reply to the Answer of the man of no name to His Grace the Duke of Buckinngham's paper of religion, and liberty of conscience* (London, 1685), p.1.

[48] BL, Lauderdale Papers, 1668, Add. Mss. 23129, f.25v.

He cheated them and cullied them by a forg'd remission, which was scarce *pia fraus*; only it was thought, such robbers and enemies to mankind and humane society deserved to be hunted and caught, as we doe with wild beasts, by netts and all means.[49]

Sir George Mackenzie of Rosehaugh's legal writings reveal a similar attitude on a number of occasions. He noted, for example, that, in the interest of self-defence, travellers to the Highlands were tacitly exempted from laws against carrying firearms, and that 'in favours of the publick quiet', remissions could be granted in the Highlands without the normally-required consent of a wronged party.[50] More generally, it is telling that one of the criticisms levied against Lauderdale in 1679 was that he had during the 1670s forced 'an exorbitant and illegal Bond' upon the people of the south-western shires, making them responsible for preventing their families and subordinates from attending conventicles, 'By which Bond, those which signed it were made liable for every mans fault that liv'd upon their ground'.[51] The bond had been introduced in studied emulation of the policy dominating Highland government since 1587, but because 'in the Highlands the feuds among the families were still so high', there was never a comparable sense of outrage on behalf of Highlanders.[52] The notion that the law could legitimately be applied more loosely in the Highlands powerfully reinforced the perception that the region was neither as settled nor as advanced as the Lowlands.

However, in some ways the Highland experience, during the Restoration if not at other points in time, diverged from the colonial norm. For a start, not

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[49] Lauder, *Notices*, i, p.136.

[50] George Mackenzie, *The laws and customes of Scotland, in matters criminal* (Edinburgh, 1678), pp.315-6 and at p.550.

[51] Anonymous, *Some Particular Matter of Fact relating to the Administration of Affairs in Scotland under the Duke of Lauderdale* (London, 1679), p.1.

[52] Airy, *Lauderdale Papers*, ii, p.235; Gilbert Burnet, *Burnet's History of My Own Time, Part I, the Reign of Charles II*, 2 vols, ed. O. Airy (Oxford, 1897), ii, p.148. See chapter 5.

everybody shared the perception of Highland incivility. Hicks, for example, rejected it unequivocally:

> For they are not Barbarians, as you Styled them, unless it be in the same sence that the Greeks and Romans called all other People Barbarous, that spoke not their Languages, and wore not the Pall, and Gown. No, I assure you, they are a very Civil, Generous, and Governable People.[53]

Cahassy similarly characterised Highlanders as 'naturally ciuill', while Robert Kirk opined that they were as a rule 'more tame than thair rude plain Fathers'.[54] It is also important to note that, although contemporaries made liberal use of the language of incivility when discussing the Highlands, the meaning attached to it by those with direct experience of the region was usually a limited one. Thus, a petition to the Scottish Parliament in 1661, which bemoaned the 'barbarous Insolencies' committed by Highlanders, was concerned only with cattle-theft; 'barbarous' simply meant 'lawless', rather than uncivil. Indeed, it should be recognised that the tendency to use the emotive language of incivility to refer merely to mundane law and order issues was hardly restricted to the Highlands. Jean Lockhart, from Fife, asked Parliament in 1661 that she be allowed to separate from her husband on account of the 'severall outrages and barbarous usages' she had suffered at his hands, while in 1681, during a property dispute in Aberdeenshire between Magnus Mowat and George Forbes, both parties described the other as 'barbarous'.[55] Another crucial point was made in passing by the English theologian Richard Baxter while attempting to explain why he, a nonconformist, nevertheless attended Anglican services:

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[53] Hicks, *spirit of popery*, preface.
[54] SCA, BL/1/90/2; EUL, Notebook of Robert Kirk, 1669-c.1674, La.II.549, f.53v.
[55] *RPS*, 1661/1/112; *RPCS*, vii, pp.49-50 and at pp.142-43.

> And I take it for such a Crime against Christ to say, that almost all his Church is not His, but Satans; as it would be against the King to say, that almost all his Kingdoms are none of his, but his Enemies. I may say, that the Irish, the Highlanders, or Orcades, are the most ignorant barbarous part of his Dominions; but not that they are none.[56]

Nobody would have dissented from Baxter's assertion that the Highlands was an integral component of the Stuart dominions, a perception which naturally altered contemporaries' attitudes towards Highland 'barbarity'. This can be understood by considering one of the Restoration Privy Council's earliest statements on Highland affairs, delivered in August 1661:

> Often tymes the greatest out breakings and rebellions happen [in the Highlands] by occasione of diverse, who imagine that there great distance from the seatt of the supreme judicatories and the difficulty of access is a security from punishment.[57]

The problem here was not that Highlanders were too uncivilised to be counted as part of the kingdom, but simply that they tended to break the law. The construct of 'barbarity' did not then necessarily have the grandiose, transformative implications in the Highlands which it carried in the New World, at least during the Restoration.

This limited understanding of Highland 'barbarity' made for equally limited ambitions as regards government policy. Proposals written in 1661 by John Campbell, elder of Glenorchy, sought to 'delyver the cuntrie from this disease' of cattle raiding; further advice from his son in the 1670s aimed to preserve 'the peace of [th]e Cowntrey'; an anonymous set of recommendations produced in the 1660s,

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[56] Richard Baxter, *Catholick communion defended against both extreams* (London, 1684), part ii, p.14.
[57] *RPCS*, i, p.25.

although speaking of the need for 'a general reforma[ti]one', restricted this aim to '[th]e repressing of the broken hilandmen'; and proposals tabled by John Hay, 2nd earl of Tweeddale in 1669 similarly worked only towards 'taking order with Broken men and Suppressing thift in [th]e highlands'.[58] There was little evidence here of transformative intent. Rather, the focus was on pacification, or even on the still more limited aim of containing disorder. The government's own pronouncements were couched in equally circumspect language, exemplified most fully in the extensive preamble to the commission for securing the peace in 1682:

> The quieting of the Highlands and Isles and the dutifull and peaceable carriage and deportment of the inhabitants within the same is of great concernment not only as to the peace and interest of the shires and bounds where they live, being a large and considerable part of our ancient kingdom of Scotland, but also of the nighbouring and adjacent countries and shires which ly open and are subject to the incursions, depredations and the barbarous cruelty and oppression of thieves, sorners and broken men when the Highlands are in disorder.[59]

The shadows cast by the much more overtly colonial policies of James VI and the Hanoverian governments have tended to persuade historians that the relationship between Edinburgh and the Highlands during the early-modern period was invariably a pseudo-imperialistic one.[60] Yet there is little evidence of this for the Restoration. If the Highlands were described as 'barbarous' (in any case hardly a unique label), this was generally understood to mean merely that they were disorderly, rather than to imply an inherent lack of civility. As a result, there was no real sense that wholesale transformation was needed, no overarching discourse pushing for the 'Lowlandisation' of Highland society. Instead, attention was focused

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[58] NRS, GD112/39/106/7; NRS, GD112/1/682; NRS, GD16/41/379;, NLS, Yester Papers, Miscellaneous Papers, MS.7033, f.144.
[59] *RPCS*, vii, p.508.
[60] See, for example, Goodare, *State and Society*, pp.264-82.

merely on curbing the perceived excesses of lawless behaviour. Restoration Highlanders, in other words, did not need to be 'civilised'; all that was required was that their wilder impulses be curbed.

If it is important not to overstate governmental aims in the Highlands, it is equally crucial to recognise that the image of Highland distinctiveness, as constructed by both external and internal commentators, masked a much more fluid situation on the ground. The families of the eastern Highlands, whatever the perception in Edinburgh, did not tend to regard themselves as 'Highlanders'. In 1665, for instance, the Rosses of Balnagown complained to the Privy Council that Kenneth Mackenzie, 3rd earl of Seaforth, while attempting to uplift fines he had imposed on them in his capacity as sheriff of Ross, had 'intended a convocation of Hielanders, whereof the compleaners in the low countrey were justly afraid.'[61] Similarly, when Hugh Fraser, 8th lord Lovat, after a visit to Glenelg in 1666, came back to his home estates in the Inverness area, he was described as having 'returnd from the Highlands'.[62] Certainly, such men were perfectly familiar with the elite culture of the Lowlands. Jonathan Urquhart of Cromarty hired Robert Smith of Edinburgh as his gardener in 1677, promising him a salary of £72 along with a suit of clothes and two pairs of shoes, while Sir Hugh Campbell of Cawdor in 1672 spent £54 on 6 ells of 'floured lemon brocad', £36 16s on sixteen ells of 'silver cloath' and nearly £70 on 'silver and gold lace'.[63]

At the same time, east-Highland society displayed a number of 'Gaelic' cultural markers. The presbytery of Caithness, for instance, was repeatedly vexed by

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[61] *RPCS*, ii, p.21.

[62] James Fraser, *Chronicles of the Frasers: The Wardlaw Manuscript Entitled 'Polichronicon Seu Policratica Temporum, or, The True Genealogy of the Frasers', 916-1674*, ed. W. Mackay (Edinburgh, 1905), pp.465-66.

[63] W. MacGill (ed.), *Old Ross-shire and Scotland as seen in the Tain and Balnagown Documents*, 2 vols (Edinburgh, 1909-11), i, p.175; C. Innes (ed.), *The Book of the Thanes of Cawdor* (Edinburgh, 1859), pp.325-26.

the 'heathenish [and] barbarous custome' of 'pyping at Lykvakes', and fined at least four individuals for doing so in the decade after 1663.[64] Meanwhile, the supposed Lowlander, Lovat, was not above donning Highland dress during his Glenelg visit, nor did he pass up the opportunity afforded by the funeral in 1668 of Sir Robert Munro of Foulis to show off his family's martial vigour by sending a mourning party of fifty horsemen. The Rosses and the Munros themselves did likewise, outfitting 1000 and 600 foot respectively.[65] Even amongst the higher nobility, anxious to wield influence at a national level, Highland components of identity were not ignored. Upon hearing in March 1680 that his parents, the Earl and Countess of Moray, were due to return home, Charles Stewart, lord Doune made arrangements to provide them with an escort composed of their 'Vassels in the Hylands'.[66] Farther south, a hunting expedition in 1682 saw John Murray, 2nd earl of Atholl, field an entourage including a number of Highlanders in traditional dress, while the marquis' daughter-in-law, Katherine Hamilton, felt it appropriate to send her brother James Hamilton, earl of Arran, a present of some 'Hyland cloathes' in 1683.[67] Clearly, in the supposedly more Lowland east identities continued to owe something to Highland culture.

In contrast, the western Highlands have tended to be seen as more hardened in their attachment to Gaelic social and cultural mores. Iain Mackenzie of Applecross (d. *c.*1684) was famous for the lavishness with which he patronised Gaelic bards; the Macleans of Duart employed two pipers at their castle of Duart in 1674; and Donald MacDonald of Moidart retained close ties with the Irish branch of Clan Donald, to the extent that Alexander Macdonnell, 3rd earl of Antrim proclaimed in 1684 that he

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[64] NRS, Records of the Presbytery of Caithness, 1654-1688, CH2/47/1, ff.70-71, f.134, f.139 and at f.159. 'Lykvake' refers to a vigil kept over a corpse before its burial.
[65] Fraser, *Wardlaw*, p.465 and at p.475.
[66] NRAS217, Papers of the Stewart Family, Earls of Moray, box 6, item 16.
[67] EUL, Notebook of Robert Kirk, 1681-1683, La.II.529, ff.84-7; NRAS234, box 29/I/3, item 129.

had 'a reall keendnes for yow more than for any o[the]r of his [...] name', going so far as offering to foster Moidart's eldest son.[68] Yet even here, identities were not fixed. Towards the end of the seventeenth century most Hebridean elites were fluent in English and tended to have adopted Lowland dress as their habitual garb.[69] On the mainland too, bilingualism had come to be seen as essential. Of Angus Mackean of Ardnamurchan it was observed in 1662 that 'he not knowing soe mutch of our Languadge [was unable] to buy meal [and] drink and not able to persue after his oune just rights'.[70] More generally, John MacLeod of Dunvegan fully shared in the cosmopolitan tastes of his eastern counterparts, spending more than £174 on medicines in 1661, and buying copious volumes of luxury goods such as lace, muslim, silk, cinnamon, nutmeg and raisins.[71] In the west as in the east, then, there was little evidence of a monolithic culture, and equally little evidence that involvement in one cultural environment precluded involvement in the other. Instead, there was across the Highlands a tendency to draw from both Highland and Lowland traditions to create a mixed identity straddling both.

The hybrid identity of the Highlands was hardly unique in a European context. Within the sprawling empire of the Austrian Habsburgs, the decades after the end of the Thirty Years War (1618-48) had witnessed provincial elites in Bohemia embrace enthusiastically the world-view of their imperial masters, to the extent that most adopted German as their primary language and began to dominate many of the

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[68] Anonymous, 'Marbhrann Thigearna na Comraich' [Elegy to the Laird of Applecross] in *Gàir nan Clàrsach* ed. Ó Baoill, C. (Edinburgh, 1994), pp.172-77, *passim*; Cameron *et al*, *Justiciary Records*, i, p.36; NRS, Clanranald Collection, GD201/4/28. Near exhaustive discussion of the linkages between western Scotland and Ireland in the early-modern period can be found in F.A. MacDonald, 'Ireland and Scotland: Historical Perspectives on the Gaelic Dimension 1560-1760' (University of Glasgow, PhD thesis, 1994).
[69] Martin, *Description of the Western Islands*, p.129, p.150, p.156 and at p.203.
[70] NRS, Mackay of Reay Papers, GD84/2/223.
[71] R.C. Macleod (ed.), *The Book of Dunvegan*, 2 vols (Aberdeen, 1837-9), i, p.185 and at pp.190-99.

institutions of central government. Yet they retained a high degree of cultural independence, and their support of a distinctly local brand of baroque culture (particularly in terms of visual art) ensured that their identity remained as much Bohemian as German.[72] Even within Britain, there were parallels. The gentry of Wales, for example, had by the seventeenth century substantially absorbed the cultural and social mores of their English counterparts, not least as regards landholding patterns, office-holding and Anglican piety. Yet there remained a robust and distinct Welsh identity, expressed not least in the continuing vitality of the Welsh language and vernacular poetry.[73] The crucial point about these examples is not simply that hybrid identities existed elsewhere in early-modern Europe, but that in general they did not preclude substantial involvement in, and integration with, core society.

Certainly, the existence of a hybrid identity in the Highlands was hardly an impediment to its involvement in the wider Scottish scene. Perhaps the readiest example of this was its representation in Parliament and Conventions of Estates. Table 1 (overleaf) summarises the Highlands' levels of attendance at each session after 1663. These figures reveal a number of patterns. Firstly, attendance was much more ubiquitous on the part of the shire and burgh commissioners than amongst the nobility. Representatives from the earldom of Argyll (until 1681) and Caithness were almost always in evidence, as was Macdonnell (until he began to slip into armed conflict with Argyll in the mid-1670s) and Sir George Mackenzie of Tarbat (after his

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[72] Evans, 'Habsburg Monarchy' at pp.141-6; Ingrao, *Habsburg Monarchy*, p.64 and at pp.95-101; J. Van Horn Melton, 'The Nobility in the Bohemian and Austrian Lands, 1620-1780' in H.M. Scott (ed.), *The European Nobilities in the Seventeenth and Eighteenth Centuries, volume 2: Northern, Central and Eastern Europe* (Harlow, 1995), pp.110-43, at pp.117-25.

[73] Braddick, *State Formation*, pp.349-52; F. Heal and C. Holmes, *The Gentry in England and Wales 1500-1700* (Basingstoke and London, 1994), p.179; P. Jenkins, *A History of Modern Wales 1536-1990* (London, 1992), pp.48-51 and at pp.59-64; P. Jenkins, 'Seventeenth-century Wales: definition and identity' in B. Bradshaw and P. Roberts (eds.), *British Consciousness and Identity: The Making of Britain, 1533-1707* (Cambridge, 1998), pp.213-35, at pp.216-19

elevation to a viscountcy in 1685). On the other hand, a number of eligible nobles almost never attended, although this can probably be explained by personal, rather than political factors: the 3rd and 4th earls of Seaforth were chronically indebted; the 13th earl of Sutherland had retired from public life; the 8th and 9th lords Lovat were minors, as was the 3rd lord Reay; and the 2nd lord Reay seems to have been generally content to eschew the national stage in favour of the local.

Session	*Nobility*		*Shires*		*Burghs*		*Totals*		
	Potential	*Actual*	*Potential*	*Actual*	*Potential*	*Actual*	*Pot.*	*Act.*	*%*
1665 (C)	7	1	12	4	8	2	27	7	26
1667 (C)	7	3	12	1	8	2	27	6	22
1669 (P)	7	3	12	9	8	5	27	17	63
1670 (P)	7	3	12	8	8	6	27	17	63
1672 (P)	7	2	12	10	8	6	27	18	67
1673 (P)	7	2	12	9	8	7	27	18	67
1678 (C)	7	2	12	10	8	8	27	20	77
1681 (P)	7	3	12	9	7	6	26	18	69
1685 (P)	7	3	12	10	7	7	26	20	77
1686 (P)	7	2	12	9	7	7	26	18	69

Table 1: Highland attendance at Parliaments (P) and Conventions of Estates (C), 1665-86.[74]

Turning to those who did attend, representation at Parliament was relatively stable at around two-thirds, although with a spike for James VII's first Parliament in 1685, presumably reflecting the heightened excitement of a new reign. These figures were marginally more stable than the general Scottish experience (overall attendance fluctuated from 192 in 1669 to 190, 179, 194, 186, and 182 in subsequent sessions), although this was probably a function of the relatively small number of Highland

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[74] See appendix 1 on the attached CD for a full breakdown of attendance. The ecclesiastical estate, represented from the 1662 session by the restored episcopate, is not included; as royal appointees, the bishops were hardly representative of the local community. For discussion of the Restoration Parliament (1660-63), see chapter 3.

commissioners.[75] Attendance at Conventions of Estates was more volatile. Very low

levels of attendance in 1665 and 1667 contrasted with extremely high levels in 1678, a

pattern which mirrored (albeit in somewhat exaggerated form) the national trend

(attendance of 142 in 1665 became 150 in 1667 and 180 in 1678), suggesting that, in

common with the rest of Scotland, the Highlands were more energised by the

disputed supply levy of 1678 than with the less controversial grants of the 1660s.[76] In

short, even if Highland involvement in Parliament's committee structure was limited

(see below), the respectable levels of representation in each session speak of a degree

of engagement between centre and periphery not noticeably different from the

Scottish norm.

Another marker of Highland involvement in the wider Scottish scene, at least

as far as the elite was concerned, was an appetite for news. Admittedly, there is little

evidence of any formal news services, but correspondence provided a rich channel

for the acquisition of news. David Ross of Balnagown in 1667 solicited a newsletter

on the progress of the Dutch Wars, while John MacLeod of Dunvegan acquired this

information through his Edinburgh agent, George Graham.[77] George Gordon, lord

Strathnaver learnt about the details of Charles II's death, and the accession of James

VII and II, through the letters of George Gordon, 4th marquess of Huntly and 1st duke

of Gordon.[78] Glenorchy acquired snippets of news from a wide range of personal

correspondents, including Sir James Campbell of Lawers, who in 1679 sent him a

printed newsletter which had been circulating around Edinburgh.[79] Others retained

the services of a specific news provider. Moidart received regular updates from a

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[75] MacIntosh, *Scottish Parliament*, p.82, p.105, p.116, p.123 and at p.186; McAlister, 'James VII', pp.288-9 and at pp.280-81.
[76] MacIntosh, *Scottish Parliament*, p.61, p.67 and at p.156.
[77] MacGill, *Old Ross*, i, pp.231-32; Macleod, *Book of Dunvegan*, i, p.127.
[78] W. Fraser, (ed.), *The Sutherland Book*, 3 vols (Edinburgh, 1892), ii, p.190.
[79] NRS, GD112/39/127/14.

lawyer named Robert Barbour, who in the 1670s sent letters containing information about the proceedings of the Scottish Parliament and Privy Council, the Third Dutch War (1672-74), the Franco-Dutch War (1672-78), the business of the English Parliament, and the affairs of the Royal Family.[80] Such studious information-gathering hardly speaks of an insular or parochial society.

Similarly, the practical necessity of maintaining frequent contact with the Lowlands, and Edinburgh in particular, was by the later seventeenth century becoming increasingly apparent. In 1664, for instance, the burgh of Inverness, 'haueing tacken to ther considderatione the prejudice they haue susteined thir zeirs bygone throw the want of ane advocat to plead ther causes [and] actiouns' before the 'Lords of Counsell [and] Sessioun', employed the advocate George Mackenzie as their permanent representative in the capital.[81] Four years later, the gentlemen of Caithness made a similar move by nominating John Sinclair of Ratter and William Dunbar of Hempriggs as their representatives in Edinburgh.[82] More profound still was the tendency to make lengthy personal sojourns. Lovat took a two-month trip to Court in 1665 'on design to salut his sovereign, the Kings Majesty', and Mary Campbell, countess of Caithness complained the following year that her husband had been absent for fourteen weeks tending to his affairs.[83] The Privy Council's attachment to the policy of bonding clearly amplified this trend. Pursuit of personal protections, allowing chiefs and landlords to travel unmolested to Edinburgh in order to give their bonds, shows that between 1669 and 1672 alone, enforced absences of this kind affected Loup, Duart, Dunvegan, Lochiel, Moidart, Sleat and

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[80] NRS, GD201/4/7, 8, 12, 17, 18.
[81] W. Mackay, H.C. Boyd and G.S. Lang (eds.), *Records of Inverness*, 2 vols (Aberdeen, 1911-24), ii, pp.220-21.
[82] NRS, Sinclair of Caithness Papers, GD96/633.
[83] Fraser, *Wardlaw*, pp.457-61; BL, Lauderdale Papers, 1666, Add. Mss. 23124, f.124r.

MacDonald.[84] Absenteeism could have a baleful effect at home; Glenorchy suspected

that his sustained service with the Highland Host in 1678 had allowed his rents to be

'Imbasld by my tennents and to me as good as for ever lost'. It could also arouse

adverse comment, such as Iain Lom's famous castigation of Macdonnell for his

increasingly Lowland tastes and habit of spending long periods in England.[85]   But

physical contact with the Lowlands ensured that Highland elites were very far from

being parochial rustics insulated from the outside world.

Just as striking, Highland landlords were increasingly enthusiastic in their

exploitation of the legal system – as Robert Kirk noted, 'to persue a Law-Quarrell'

had become 'an universal infirmity now among all Ranks'.[86]   The law, indeed, was

recognised as a potentially powerful weapon, and not just by the notoriously

acquisitive Campbells.[87] Moidart's concern for the niceties of the law prompted him

in 1674 to seek professional advice over how best to raise citations against deceased

individuals.[88] Alexander Chisholm of Comar had allegedly been still more proactive

twelve years before, when he had used a malicious witchcraft allegation to extirpate

a group of Macleans living on disputed lands in Kilmorack and Kiltarlity. Comar,

for his part, claimed that this accusation was itself a cynical ploy.[89]   The

Mackintoshes were equally able to spot the potential of such engagement. In a

petition to the Scottish Parliament in 1663, they were quick to recognise that, in their

protracted dispute with the Camerons over the estates of Glenluie and Locharkaig,

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[84] *RPCS*, iii p.2, p.86, p.87, p.102, p.112, p.115, p.139, p.167, p.472, p.536 and at p.556.
Presumably many more individuals not requiring protections also responded to the periodic
summonses to Edinburgh, but in the absence of comprehensive lists of bonds this is
impossible to trace.
[85] BL, Lauderdale Papers, 1678, Add. Mss. 23242, f.58r; John MacDonald, 'Oran do Mhorair
Chlann Dòmhaill' [A Song to Lord Macdonell] in *Orain Iain Luim: Songs of John MacDonald,
Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.124-7, at pp.124-25.
[86] NLS, MS.3932, f.28r.
[87] See chapter 5.
[88] NRS, GD201/4/8.
[89] *RPCS*, i, pp.237-38 and at pp.242-43; P.G. Maxwell-Stuart, *The Great Scottish Witch-Hunt*
(Stround, 2007), pp.210-11.

exploiting the legal system could both enhance their legitimacy and heighten their chances of success:

> If mcintosche Wer alowed only the assistance of his own followers the saim would appear to be a nighbours feud And that woald strengthen the hands of the rebells and mak the trouble to continowe the Longer q[uhai]ras the kings Royall authority would soon quash the rebells.[90]

Highlanders were also adept at using the legal system as a means of protection. Caithness during the 1660s complained that his attempts to capture a group of men, who had been outlawed at the instance of the burgh of Wick, were hampered by their tactic of raising legal citations against him from both local and national courts.[91] Protection through exploiting loopholes was also possible, as in 1683 when Coll MacDonald of Keppoch sought to escape incarceration by claiming, apparently falsely, that he was still a minor.[92] Highlanders' general attitude towards the law was summed up in a laconic observation made by Lachlan Mackintosh to his father, Torcastle, in 1682. When involved in litigation, Mackintosh observed, it was wise to find out who would be charged with hearing the case, and then take steps to 'se they be your freinds'.[93] Highlanders, then, were no more backward than other Scots at recognising that the legal system could offer them support, protection and legitimacy. Many were highly adept at turning it to their advantage.

Indebtedness constitutes perhaps the most widely discussed point of contact between the Highland elite and the structures of wider Scottish society.[94] Certainly, a propensity for running up eye-watering deficits was virtually ubiquitous. Argyll in

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[90] NRS, Mackintosh Muniments, GD176/476/18.
[91] NLS, Campbells, Earls of Argyll, MS.975, f.58r.
[92] *RPCS*, viii, pp.23-24.
[93] NRS, GD176/906/3.
[94] See, for example, Dodgshon, *Chiefs to Landlords*, pp.36-37; Macinnes, *Clanship*, pp.142-48; Shaw, *Northern and Western Isles*, pp.43-46; Nenadic, *Lairds and Luxury*, pp.3-4; Watt, ''laberinth of thir difficulties'', *passim*.

1668 lamented that 'I am [...] I confesse, a great deall in arire' – a situation which manifestly did not improve, since by the time of his forfeiture in 1681, his total debts were calculated to stand at almost £300,000.[95]   Neither did humbler individuals escape. John MacLeod of Dunvegan inherited debts of around £130,000 upon his succession in 1664. Balnagown complained in 1678 that his debts had grown so unmanageable that he was in 'a verie sad conditione being lyable to personal and real diligence'. The inventory of James Fraser of Mucklegarth (d. 1686) revealed that his assets of £86 13s 4d were dwarfed by debts of £834 13s 4d.[96]

In general historians have focused on the impact of elite indebtedness on Highland social structures – specifically, its importance in stimulating commercial systems of landholding and thereby facilitating 'the process by which chiefs were transformed into landlords'.[97] Yet it is just as important to note that indebtedness acted as an agent of integration, not least because it often destabilised lordship patterns. So severe were Seaforth's debts that he periodically fled from his accustomed residences at Brahan and Chanonry to his most distant possessions in Lewis, 'for the more convenient way of living, and improveing his interest in the Low Countries'.[98] Sir William Sinclair of Mey's failure to service his deficit forced him into still more drastic action; in 1684 he turned over his estate to the control of Dunbeath and Tarbat, the latter of whom had already six years earlier been engaged to perform similar services for Sleat.[99] Such stresses forced local elites to look beyond the Highlands for relief. Some pursued outside credit. Argyll in 1675 secured a

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[95] Sinclair, *Letters*, p.94; NLS, Lord Archibald Campbell Papers, MS.7195, ff.3-8.

[96] Macleod, *Book of Dunvegan*, i, pp.265-67; MacGill, *Old Ross*, ii, p.17; BL, Mackenzie Correspondence, 1631-1710, Add. Mss. 39187, f.66.

[97] Watt, ''laberinth of thir difficulties'', at p.29.

[98] Fraser, *Wardlaw*, p.456.

[99] NRS, GD96/673/126, 134; W. Fraser (ed.), *The Earls of Cromartie: Their Kindred, Country and Correspondence*, 2 vols (Edinburgh, 1874), i, pp.27-29.

3000-merk loan from Sir Archibald Primrose, lord Carrington.[100]   William

Mackintosh of Connage was in 1682 imprisoned in the Tolbooth of Inverness after

defaulting on a loan of £340 he had taken from Rosehaugh.[101] Donald Mackay, 2nd

lord Reay looked even further afield, attempting in 1662 to exploit his family's

traditional military connections with the Danish monarchy by soliciting a pension

from Frederick III.[102] In other cases, penurious lords sought influential protectors.

Lady Caithness in 1666 asked Lauderdale's favour on behalf of her husband, the 6th

earl, bewailing that 'he did fall an younge heir to the ruened fortune of an ancient

familie'.[103] Lawers, noting the 'truble I am in for the debts of the Earls of Argyll and

Loudoune', appealed to Tweeddale for assistance in 1670.[104] Setting up fairs was

another means by which impoverished Highland elites (usually, it has to be said,

towards the Highland fringe) could seek to raise extra capital through tolls, customs,

and duties, while having the simultaneous effect of integrating their lands into the

more market-orientated economy of the Lowlands. Thus, between 1669 and 1686

Parliament accepted petitions to set up fairs from Blanagown (at Carryblair), John

Forbes of Culloden (Ferintosh), Lord Neil Campbell (Lorne), Robert Campbell of

Glenlyon (Innerwick), Argyll (Mull), Lovat (Beauly), George Ross of Morangie

(Inverbreakie), Torcastle (Moy, Dunnauchtoun, Inneromoyer and Essich) and

Glenorchy (Dysart, Strathfillan, Glendochart, Killin and Achinreir).[105] If then the

pressures of chronic indebtedness worked, as many historians have argued, towards

injecting commercial attitudes into Highland lordship, they also ensured that local

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[100] NLS, MS.975, f.18r.

[101] Mackay *et al*, *Records of Inverness*, ii, p.312.

[102] NRS, GD84/2/222.

[103] BL, Add. Mss. 23124, f.124.

[104] NLS, Yester Correspondence, 1670, MS.7004, ff.16-17.

[105] *RPS*, 1669/10/48, 1670/7/28, 1672/6/42, 1681/7/211, 1681/7/213, 1685/4/139,
1686/4/100 and at 1686/4/101.

elites were forced consistently to engage with wider Scottish society in order to meet their obligations.

The process of regional socio-economic integration with wider norms necessarily had political implications, which can most readily be understood by briefly considering English historiography on the topic. On a conceptual level, Braddick insists that 'the process of state formation went hand-in-hand with the process of elite formation'.[106] His thesis is that the extension of the English state's power into distant localities – Wales, Cornwall and the far north, for example – depended in the first instance upon local elites identifying common interests (social, political and economic) between themselves and the state. With this in place, they were then free to recognise the potential value of holding local government offices in terms of enhancing their own status and influence.[107] For Joan Kent, this penetrated even more deeply, to the extent that even at the most elementary level of English local administration, the parish, local communities were adept at exploiting the structures of the state.[108] Put another way, the development of an affinity of interests between the core society and peripheral elites facilitated political and administrative integration. Such dynamics became especially pronounced after 1660, when the English gentry tended to retreat from the pressures of policy-making at the centre, but only in return for heightened authority and independence in the periphery.[109] Thus, by locking itself into pre-existing regional hierarchies, English magistracy served a dual function. Elite office-holding bound the localities more closely to the

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[106] Braddick, *State Formation*, p.347.
[107] *Ibid.*, pp.347-55.
[108] Kent, 'Centre and the Localities', at pp.391-401.
[109] A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven and London, 1986), pp.357-58; Heal *et al*, *Gentry in England and Wales*, pp.226-34.

state. At the same time, it provided a channel for diffusing public authority back out across the land, and modulating it in a manner acceptable to regional sensibilities.[110]

Scotland did not stand aloof from this pattern. The jurisdictional power of the Scottish nobility was notoriously extensive, both in terms of their hereditable jurisdictions (like barony courts) and their near-monopoly of the key office of local government, the sheriffship.[111] Highland elites certainly recognised the potential advantages of acquiring local government offices. When in 1661 George Sinclair, 6th earl of Caithness, petitioned Lauderdale to be appointed sheriff of Caithness, his desire was rooted firmly in self-interest:

> How behoouffull And proper that office is For me, the great sufferingis off my tenents by others excercising that office haith frome sad experience sufficentlie taught me [...] My Ancestors for manie generationes haue enjoyed [and] exerced that office by heritabille right frome the king, The Reneweing and confirmatione of giffts of this Natur to others hauing Not bein Reffoused by his Maj[es]tie, I ame hopfull by yo[u]r Lo[rdships] means To haue the same fauo[u]r frome my prince [...] Manie haue trubled his Maj[es]tie by petitioneing for reparatione for ther Losses with good success too: and Though I Cane demonstrait My Losses [and] Sufferingis to be infferior To non in this na[tio]ne [...] yett I will now forbear mentioning of them, And shalbe Contented with a grant of this gift.[112]

Caithness' awareness of the importance of local government office underlay the fierce jostling for positions which marked the Restoration settlement in the

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[110] J. Miller, *After the Civil Wars: English Politics and Government in the Reign of Charles II* (Harlow, 2000), pp.7-10 and at pp.23-26. This model existed, in varying forms, across Europe. On France, see Beik, *Absolutism and Society*, pp.243-316 and at pp.307-8. On Brandenburg-Prussia, see Koch, 'Brandenburg-Prussia', at pp.144-47, E. Melton, 'The Prussian Junkers, 1600-1786' in H.M. Scott (ed.), *The European Nobilities in the Seventeenth and Eighteenth Centuries, volume 2: Northern, Central and Eastern Europe* (Harlow, 1995), pp.71-109, pp.92-95 and C. Clark, *Iron Kingdom: The Rise and Downfall of Prussia* (London, 2007), pp.63-64. On Sweden, see Upton, *Charles XI*, p.166. The local luminary serving as local office-holder was everywhere a lynchpin of the early-modern state.

[111] K.M. Brown, *Kingdom or Province? Scotland and the Regal Union, 1603-1715* (Basingstoke and London, 1992), pp.33-40.

[112] BL, Lauderdale Papers, 1661, Add. Mss. 23115, f.75r.

Highlands.[113] Nor was such anxiety confined to the early 1660s; Moray's erroneous belief in 1673 that a judicial commission shared between himself and Lachlan Mackintosh of Torcastle (amongst others) awarded Torcastle greater rights to examine witnesses caused the earl to become 'hotely alarumed'.[114] Competition for jurisdiction between different offices could be just as acute. The Earls of Sutherland and Caithness disputed over control over western Sutherland in 1661, the former by right of his position as sheriff, the latter on account of a justiciary commission for the diocese of Caithness.[115] The Sheriff Court of Ross in 1664 sparred with the burgh court of Tain over the right to try Neil Roy, who after capture had been delivered into the burgh's care for crimes committed within the sheriff's jurisdiction.[116] Further south, Torcastle and Huntly throughout the Restoration battled for primacy in Lochaber, where Huntly was proprietor but Torcastle was hereditary stewart. Their rivalry came to a head in the 1680s, when Huntly attempted to bypass Torcastle's authority by erecting Lochaber into a regality.[117] Highland elites, in short, recognised the advantages of enjoying officially-sanctioned jurisdiction, and were prepared to fight doggedly to secure it.

If office-holding represented another avenue through which the Highland elite could engage with and exploit the structures of the state, it also worked to expand the reach of central government. Royal authority on its own was potentially brittle. The problem was neatly expounded in 1688 by John Bain of Dalneigh, after he had been accused of dereliction of duty because, as a justice of the peace, he had

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[113] See chapter 4.
[114] NRAS217, box 6, item 401.
[115] *RPCS*, i, pp.149-50.
[116] MacGill, *Old Ross*, i, pp.87-88.
[117] NRS, GD176/606/1. The problem of overlapping jurisdictions in Lochaber is discussed in greater depth in chapter 3.

failed to apprehend John Sutherland, 2nd lord Duffus for the alleged murder of William Ross of Kindeace:

> Dufus wes a powerfull man [...] so it wes Impossible for the pannall to have in the Least contribut to the apprehending of Duffus [and] his pretendit accomplices if they hade bein guilty, for that same furie which possest them when they killed the defunct hade caryed them to have done the like to the pannel the provoca[tio]n being greater and the pannall having but an servant could have made no resistance either to the number or rage and no man (whatever o[the]r salarie or other incouragement he hade) cane be obleidged to doe that by vertue of his office wherby he most inevitablie lose his lyff and if the justice of the peace should be found obleidged to this.[118]

Local elites remained hugely powerful in their own right, and they could use this influence in a wide variety of ways. They could act as personal advocates for their tenants; Huntly in 1666 appealed to Lauderdale for the release of one of his, Lachlan Mackintosh, from imprisonment in Edinburgh.[119] They could undertake more general protection; Glenorchy in 1676 characterised himself as duty-bound to guard his tenants from theft.[120] They could stand surety for their subordinates; Thomas Sutherland in 1684 appealed to Sir James Sinclair of Mey to help him recover a debt of £8 owing from Donald Robertson, one of Mey's tenants.[121] They could act as arbitrators; immediately prior to the battle of Mulroy in 1688, the combatant parties, led by Torcastle and Keppoch respectively, submitted to the (ultimately unsuccessful) mediation of two other MacDonald chiefs, Glengarry and Glencoe.[122] Their influence could even spread into urban areas. The burgh of Inverness, concerned about Macdonnell's hostile attitude, appealed in 1665 for the help and protection of 'certain particular gentlemen and noblemen (speciallie [...] the Earle of

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[118] NRS, JC6/12, High Court Minute Book, 1685-90, f.265r-v.
[119] BL, Add. Mss. 23124, f.24r.
[120] NRAS1209, Papers of the Campbell Family, Dukes of Argyll, bundle 99, item 48.
[121] NRS, GD96/673/125.
[122] BL, Mackenzie Correspondence, 1669-1868, Add. Mss. 39200, f.2r.

Murray) desyring ther presence hier vith such as they will be pleasit to bring along with them'.[123]   In a similar vein, Fortrose sought to place itself under the influence of the Seaforth Mackenzies; Seaforth was offered an incentive of 500 merks to serve as the burgh's patron and protector.[124]

Local elites, then, acted as informal foci of authority, and were therefore prime candidates for appointment to offices within the regional administration. Naturally this approach was not without risk. Strathnaver, for instance, sponsored a campaign of persecution and expropriation against the Murrays of Abirscorce between 1668 and 1671, exploiting his position as sheriff of Sutherland to inflate their taxation dues, impose exorbitant fines and issue decreets of removing.[125] Nevertheless, awarding local offices to local elites was in general a mutually beneficial arrangement, and one which hardly demonstrated unique weakness of government.   Highland lords eagerly seized upon the honour and lucrative patronage potential offered by involvement in the royal administration, while the government itself was able to spread its influence, at least notionally, across the region. 'Magistracy' therefore offered both the extension of public authority and the integration of personal power.

The importance of local office-holding can be demonstrated quantitatively. Table 2 (overleaf) gives the total number of local offices accrued by the major family groups in the Highlands between 1660 and 1688. This data raises two striking points. Firstly, the preponderance of the native elite was overwhelming. In all classes of local office-holding, around three-quarters of appointees were members of major Highland kindreds. The proportion rises beyond 90 per cent if those outwith the

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[123] Mackay *et al*, *Records of Inverness*, ii, p.223.
[124] NRS, B28/7/3, Fortrose Court and Council Minutes, f.9r-v. Both the 3rd and 4th earls were elected Provost of Fortrose. The town council also sought other, lesser patrons, such as the lairds of Findon and Drynie. *Ibid.*, f.29v, f.45r-v and at f.107r.
[125] *RPCS*, iii, pp.266-68; Fraser, *Sutherland Book*, ii, pp.188-89.

major kin networks but still living in the Highlands – principally burgesses and east-

coast lairds – are added.

Family or Group	Administrative Office	Judicial Office	Financial Office
Cameron	0	1	2
Chisholm	1	1	0
Campbell	20	17	51
Clan Donald	4	1	10
Fraser	3	4	17
Gordon	2	1	2
Gordon of Sutherland	8	8	25
Grant	1	1	7
Gray	2	1	5
MacAllister	1	2	5
MacDougall	0	1	3
Mackay	3	2	11
Mackenzie	24	17	75
Mackintosh	3	4	12
MacLachlan	1	2	3
Maclean	2	4	20
MacLeod	0	2	5
MacNeill	0	1	1
Macpherson	0	1	1
Munro	4	1	15
Ross	2	3	16
Sinclair	16	20	51
Sutherland	6	4	12
Urquhart of Cromarty	7	1	13
Other Highland Resident	26	23	99
Non-Highland/Unknown	12	3	12
Totals	**148**	**126**	**473**

Table 2: Local Office-holding in the Highlands, 1660-88.[126]

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[126] See appendix 2 on the attached CD for a full list of names and offices. 'Administrative' refers to positions designed to enforce regulations or to conduct specified business in the locality. 'Judicial' covers principally sheriffships and justiceships of the peace. 'Financial' covers commissions to collect taxation. One-off judicial commissions are not included, as these are discussed separately in chapter 5.

In all, less than one in twenty of those awarded local government office were not identifiably Highland residents. The second key point is that a wide range of the major Highland kindreds – twenty-four – were involved in local bureaucracies, although clearly some families – Campbells, Mackenzies and Sinclairs in particular – were called upon more frequently than others. All of this suggests a robust tradition of relying upon established local authorities to staff the institutions of local government.

Further analysis of one particular office, commissioner of supply, can develop this conclusion still more fully. Empowered to collect assessment levies, commissioners of supply were amongst the Restoration regime's most important local officials. Moreover, because they were always accorded a specific jurisdiction, they allow shire-by-shire appointment patterns to be traced. Thus, of the forty-two individuals appointed as commissioners of supply in Argyll, nineteen belonged to Clan Campbell, who held their positions alongside six Macleans, three MacDonalds, three MacNaughtons, two MacAllisters, one each of the MacLachlans, MacLeods, Stewarts and Sutherlands, three other lairds and two 'fringe' noblemen. In Caithness, where there were fifty-nine appointments, the biggest haul, thirty-five, went to the Sinclairs, but there were also three Campbells, three Sutherlands, one Munro, twelve further lairds, two burgesses and three more, uncategorised individuals. Smaller Cromarty yielded only twenty-seven commissioners of supply, composed of seven Mackenzies, six Urquharts, three Frasers, a Grant, a Mackintosh and seven other lairds and two burgesses. Inverness-shire's forty-three commissioners were made up of nine Frasers, six Mackintoshes, five MacDonalds, four Mackenzies, two Gordons, two Grants, two MacLeods, two Urquharts, a Macqueen, a MacGillivray and six further lairds, two 'fringe' noblemen and one burgess. Ross-shire boasted the largest contingent of appointees, seventy-four in all,

of whom fully thirty-eight were Mackenzies. There were also nine Rosses, seven Munros, two Frasers, one Mackintosh, one Sutherland, one Urquhart, fourteen other lairds and one burgess. Finally, amongst Sutherland's forty commissioners of supply were seventeen Gordons, eight Mackays, four Grays, three Munros, three Sutherlands, a MacLeod, a Ross and three other lairds. The key point here is that, in each shire, the largest and most dominant kindreds (respectively Campbell, Sinclair, Urquhart, Fraser, Mackenzie and Gordon) secured the largest number of appointments, while room was also left for recognising lesser but still important local influence (like the Gaelic families of the Hebrides, or the burghs). Commissioner of supply appointments, in other words, illustrate and confirm the propensity of royal government in the locality to bolt itself onto pre-existing power networks. This, in turn, demonstrates that the phenomenon of 'magistracy' was no more alien in the Highlands than it was anywhere else in late-seventeenth century Europe.

Highlanders' involvement in the structures of central government offered something of a contrast to the situation in the locality. Service in the most senior roles was very limited. For instance, only five Highlanders – Argyll, Breadalbane, Tarbat, Caithness and Sir George Munro of Culcairn – secured positions on the Privy Council.[127] A similar pattern can be discerned for appointments to the various committees and commissions created by Parliament or Privy Council. In total 134 instances of Highlanders holding such offices have been recorded, 107 with administrative functions and twenty-seven with a judicial capacity. These appointments were shared between ten individuals, who between them represented only the families of Campbell, Gordon, Mackenzie, Munro, Sutherland, and Urquhart, as well as the burgh of Inverness – a considerably more restricted range

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[127] *RPCS*, i, p.1, p.216 and at p.526; *RPCS*, v, p.32; *RPCS*, viii, p.34.

than held office locally.[128]   A more important point, however, concerns the distribution of office between individuals. Nearly half of them (sixty) went to a single man, Tarbat, reflecting the fact that the Fife-born Tarbat – a senior member of the government between 1661 and 1663 and again after 1678, appointed an extraordinary Lord of Session in 1661, Justice General in 1678, Justice Clerk in 1681 and an ordinary Lord of Session the same year – was by far the best example of a Highland landlord integrating seamlessly into the state apparatus.[129]   A further quarter of them (thirty-six) were awarded to Argyll, like Tarbat a likely suspect given his position as the government's key Highland agent in the 1660s and 1670s.[130] The remaining thirty-eight appointments were shared between a cluster of more occasional office-holders; Breadalbane (twelve), Sir John Urquhart of Cromarty (seven), Seaforth (seven), Sir George Munro of Culcairn and Newmore (three), William Duff of Inverness (three), John Gordon, 13th earl of Sutherland (two), Sir John Urquhart of Craigston (two), and John Mackenzie, master of Tarbat (one). What these patterns indicate, in other words, is that, although central government was by no means closed to the regional elite, office-holding was dominated by a tiny cadre of especially prominent men, all of whom, strikingly, haled from the southern or eastern extremities of the Highlands.

A still more striking illustration of Highlanders' detachment from the institutions of central government was afforded by the membership of the Privy Council's Committee for the Highlands. This body was first created as a one-off expedient in July 1661 for deciding 'what is fitt to be done anent the chiftans of clanns', but by 1669 had been re-established on a semi-permanent basis, and

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[128] See appendix 3 on the attached CD for a full list of names and offices.
[129] Fraser, *Earls of Cromartie*, i, p.lxxvii and at pp.ciii-civ. Tarbat, created Earl of Cromarite in 1703, would continue his career in government into the reign of Anne (1702-14).
[130] See chapter 5.

continued to meet intermittently throughout the reign of Charles II.[131]   Its core function remained to offer recommendations on Highland policy, although it was on occasion given additional responsibilities; it was empowered to receive bonds of caution in 1669 and 1672, and in 1671 it received specific instructions to investigate a 'slaughter and ryot' between the MacDonalds and Camerons.[132]   In total, eighty-seven commissions to sit on this committee have been recorded, shared between forty-one men.   A mere thirteen commissions went to Highlanders (Argyll, Archibald Campbell, lord Lorne, Breadalbane, Tarbat, and Culcairn), with a further twenty going to men from the Highland fringe (Alexander Sutherland, 1st lord Duffus, Alexander Stewart, 5th earl of Moray, Charles Erskine, 5th earl of Mar, Charles Gordon, 1st earl of Aboyne, Atholl, Sir George Gordon of Haddo, James Ogilvy, 2nd earl of Airlie, and William Drummond of Cromlix).   Thus, fifty-three commissions – more than 60 per cent – went to Lowlanders, principally peers like Tweeddale, Alexander Bruce, 2nd earl of Kincardine and William Douglas, 2nd earl and 1st marquis of Queensberry, but also officials such as the Lord Clerk Register, Sir Archibald Primrose, or the Lord Advocate, Rosehaugh.   The voice of Highland affairs in national government, therefore, was largely Lowland and aristocratic, reinforcing the perception that Highlanders themselves played little part at the centre.   Admittedly, this cannot be taken to reflect a distinctly Highland response. Scotland's central administration was generally dominated by a tiny clique of individuals – in Brown's estimate, a mere 100 Scots 'could command a voice in national affairs' at any one time – and, by way of comparison, it is instructive to note that the Committee for the West, appointed in 1678 to oversee the pacification of that region, was peopled by noblemen (Atholl, Moray, Airlie, George Livingstone, 3rd earl

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[131] *RPCS*, i, p.11. The last extant commission to the Highland Committee was in May 1682, and there is no record of it meeting thereafter.
[132] *RPCS*, iii, p.37, p.341, p.490 and at p.542.

of Linlithgow, James Drummond, 4th earl of Perth and Patrick Lyon, 3rd earl of Strathmore) with scant personal link to it.[133]   Yet the crucial observation, that Highland office-holding generally did not extend proportionally to the central administration, remains valid.

With these observations in place, the character of Highland 'magistracy' is clear.   Despite a few notable exceptions, Highlanders' involvement in central government – and thus the formulation of 'Highland policy' – was very limited. Exclusion from the centre was however balanced with a formidably active role in the locality, where the Crown administration exploited personal authority as a means of spreading its influence, while at the same time providing local elites with a lucrative source of patronage and prestige.   This pattern of detachment from central government, but dominance in local government, paralleled the situation throughout Scotland and indeed Britain. Any notion that the Scottish state's interaction with the Highlands was qualitatively different from the early-modern norm, let alone that the region was an 'internal colony', must therefore be treated with the utmost caution.

The conventional historiographical notion that Highland Scotland was an archaic backwater within the Scottish and British polities certainly echoes contemporary opinion during the Restoration. Lowland and English commentators readily branded the region as 'other', a strange and alien land characterised by backwardness, and in this they were assisted by the parallel agenda of native polemicists. Yet some historians' attempts to deduce from this a colonial relationship between centre and periphery are unconvincing, largely because, in restricting itself to the issues of violence and lawlessness, contemporary understanding of Highland 'barbarity' fell some way short of the stereotypes attached to genuine colonies. As a result, Highland policy was underpinned by a more restricted agenda than that

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[133] Brown, *Kingdom or Province*, p.33; *RPCS¸*v, p.505.

found in the New World, or even in Ireland. In any case, the simplified image constructed for the Highlands should not be allowed to obscure the much more fluid situation on the ground. Restoration elites across the Highlands espoused a hybrid identity which drew at least as much upon Lowland norms as Gaelic tradition, and this allowed for a high degree of integration. Government office-holding furthered this trend by offering a lucrative source of prestige, patronage and power. The crucial point of all this is that, notwithstanding the misleading pronouncements of both external and native image-makers, Highland Scotland behaved and was treated as simply another locality within the Stuart dominions. It was a distant and, as we shall see, frequently troublesome locality, to be sure, but it was a locality nonetheless.

<u>**CHAPTER 3**</u>

<u>**The Nature of the Highland Problem**</u>

In the final quarter of the nineteenth century, William Forbes Skene published his great survey of the 'Celtic' era in Scottish history. His work was based upon the assertion that, from the earliest periods of recorded history, Scotland had been predominantly Gaelic in character. From the mid-twelfth century, however, this identity had, according to Skene, begun to shift:

> Though the connection between Scotland with her Celtic population and Lothian with her Anglic inhabitants was at first but slender, her monarchs indentified themselves more and more with their Teutonic subjects, with whom the Celtic tribes maintained an ineffectual struggle, and gradually retreated before their increasing power and colonisation, till they became confined to the mountains and western islands.[1]

Simplistic as this characterisation may seem, Skene's notion of an unending struggle between the 'Teutonic' Lowlands and the Highland rump of 'Celtic' Scotland underpins one of the most enduring motifs of Scottish historiography. The resulting 'Highland Problem' is a ubiquitous concept, and is often used as a blanket characterisation of the Highlands' place within the Scottish and British polities throughout the medieval and early-modern periods. Yet it is a fluid and ill-defined construct, revealing little about the true state of the Highlands, at the same time as masking the need for more in-depth analysis. This chapter will seek to explore the reality of the 'Highland problem' during the Restoration by focusing on two themes. Firstly, it will consider the general issue of lawlessness, with particular reference to

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[1] W.F. Skene, *Celtic Scotland: A History of Ancient Alban*, 3 vols (Edinburgh, 1876-90), i, p.17.

banditry and animal theft. Secondly, the challenge of clanship, and the related issue of feuding, will be assessed.

The supposed emergence of a general and endemic problem of lawlessness is much the most prominent theme in the historiography of the Highlands, and not just during the Restoration. In broad terms, Michael Fry argues that in the years after 1660 'the Gaels destroyed law and order in the Highlands' and 'the glens became havens of impunity'.[2] Fry's argument is that this explosion of lawlessness was occasioned by the removal of the stringent government structures imposed under the Commonwealth, and this idea of an exuberant release from unwelcome scrutiny is very widespread. Caroline Bingham's assertion that 'change towards a more peaceful society was halted [after 1660] and the martial character of clanship reasserted' is perhaps rather amorphous, but other historians, including Stevenson, Hopkins and Lenman, have, after more sustained discussion, reached broadly similar conclusions.[3] The most recent re-statement of the 'Highland problem' has been offered by Lee. For him there were two main challenges. The first concerned Lochaber, whose uncertain jurisdictional status allowed the Camerons of Lochiel to wreak perpetual havoc. The second concerned caterans, 'robber bands of men mostly from broken clans' who systematically plundered the cattle trade.[4] There has, however, been a revisionist drive led above all by Macinnes. He argues that clanship's association with ritualistic violence, especially cattle raiding, declined in the course of the seventeenth century, leaving only a few families associated with it by the Restoration. For Macinnes, indeed, notions of Highland lawlessness were cynical inventions on the part of central government. Authority had after 1660 been

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[2] Fry, *Wild Scots*, p.34.
[3] C. Bingham, *Beyond the Highland Line: Highland History and Culture* (London, 1991), p.125; Stevenson, *Highland Warrior*, p.277; Hopkins, *Glencoe*, pp.28-29; Lenman, *Jacobite Clans*, p.39.
[4] Lee, *'Dearest Brother'*, p.178.

'left in the hands of political opportunists' who 'deliberately created a climate of disorder to sanction the raising of regiments', largely because the outfitting and running of militia units was 'a lucrative form of private enterprise' for the ruling aristocracy. Although Macinnes concedes that it was in fact the covenanters of southern Scotland who bore the brunt of this policy, he argues that it was deliberately applied to the Highland theatre as well. Moreover, he sees it as the guiding principle of Highland governance until at least the late 1670s.[5] Notwithstanding such correctives, the general thrust of the historiography remains that the Highlands after 1660 really were a wild and lawless place, and one which was consistently beyond the authorities' control.

It certainly is the case that there developed in Restoration Scotland a pervasive public discourse regarding the lawlessness of Highland society. Central government led the chorus. The Privy Council complaining as early as 1661 that some 'perverse and obstinat offenders' within the Highlands 'dare yet adventure to trouble the peace of the kingdom by committing theifts, robberies, murtheries, depredationes, spuilzes, and other haynous crymes'.[6] Soon after becoming Chancellor in 1664, Rothes seemed a little more hopeful, declaring that 'the haylands of Scotland ue hear is pesabell', but by the following January, when he observed wearily that 'the haylands ar so brockin that I nou not uhat to du', his confidence had evaporated.[7] This perception was not limited to Edinburgh. Writing at the end of the 1670s, Robert Kirk, minister of Balquhidder, lamented the ubiquity of theft – 'that base trade of life' – amongst the 'Scotsh-irish', and was certain that it was having a corrupting impact upon society:

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[5] Macinnes, *Clanship*, pp.32-35, pp.124-25 and at p.133.
[6] *RPCS*, i, p.25.
[7] BL, Lauderdale Papers, 1664-5, Add. Mss. 23122, f.45v and at f.249r.

For Bordering enemies to invade other so, is no wonder; but to bordering neibours, men of the same language [and] extract, tis Barbarous; mars all traffic and converse, as wel as Religion, being a kind of secret civil war, and unmanly Treachery; worse then the savageness of beasts who prey not on their own Kind.[8]

Kirk's anxieties were echoed by observers on the ground. The heritors of Strathspey, led by James Grant of Freuchie, complained to Parliament in January 1661 that several 'notorious theeves and robberis' in the area 'do not cease vpon all occasiones [...] to Infest the boundis and duellingis of yo[u]r petitioneris w[i]t their s[e]rvantis and complices dryving from thence all that may come in [thair] handis'.[9] Rosehaugh, writing in 1683, summed up the situation when he declared that the frequency of 'Thefts and Robberies in the Highlands' was so great that it stood as 'a Reproach to the Government', and threatened 'Ruine to the People'.[10]

The Highlands were not of course the only region which developed a reputation for lawlessness. Within Scotland, its notoriety was during the Restoration rivalled (and, from the late 1670s, possible surpassed) by that of the strongly Presbyterian south-west, particularly Galloway.[11] Other peripheral regions across Europe attracted similar reputations. Ireland, like Scotland, had areas of exceptionally hostile terrain, especially in Connacht and Munster (the extreme south-western county of Kerry was generally considered the worst), which were recognised

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[8] NLS, MS.3932, f.153r-v.

[9] NRS, Seafield Papers, GD248/458/4. By 1687, fully twenty-six years later, such concerns had clearly not abated: in that year, Breadalbane received a petition from his tenants and other dependants in Perthshire, claiming that their lands were 'Frequently Inffested with Theives [and] Robbers' to such an extent that they were being slowly reduced to penury. NRS, GD112/43/15/19.

[10] George Mackenzie, *A vindication of His Majesties government, & iudicatures, in Scotland; From some Aspersions thrown on them by scandalous Pamphlets, and News-books: and especially, with Relation to the late Earl of Argiles Process* (Edinburgh, 1683), p.9.

[11] Jackson, *Restoration Scotland*, p.134; Macinnes, *Clanship*, p.133.

as offering shelter to the feared bands of outlaws known as 'tories'.[12]   On the southern tip of the Swedish peninsula, the provinces of Blekinge, Skåne, and Halland, ownership of which had long been contested between Denmark and Sweden, became widely associated with depredations by roving groups of thieves, especially during the Scanian War (1674-79).[13]   But perhaps the most striking example of the peripheral association with criminality was provided by the disparate Spanish kingdoms.   Catalonia was especially notorious, linked in particular with high levels of banditry, but other territories towards the distant south of the peninsula, such as Murcia and Andalucía, were almost as infamous.[14]   The designation of peripheral regions as incorigibly lawless was therefore not unusual in the seventeenth century, and the Highlands' unsavoury image had parallels across Europe.

There was, however, another strand within the discourse of Highland lawlessness that was peculiar to Scotland.   Disorder was assumed to have become much worse since the withdrawal of the Cromwellian administration, notwithstanding the government's own rather disingenuous insistence that it was actually the non-enforcement of royal policy between 1637 and 1660 which had nurtured lawlessness in the region.[15]   On 12 July 1661, for instance, Parliament received a petition from the gentleman of all the Highland and Highland-fringe shires (with the exception of Argyll):

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[12] J.H. Andrews, 'Land and People, *c*.1685' in T.W. Moody, F.X. Martin, and F.J. Byrne (eds.), *A New History of Ireland, iii, Early Modern Ireland 1634-1691* (Oxford, 1991), pp.454-77, at p.455.
[13] J.R. Ruff, *Violence in Early-Modern Europe, 1500-1800* (Cambridge, 2001), p.223.
[14] Kamen, *Spain*, pp.207-11.
[15] *RPCS*, iii, p.55. This was not only glib but untrue; the Commonwealth had in fact deliberately modelled its Highland policy on established Scottish legislation, particularly from the reigns of James V and James VI. R. Steele (ed.), *Tudor and Stuart Proclamations*, volume 2 (Oxford, 1910), p.349; NRS, GD176/451.

Sewerall depredationes slaughters and wther enormous practices have bein laitlie co[m]mitted and mor at this day than in former tymes by sundire laules broken persones liveing in and resorteing to the saids shyres against many of their peaceable neighbouris liveing in the low lands.[16]

Crucially, the petitioners observed that things had been much more settled 'dureing the tyme of the lait wssurpers', when 'such cair wes taken [and] persewed to restraine and prevent such Insolencies barbaraties and crewalties'. Another petition, written later in the 1660s, was still more specific. It argued that the republican garrison at Inverlochy in particular had ensured that 'the places now Most lyable to the thiefts, robberies and depredationes of the broken hylanders', defined in this instance as all the shires north of the Forth, 'wer so farr from being infested by ther incursiones, That on[e] single beast was seen to stray for divers weeks without ane owner'.[17] The tenor of all this was clear and unequivocal. Demilitarisation after 1660 occasioned a boom in lawlessness and banditry, and this trend persisted throughout the bulk of the Restoration.

However, revisionists such as Macinnes are certainly correct to stress that a degree of circumspection is needed. Argyll noted irritably in 1664 that some of his political enemies deliberately sought to inflate reports of Highland lawlessness in order to damage him (he was still making similar claims, this time directed specifically at James Graham, 2nd marquis of Montrose, on the very eve of his fall in 1681), and five years later Lauderdale recalled that the English Chancellor, Edward Hyde, 1st earl of Clarendon had been wont to use the same tactic against him.[18] Lauderdale's later political nemesis, William Douglas, 3rd duke of Hamilton,

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[16] NRS, PA7/9/1, Supplementary Parliamentary Papers, 1661, f.76.

[17] NRS, GD176/475. Precisely the same problem occupied James Fraser of Wardlaw, who declared baldly that 'the Highlanders are now brekeing out' because 'the strick restraint which the English kept uppon their necks' had been removed. Fraser, *Wardlaw*, p.457

[18] Airy, *Lauderdale Papers*, i, p.201; NRAS1209, bundle 52; H.M. Paton (ed.), 'Letters from John, Second Earl of Lauderdale, to John, Second Earl of Tweeddale, and Others' in *Miscellany of the Scottish Historical Society, Sixth Volume* (Edinburgh, 1939), pp.113-242, at p.195.

continued this tradition. In November 1670 he wrote to the Secretary with an alarmist account of Scotland's supposed instability, included within which was the assertion that 'I shall not need to Insist to tell yow of the disorders in the highlands'.[19] In his reply, Lauderdale was clearly irritated:

> Yow say you need not insist to tell me of the disorders in the Highlands, but I know none Excepting what fell out of the Court kept at Inverlochy some moneths agoe, which is under the Councells tryall. If there be any others I ame yet ignorant of them.[20]

Deriving political capital from exaggerated claims of Highland lawlessness was not the sole preserve of outsiders, however; according to Tweeddale, Macdonnell was perfectly content 'to boast [and] brag uhat the higlands can doe' in the belief that heightened notoriety would augment his authority.[21]

If the discourse of Highland lawlessness requires careful handling, the same is true of the argument that removing the republican garrisons occasioned an explosion in disorder. It is too simplistic, and ignores the fact that the episodes so complained about after 1660 had exact parallels under the Commonwealth. For instance, Archibald dow McNeill, a resident of Clachaig in Cowal, was known to have led a cattle-lifting ring in 1656, but the Commonwealth authorities were unable to deal with him.[22] Similar low-level banditry was suffered by the Ogilvys of Airlie, who lost £1,000-worth of cattle between 1657 and 1659, and were still trying to reclaim it by 1666.[23] On a larger scale, the Sinclairs in 1668 complained that several hundred animals had been stolen from various lands in Caithness by a large cateran

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[19] NRS, Hamilton Papers, GD406/1/2072.
[20] NRS, GD406/1/2073. The disorders at Inverlochy concerned the abortive attempt by the earl of Moray to hold courts there, for which see below.
[21] NLS, Yester Correspondence, 1660-1669, MS.7024, f.153r.
[22] Cameron *et al*, *Justiciary Records*, i, p.13. It was in fact not until 1672 that McNeill was tried, convicted and hanged.
[23] NRS, GD16/41/379.

composed mostly of tenants of the Gordons of Sutherland, and that these raids had begun as far back as 1653.[24] In short, assertions about the lawlessness of the Restoration Highlands should be treated circumspectly, partly because they were often politically motivated, and partly because they overestimated the peacefulness of the years before 1660.

At the same time, it should be noted that contemporary opinions about the endemic lawlessness of the entire Highlands were off-set by a second discourse espousing a more limited view. Alexander Burnet, the hard-line archbishop of Glasgow, declared in 1665 that Highland disorders were merely the results of minor localised quarrelling – in stark contrast, as he predictably saw it, to the widespread and genuinely seditious problem of Presbyterian nonconformity.[25] More specifically, discussion tended to concentrate on one region above all others. In 1667, the Sutherland laird, John Murray of Aberscore, whose estates had recently suffered a spate of robberies, exclaimed that 'such barbaritie and inhumanitie was not vsit in Lochaber or the most barbarous pairt of Scotland these hundreth yeires bygoun'.[26] Lochaber's reputation as the epicentre of Highland lawlessness had been in evidence from the earliest days of the Restoration.[27] In September 1660, John Campbell, elder of Glenorchy noted that 'the out lawes and brokin men q[uh]o now troubles [th]e cuntries' were active 'in and about lochaber [and] [the] braws [the]rof for [th]e most p[ai]rt'.[28] A similar opinion was offered in an anonymous memorandum on the Highlands written in 1677, which stated quite straightforwardly that:

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[24] *RPCS*, iii, pp.404-6.

[25] *CSPDC*, v, p.24.

[26] Fraser, *Sutherland Book*, ii, p.187.

[27] For a more long-term discussion of Lochaber's association with lawlessness, see A.I. Macinnes, 'Lochaber - The Last Bandit Country, *c*.1600-*c*.1750', *Transactions of the Gaelic Society of Inverness*, xliv, 2006, pp.1-21, *passim*.

[28] NRS, GD122/39/106/7.

> Lochaber is the nurserie [and] the refuge of all the theeves [in the Highlands] And from thence comes parties to theeve in most of all the shyrs be north Forth And may o[the]r placs [*sic*] of the Kingdome.[29]

Such thinking endured, and the commissioners for pacifying the Highlands in 1684 described Lochaber as 'the seatt and cheiff residence of the greatest theives and resaitters of all Scotland' – by 1686, they were suggesting that only a rigorous diet of Justiciary Courts at Rannoch, Inverlochy and Keppoch could hope to maintain order.[30] With striking consistency, then, this one area at the southern extremity of the Great Glen was characterised as, by a considerable margin, the most troublesome region of the Highlands.

This notoriety rested upon the unsavoury reputations of a small core of especially troublesome families. As early as 1661, Parliament was informed that 'Clan Chamron [...] are notourlie knoune to have been from the begining, and continewes still, a most rebellious and lawlesse people, given to depredations, thefts and oppressions'.[31] A comparable point was made by Tweeddale when he claimed in 1669 that 'the Magrigor ar a clan I apprehend most traibel from'.[32] Lachlan Mackintosh of Torcastle added a third group to the roster by noting that the MacDonalds of Keppoch were 'in effect the only nurserie of broken men in this whole Kingdome', and that their chief was 'the only person as yet insecured to the peace of a broken hyland man in all the North of Scotland.[33] All of these groups,

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[29] NRAS832, Papers of the Maitland Family, Earls of Lauderdale, Bundle 63/55, Memoranda and Overtures for the Peace of the Highlands, 1662-78, item 2. This memorandum is one of two dated 1677 for which authorship cannot conclusively be demonstrated (the second is introduced below). However, the fact that Sir James Campbell of Lawers was in January of that year commissioned to produce a report on the Highlands is suggestive. *RPCS*, v, p.87.
[30] NRS, PC8/7, Register of the Commissioners for Pacifying the Highlands, 1682-6, f.20v and at f.25v.
[31] *RPS*, 1661/1/406. This assessment should be treated cautiously, since it came from the Camerons' traditional enemies, the Mackintoshes.
[32] NRS, GD112/39/115/9.
[33] NRS, GD176/593; NRAS217, box 6, item 467.

with the exception of the MacGregors, had been included in the elder laird of Glenorchy's analysis from 1660, alongside a fourth kindred, the MacDonalds of Glencoe. Any measures which successfully curbed the excesses of these families, Glenrochy argued, would effectively solve the problem of Highland lawlessness.[34]

Fuller discussion was offered in two anonymous memoranda, both dating from the late 1670s. The first emphasised the rebellious credentials of five groups, focusing on their penchant for illegally occupying other people's lands. The Camerons had seized land in Ardnamurchan, and had earlier attempted to do something similar in Lochaber. The Macleans were guilty of embedding themselves in territory belonging to the Earl of Argyll. The Keppoch MacDonalds, like the Camerons, occupied estates in Lochaber pertaining to the Mackintoshes. The Glencoe MacDonalds, meanwhile, had possessed themselves of 'certaine lands belonging to [th]e Lord Lovitt'. All of these lawless groups had banded together in a rebellious alliance 'to resist the execution of his Ma[jes]ties Lawes', and at their helm was Macdonnell, a sort of bandit-in-chief who was 'known to influence all these Combinations'.[35] Despite its detail, and despite according in some degree with other assessments of Highland lawlessness, this contribution must be treated with caution. It was clearly a partisan broadside designed to drum up support for the House of Argyll during its struggle for control of Mull. Its purpose was to denigrate the anti-Campbell confederation, to paint it as a hoard of land-hungry rebels, rather than to offer a realistic assessment of the 'Highland Problem'.

The second report – another anonymous contribution, dated 1677 – is rather more considered. It gave a roll-call of all the major family groups in the Highlands. The Stewarts, Robertsons and MacLeods it described as 'verie peaceable men'; the

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[34] NRS, GD112/39/106/7.
[35] NRAS1209, bundle 70.

Campbells were 'verie obedient to the Laws'; the Mackenzies were 'verie peaceable and restrains theeffing [and] stealing in [the]r bounds'; all Highlanders under the earl of Moray's jurisdiction were 'verie quiet [and] peaceable'; the Farquharsons were 'Indifferentlie peaceable', as were the Grants and the MacDonalds of Clanranald; most of the tenants of the earl of Perth, Lovat, and the laird of Glenorchy were well-behaved; the Mackintoshes and Macleans were for the most part peace-loving; the MacDonalds of Sleat were 'peaceable'; and the MacDonalds of Glengarry, despite being 'rude [and] disorderlie', were effectively restrained through the efforts of Macdonnell. The memorandum's only negative judgements were reserved for 'the Name of Cam[e]ron [and] the MacDonald[s] in Lochaber [and] Glencoan', who were 'verie disobedient [and] disturbs the peace of the heighlands more than any other of the Clans [...] so that the people in al thes bounds com[m]itts daylie thiffts [and] Roberries'.[36] Notwithstanding the wider public perception of endemic lawlessness, then, more informed discussion almost universally restricted this appellation to the Lochaber region, and to the four clans of MacGregor, Cameron, MacDonald of Keppoch, and MacDonald of Glencoe.

Indeed, the particular opprobrium in which Lochaber was held can be discerned from the readiness with which disorders were attributed to its people. Thomas Houston, minister of Boleskin in Inverness-shire, complained that he had been attacked and robbed at his home in 1669. He was quick to pin the outrage on 'Lochaber Robbers', and the heritors of another Inverness parish, Daviot and Dunlichity, stated in 1676 that during the summer months they were 'necessitat to abyd in the Glens to shelter and keep ther bestiall and goods From the Lochabber and Glencoa Robbers'.[37] Perth in February 1688 expressed his anxiety that 'the

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[36] NRAS832, bundle 63/55, item 3.
[37] Mackay, *Inverness and Dingwall*, pp.4-5 and at p.72.

Lochaber [and] Glencoan men to the Number of betuixt 2[00] [and] 300 men' were preparing to 'Come doune [and] plunder [and] destroy' his lands in Rannoch.[38] Lochaber men were even seen at work on the eastern fringes of the Highlands. In 1667 Magdalene Scrimgeour, lady Drum raised an indictment against a band of raiders principally drawn from the Glencoe MacDonalds, accusing them of lifting several hundred oxen, cows, horses and sheep from her lands in Aberdeenshire.[39] They were even accused of conducting raids into Fife in the spring of 1686.[40] Not only, then, were Lochaber men considered the most lawless in the entire Highlands, but they were also believed to range very widely, and to be responsible for almost all major disorders throughout the region.

At least part of the explanation for Lochaber's poor reputation was its eccentric patchwork of jurisdictions. Three different individuals claimed superiority. The first was Huntly. The traditional Gordon patrimony included the lordship of Lochaber, and the return of these estates in 1662 restored Huntly to his position as the major regional landholder. With ownership went authority, and Huntly claimed legal jurisdiction over Lochaber.[41] His most consistent rival was Lachlan Makintosh of Torcastle. The Mackintosh chiefs had been hereditary stewarts of Lochaber since at least 1447, and they too claimed substantial jurisdictional power – indeed, in 1679 Torcastle sought legal advice from Rosehaugh in order to prove that his stewartry was the equivalent of a regality and, thus, subject to no jurisdiction but the king's.[42] The final claimant was Moray. Lochaber lay within Inverness-shire, and Moray's argument was that he, having been confirmed as hereditary sheriff of Inverness in

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[38] WSRO, Gordon Letters, Goodwood Mss 1166, item 32.
[39] *RPCS*, ii, pp.219-20 and at pp.329-32.
[40] *RPCS*, xii, p.136.
[41] *RPS*, 1681/7/140; WSRO, Goodwood Mss 1166, item 1; B.G. Robertson, 'Continuity and Change in the Scottish Nobility: The House of Huntly, 1603-90' (University of Aberdeen, PhD thesis, 2007), pp.163-64.
[42] NRS, GD176/577.

October 1660, held superlative jurisdiction.[43] From the very beginning of the Restoration, then, the challenge of maintaining law and order in Lochaber was complicated by the existence of three overlapping jurisdictions, all of which were claimed by their holders to be paramount.

For many contemporaries, this uncertainty weakened social and political control, leading inevitably to lawlessness. The soldier William Mackintosh, in his report to Huntly (elevated since 1684 to the dukedom of Gordon) on the MacDonald-led rebellion of 1688 which culminated in the battle of Mulroy, implied very strongly that the lack of an undisputed line of authority in Lochaber fostered 'dangerous consequences' that were 'hatefull among christians' because it allowed troublesome elements to stir up disaffection.[44] Into this vacuum, it was argued, stepped the informal hierarchy of clanship. On this point the 1677 memoranda are clear:

> In reguard thes broken men [and] Clanns are Influenced be therr Cheiffs on whom they depend principallie They give no obedience [...] And being Contenanced [and] defended by ther Cheefs They take libertie to co[m]mitt all disorders they please, and have no regard to authoritie nor Law.[45]

Lochaber's jurisdictional imprecision also stimulated disorder at an elite level, as the competing superiors periodically attempted to assert their rights. The earliest major example was in August 1670, when the Privy Council commissioned Moray to hold courts in Lochaber. Moray's attempts to do so failed, apparently through the resistance of the Camerons, and by November 1671 the commission had been

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[43] *RGSS*, xi, p.5. Jurisdictional confusion was not helped by the fact that Lochaber straddled three different sheriffdoms. The bulk of the region was in Inverness-shire, but outlying stretches were also to be found in Argyllshire and Perthshire.

[44] BL, Add. Mss. 39200, f.3r.

[45] NRAS832, bundle 63/55, item 2.

rescinded upon Torcastle's insistence.[46] Although this seems to have been the end of

Moray's active interest in Lochaber, friction between the Gordons and Mackintoshes

persisted.[47] In February 1683, Huntly attempted to buy out Torcastle for the sum of

15,000 merks. Torcastle was initially receptive, but apparently changed his mind, for

by 1684 Huntly was instead attempting to nullify the Mackintosh claim by having his

own estates in Lochaber erected as a regality.[48] Complex jurisdictional disputes

undoubtedly fomented tension in Lochaber, and this in turn made it much more

difficult to establish a clear line of authority. If this goes some way towards

explaining the particular problems associated with that region, it also highlights the

perils associated with characterising the supposed lawlessness of the Highlands as a

general and endemic 'problem'.

If the 'Highland problem' was neither as novel nor as widespread as some

contemporary propaganda might suggest, the shadowy origins of the major

troublemakers did render it highly complicated.   Usually law-breakers were

characterised as 'broken men', meaning that they acknowledged no lord. This placed

them within the category of the vagrant. Even if vagrancy was of particular concern

in the Highlands – and the Privy Council certainly thought so in 1666, when it

declared that 'they so abound and are sheltered that the publick lawes cannot be

execut against them' – it was hardly unknown elsewhere.[49] Indeed, when in 1672 the

Scottish Parliament sought to combat the problem by establishing correction houses,

there was no indication of a particular concern for the Highlands; of the thirty-two

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[46] *RPCS*, iii, p.222 and at p.403; James Drummond, *Memoirs of Sir Ewen Cameron of Locheill* ed.
J. Macknight, (Edinburgh, 1824), pp.208-9; Hopkins, *Glencoe*, p.50.
[47] Robertson, 'Continuity and Change', pp.173-75.
[48] NRS, GD176/606/1-3.
[49] *RPCS*, ii, p.205.

institutions mooted, only four were in this region.[50] Vagrants, in fact, were a much-discussed, and much-maligned, component of early-modern society across Europe. Hostility towards them clearly owed something to practical concerns; groups of wandering unemployed were unsightly and potentially criminal.[51]   More importantly, in a world structured around social relationships (particularly lordship and worship in a set parish), 'masterless men' were an anomaly, and were understood to pose what Braddick has called a 'normative' threat to the very fabric of society.[52] Neither the existence of 'masterless men' in the Highlands, nor the near-hysterical official response to them, should therefore occasion much surprise. Rather than viewing caterans as a peculiarly Highland problem, they should be understood as the Highlands' version of a much wider social issue endemic to early-modern society.[53]

Historians investigating these phenomena have tended to reject the contemporary dogma that vagrants were simply lazy misfits, and have sought other explanations, stressing instead the importance of poverty.[54] A number of pressures could in fact push Highlanders towards vagrant and bandit lifestyles, of which

[50] *RPS*, 1672/6/52. The Highland correction houses were to be at Inveraray, Inverness, Dornoch and Wick.

[51] T.C. Smout, *A History of the Scottish People 1560-1830* (London, 1998), pp.205-6; R.A. Mitchison, *The Old Poor Law in Scotland: The Experience of Poverty, 1574-1845* (Edinburgh, 2000), p.13; H.M. Dingwall, *Late Seventeenth-Century Edinburgh: A Demographic Study* (Aldershot, 1994), pp.248-49; A.L. Beier, *Masterless Men: The Vagrancy Problem in England 1560-1640* (London, 1985), pp.123-45.

[52] Braddick, *State Formation*, p.151; Beier, *Masterless Men*, pp.4-7; U. Danker, 'Bandits and the State: Robbers and the Authorities in the Holy Roman Empire in the Late Seventeenth and Early Eighteenth Centuries' in R.J. Evans (ed.), *The German Underworld: Deviants and Outcasts in German History* (London, 1988), pp.75-107, at p.101.

[53] C. Whatley, 'Order and Disorder' in C. Whatley and E. Foyster (eds.), *A History of Everyday Life in Scotland, 1600 to 1800* (Edinburgh, 2010), pp.191-216, at pp.202-3.

[54] T. Munck, *Seventeenth Century Europe: State, Conflict and the Social Order in Europe, 1598-1700* (Basingstoke, 2005), p.202; Ruff, *Violence*, p.226. For studies of specific regions see Beier, *Masterless Men*, pp.14-28 on England, Kirby, *Northern Europe*, p.266 on Scandinavia and Kamen, *Spain*, pp.211-12 on Spain. An alternative (Marxist) view, characterising 'social banditry' as 'a form of individual or minority rebellion within peasant societies' and as a means of challenging the oppressive relationship between lord and peasant, can be found in E.J. Hobsbawn, *Bandits* (Harmondsworth, 1972), p.17.

poverty was certainly one. Aggressive begging was a marked problem facing the commissioners for pacifying the Highlands in 1686:

> This being ane open yeir [...] cattell for want of fodder are forced to be out upon the mountans But these theives come down in tens and Tuelves to the braes of Strathein and the Och[y]ells In armes thigging and if they be denyed there they steall and robbe So [tha]t the gentlemen in these cowntries have not safety nor securitie.[55]

Although the tone of this extract mirrors the broader contemporary understanding of vagrancy as a lifestyle choice, individual cases reveal a more complex pattern. Mary nic Killop, a resident of Kilmore in Lorne, was reported in July 1674 to have 'gone out of the country begging for bread', and to have done so 'by reasone of the Indigency and the generall skarcity of victuales in the country'.[56] If this example highlights the link between poverty and vagrancy, an earlier experience of the soldier Lachlan Mackintosh illustrates the ease with such pressures could lead to criminality. Mackintosh had served in the Royalist armies during the 1640s, and had lived in exile in France during the Interregnum. Upon returning to Scotland after the Restoration, he found himself 'defrauded of any portione [he] might hawe expected by [his] fathers decease', and had as a consequence been 'forcit to liwe for a tyme vpone the charitie of my freindis In the highlands'. Subsequently he was 'dryven by necessitie to liwe as ane out law', and he stressed that he had not taken this step 'out of any Mulitius Inclinatione'. He was ultimately found guilty of conniving in 'one alleidgit robrie and way taking of some kowis' from John Lyon of Muiresk, and seems to have been executed.[57]

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[55] NRS, PC8/7, f.26r.
[56] NRS, Records of the Presbytery of Lorne, 1651-1681, CH2/984/1, ff.261-62.
[57] NRS, GD176/506. This was the same Muiresk who, in 1666, would die at the hands of the infamous bandit Patrick Roy MacGregor, see below.

Other forms of social anxiety also had a role to play. Tenants could suffer eviction through no fault of their own. In Ardullie in Easter Ross, the infeftment in 1668 of a new landlord, Robert Munro, left the existing tenants – including Archibald Baillie, Alexander Baillie, John Dow and John MacGregor – landless because Munro wished to replace them with his own kin and servants.[58] Such sudden removal from one's lands could necessitate a degree of raiding, as Argyll found out to his cost in 1666:

> It is commonly said none will stealle from me and yet whithin this yeare horse and cowes haue beene stolen from the tenants of my property w[i]tin two or three miles of my house and some of them by those I had the yeare before discarded on suspition who are now receate on other mens grounds.[59]

The problem was frequently exacerbated by the standard practice of putting criminal groups or individuals to the horn, which left them little opportunity to conduct themselves peaceably. In 1662, the Scottish Parliament outlawed John Campbell of Ardkinglass and James Campbell of Orinsay as punishment for their actions during the 1640s and 1650s.[60] By October of that year, it had come to the attention of the Privy Council that this sanction had forced the two Campbell lairds into desperate action:

> [They] are still continuing to prosecut their former treasonable and rebellious courses by gathering to themselves deperat and wicked persons, their accomplices, in ane hostile maner, who are ready to disturb the peace and trouble our good subjects to the hazard of their lyves and fortunes.[61]

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[58] NRS, Tain Sheriff Court Minute Book, 1663-1684, SC34/1/1, ff.130v-131r.
[59] BL, Lauderdale Papers, 1666, Add. Mss. 23125, f.104r.
[60] NRS, Supplementary Parliamentary Papers, Addenda, PA7/22, f.27. See chapter 4.
[61] *RPCS*, i, p.268.

Ardkinglass and Orinsay were responding to a specific instance of outlawry, but the particularly intractable lawlessness of the MacDonalds of Keppoch was blamed, by Torcastle at least, upon a longer term lack of social and legal respectability:

> [The]r predicessors have been declaird traitors and Comissione of fire and soward hawe been given againest them for dissobeying the ultimat diligenc of the law [...] knowing themselves to be broken men upon that account they stell robb and oppress in all the Countrie about [...] nor do these tennents pay any pairt of the Kings pub[lic]t dwes nor the petitioner his rents.[62]

Dodgshon has argued that animal theft in the Highlands 'had a powerful sub-text' in that it was a calculated weapon used by clansmen to undermine the power and prestige of their rivals.[63] Yet the above examples also make it clear that, in some cases, theft was not so much an expression of the in-built mores of a supposedly semi-tribal society as an expedient necessitated by straitened circumstances.

Nevertheless, Dodgshon's thesis reflects a very real phenomenon, since forays did remain a prominent component of land and property disputes. John Grant of Dunskaith became embroiled in an altercation with a group of men - John Dunbar, Malcolm MacFinlay, Robert Logan, David Robb, George Ross, Duncan Mckray and Alexander Gow – over ownership of the 'toune [and] lands of dibadill' in Easter Ross. In his complaint to the Sheriff Court of Ross in June 1678, Dunskaith emphasised his opponents' use of raiding:

> The formaned p[e]rsons having shakin of the fear of God [and] all regaurd to his ma[jes]ties Lawes [and] acts of parlia[men]t Did most violently [and] woefully eject the tenents of the s[ai]ds droune [the]r fyres put out [the]r plenishing beat abuse [and] threaten [the]m in [the]r persons [and] did hand doges [and] mastives to [the]r catell [and] goods.[64]

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[62] NRS, GD176/593.

[63] Dodgshon, *Chiefs to Landlords*, p.87. This argument will be analysed in greater depth below.

[64] NRS, SC34/1/1, ff.172v-173r.

Indebtedness could stimulate similar reprisals. John Macrichie of Craigskorie in 1679 took four animals from Alexander MacIain, to the value of £44, in settlement of a debt owed to him, although he claimed that this action had been legally sanctioned by a precept of poynding issued by the sheriff of Ross.[65] The case of Margaret Campbell of Drumdarroch was rather more internecine. She complained in 1681 that, in settlement of debts owing to her, she had recently inherited livestock worth £100 from her late father. These animals, however, had been forcibly confiscated by her brother, Donald Campbell, who likewise sought repayment of money he had lent to their father.[66] It is of course important not to overstate this trend. Highlanders were perfectly comfortable using the legal system to settle disputes, and it is noteworthy that the sheriff courts of Argyll, Ross, and Wick have left voluminous records of debt and property litigation in which violence played no discernable part.[67] Nonetheless, it is clear that in some cases banditry and animal theft continued to be used as a means of pursuing rights and privileges.

If poverty, social dislocation and interpersonal disputes all stimulated banditry, another cause was naked opportunism. On a small scale, the case of John dow Mackendrick, who was convicted in 1678 of two counts of animal theft, is instructive. On both occasions, he had stolen a single animal – one from Lindally in 1675, and one the following year from Drumlie – and proceeded to sell it on. Between them, these exploits earned Mackendrick twenty-one merks.[68] More serious opportunism accompanied the widespread disorder occasioned by Argyll's rebellion

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[65] NRS, SC34/1/1, ff.199v-200r.
[66] NRS, Inveraray Sheriff Court, SC54/10/1/6/7.
[67] *Ibid.*, SC54/2/1-10; NRS, SC34/1/1, *passim*.; NRS, Wick Sheriff Court, SC14/4/1-2. See chapter 2 for further discussion of Highlanders' attitude towards the legal system.
[68] NRS, Dornoch Sheriff Court, SC9/7/1. Although this case has been catalogued as part of the Dornoch Sheriff Court processes, internal evidence clearly points to its having originated in the Justiciary Court of Argyll.

in 1685. John Murray, 1st marquis of Atholl, in his capacity as lieutenant of Argyll, claimed that the war had provided cover for 'thrie or four thousand robers and rascalls' to commit depredations 'on good subjects in the Highlands'.[69] Given that the marquis was attempting to justify his desire for increased powers in Argyllshire, this alarming estimate was probably an exaggeration, but there is no doubt that a number of cynical forays were made. The Macleans, MacNeills, MacAllisters, and Keppoch MacDonalds were all reported to have continued raiding long after Argyll's defeat in June 1685.[70] Elsewhere, Breadalbane complained furiously that 'Lochaber men' had stolen 100 goats from his tenants in Glenorchy; the Campbells of Inverliver accused a number of their fellow Campbells of sponsoring thefts against them, under the pretence of reclaiming their own lost livestock; and John Campbell of Carrick, who had been imprisoned during the rebellion, complained that every one of his horses, cows and sheep had been stolen.[71] This kind of opportunism plainly reinforced the standing assumption that Highland animal thieves were wilfully criminal, but it should not be allowed to obscure the generally more complex nature of the problem. Banditry was not simply the lifestyle choice of a few incorrigible clansmen, but also a personal response to a range of complex social challenges.

Disorder resulting from these diverse pressures was relatively common throughout the Highlands. Sheriff court records, despite their extremely unstable survival rate, can provide some insights.[72] From Ross-shire, for instance, records survive for thirty-three criminal trials. Of these, sixteen dealt with animal theft,

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[69] NRS, GD112/39/139/5.

[70] J. Murray (ed.), *Chronicles of the Atholl and Tullibardine Families*, 5 vols (Edinburgh, 1908), i, pp.249-50 and at pp.257-58.

[71] *Ibid.*, p.256; *RPCS*, xi, p.122, pp.225-26 and at pp.390-91; NRS, SC54/17/2/12/32.

[72] The most important gap in the extant record concerns Inverness-shire, which has left no processes from the Restoration period.

making it easily the most common single offence.[73] Only two processes have been identified from Cromarty sheriff court, both of which involved theft, one of 'severall cows and sheep'.[74] A rather different pattern emerges from the thirty-three surviving criminal processes originating in Caithness. Here, only three accusations of animal theft are extant, with the vast majority of cases – twenty-two – involving assault.[75] All of these samples are extremely small, but a more substantial analysis can be offered using the much more extensive records surviving from the various jurisdictions in Argyll. Figure 1 displays the number of cases recorded, broken down by case-type and by jurisdiction:

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[73] MacGill, *Old Ross*, i, pp.94-5; NRS, SC34/1/1, f.1r-v, 2v-3r, 6r-v, 12r-13v, 15r-v, 25v-26r, 95v-96v, 172v-173r , 199r-200r and at 218r-v.
[74] MacGill, *Old Ross*, i, p.94.
[75] NRS, SC14/4/1-2; SC14/75/1.
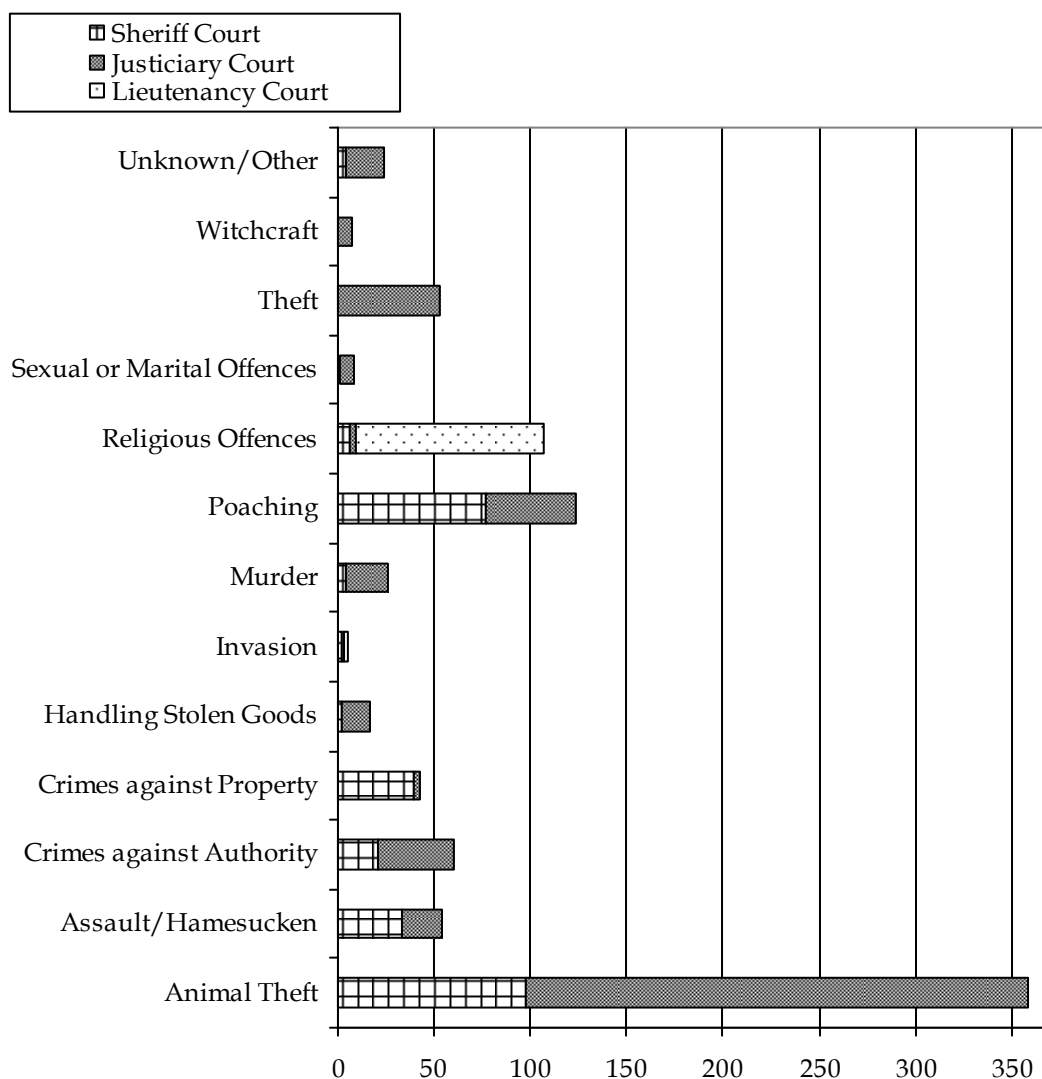
Figure 1: Criminal cases in Argyllshire, 1660-88[76]

Contemporary opinion generally held that when individuals embarked upon bandit careers, they tended to drift together into gangs.[77] The government certainly thought so; on 25 August 1670 it issued a proclamation prohibiting large groups from travelling through the Highlands. It also stipulated that Highlanders 'of whatsomever degree or quality' must not 'travell in the Highlands or keep any meitinges there having any in their retenue and company who are not their ordinar

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[76] Cameron *et al*, *Justiciary Records*, *passim*; NRS, SC54/10/1/1-13; SC54/17/2/10-16; SC54/17/4/2/3; NRS, SC9/7/1
[77] Beier, *Masterless Men*, pp.123-4.

domestick servants', an order which, following endorsement from the Highland Committee, was re-issued in 1671 and 1678.[78]   Certainly, a significant number of livestock thefts in the Restoration Highlands were committed by groups. In 1665, a four-strong gang was convicted of stealing multiple horses belonging to William Forbes of Skelliter; Robert Hunter in 1670 was charged with leading a cateran of unspecified size in a series of depredations in Barnlongart in Kintrye; in 1685, Colin Campbell of Ardkanley and his tenants suffered a series of raids perpetrated by a group of at least seven men, mainly Stewarts and Macintyres.[79] However, the role of the solo criminal should not be ignored. In Caithness, a lone vagrant woman, Eslpeth Rugg, was accused in 1665 of a string of thefts in the Castle Sinclair area.[80] Further south, the burgh of Nairn in 1669 sentenced John Roy to public scourging after he had been convicted of 'coming thiftously under the silence of night to Alex[ande]r Mcphail in Belnachairdach his sheip coat' and spiriting away 'an whit ewe'.[81]   Likewise in Argyll, Hugh MacDonald was in 1670 ordered to provide compensation to John MacNeill of Ardbeg for three horses he had stolen.[82] In some cases, lone individuals were capable of perpetrating miniature crime-sprees, as in the case of the Cromartyshire 'tinker' Andrew Forbes, hanged in 1676 for a litany of misdemeanours including adultery, prison-break, petty theft, murder, perjury and 'false cunzieing of money'.[83] If these examples show that large caterans by no means had a monopoly over Highland banditry, they also reinforce the point that crime was often an individual activity, rather than an in-built dynamic of 'clan' society.

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[78] *RPCS*, iii, p.222 and at pp.312-13; *RPCS*, vi, p.51; BL, Lauderdale Papers, 1671-3, Add. Mss. 23135, f.30r.
[79] NRS, SC34/1/1, f.15r-v; NRS, SC54/10/1/2/1, SC54/10/1/8/15.
[80] NRS, SC14/4/1/Bundle 25
[81] HARC, BN/1/1/1, Nairn Burgh Court and Council Minute Book, 1657-1673, ff.88v-89r.
[82] NRS, SC54/10/1/2/8.
[83] MacGill, *Old Ross*, i, p.94.

Bandit activity was generally small-scale. In 1664, Robert Bruce of Stanstell was accused of stealing a single gray horse from the Thurso merchant Thomas Sinclair, resulting in a lost income for the latter of £580, while in 1685 a group of eight men were cited before the Justiciary Court of Argyll for the theft of just four cows from Malcolm Campbell.[84] Nevertheless, there were examples of more hardened criminal careers, and the exploits of the two most notorious cateran leaders of the Restoration illustrate the potential seriousness of the problem. Donald MacDonald, better known by his sobriquet of 'Halkit Stirk' (streaked or spotted bullock), was already an established bandit before the Restoration, and was described by Sir John Campbell of Glenorchy as the 'ring leader' of Highland cattle thieves.[85] In August 1660, James Grant of Freuchie was asked by the newly-reconvened Committee of Estates to apprehend him. Freuchie had done so by October, but was clearly nervous about the consequences. The Committee attempted to soothe his concerns:

> The Com[m]ittie of Estates [...] will be very desireous to protect [and] maintaine yow [and] your followers for doeing so good a work for his Ma[jes]tie [and] the peace of the Kingdome And will be very Readie to recant and repare ane wrong or iniurie that shall be done to yow or your followers vpon this accompt.[86]

Released in November under surety of £12,000 given by Donald MacDonald, fiar of Sleat, 'Halkit Stirk' soon reverted to type. In 1671, he was cited by Sir Alexander Menzies of Weem for a series of depredations committed upon his estates in Rannoch. After significant pressure from the Privy Council, Sleat eventually presented him for imprisonment in Edinburgh, but he was again released, this time with Macdonnell as cautioner, about a year later. More disorders followed, and

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[84] NRS, SC14/4/1/Bundle 24; NRS, SC54/17/2/12/30.
[85] NRS, GD112/39/106/7.
[86] NRS, Register and Minutes of the Committee of Estates, 1660, PA11/12, f.50r.

'Halkit Stirk' was again apprehended in 1676, this time by Lawers, for involvement in a spate of robberies in Perthshire. This most tenacious of cateran leaders was, along with his sons, apparently still active in the 1690s![87]

The career of Patrick Roy MacGregor – 'a plague and scurge upon the country [...] a vile Scithian rude outlaw' – was briefer, but if anything still more notorious.[88] A monoglot Gaelic-speaker, at least according to his trial documents, MacGregor operated on the eastern fringes of the Highlands, and by the mid-1660s had carved out a substantial sphere of influence between Alford and Forfar. Reputedly he extorted protection money from all those within his range, pillaging the estates of any who resisted. Yet John Lyon of Muiresk, from whom MacGregor stole some eighty cows and oxen in 1665, did resist. Criminal letters raised before the Justiciary Court of Edinburgh were ignored; MacGregor was put to the horn in November 1665, and a commission of fire and sword was issued against him (alongside other bandits) in December. It was at this point that MacGregor's notoriety peaked. In April 1666, as Muiresk was attempting to fulfil his commission, he and his son were kidnapped and murdered by their quarry. MacGregor himself was captured a few months later following an ill-considered attack on the town of Keith – although clearly not without difficulty, since his captors later received £1,200 'for ther pains takenm and wounds received'. After a brief spell of imprisonment at Banff (and at least one attempted prison-break), MacGregor was transported to Edinburgh in February 1667. Tried on 25 March, he was convicted of murder and sentenced to death. Execution was delayed twice, in March 1667 and April 1668, because the

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[87] *RPCS*, iii, p.223, p.341, p.360, p.371, p.385, p.388 and at pp.580-81; *RPCS*, v, p.38; Hopkins, *Glencoe*, p.320 and at p.379.
[88] Fraser, *Wardlaw*, p.486.

government wished to question MacGregor over his reputed noble patrons, but it was eventually carried out on 13 May 1668.[89]

The careers of Donald MacDonald and Patrick Roy MacGregor encapsulate many of the key features of the 'Highland Problem' as perceived by contemporaries; landless men, lacking an effective lord, who gathered in large groups to pillage at will, and who wilfully ignored the government's authority. Yet if these two examples show the potential seriousness of the problem, it should be remembered that they were wholly exceptional. Few Highland bandits were so prolific, and still fewer gained comparable infamy. Most were obscure, and tended to operate on a much more modest and sporadic scale.

Despite the consistent association of Highland lawlessness with 'masterless men', there were recurrent suspicions throughout the Restoration that more august individuals were at least partly to blame. The Privy Council certainly thought so in 1664:

> The Lords of his Majesties Privy Councill, [have] received frequent and credible information of the many herships, theiftes, robberies and depredations daylie committed upon his Majesties peaceable and obedient subjects be severall louse and lawless persons in the Hielands, men, tenents, servants or dependers upon cheiftanes of clannes, landslords and other persons of power and credit.[90]

Some Highland elites were suspected of direct involvement in such activities; John Grant of Ballindalloch reputedly allied himself with a cateran led by two well-known

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[89] *Ibid.*, pp.486-9; *RPCS*, ii, pp.125-26, pp.164-65, p.261, p.266, p.272, p.278, p.433, p.438 and at p.444; Scott-Moncrieff, *Proceedings of the Justiciary Court*, i, p.133, p.140 and at pp.198-200; *CSPDC*, vi, p.536; Sinclair, *Letters*, p.70 and at p.79; NRS, Audited Treasury Accounts, 1667-1671, E26/11/1, f.35; NLS, MS.7033, f.128; NRS, GD16/34/134, GD16/41/814; EUL, Lauderdale Correspondence, 1657-1698, La.III.354, f.144.
[90] *RPCS*, i, p.638; Macinnes, *Clanship*, p.126.

Aberdeenshire outlaws, Lachlan MacAllan and Andrew Shaw, in 1663.[91] More usual, however, was the occasional employment of Highlanders in personal disputes. Often this was very small in scale. Janet Nicolson, a widowed shopkeeper from Thurso, complained in 1666 that her shop had been destroyed by 'ane Crue of heillanders' hired by a rival merchant, Patrick Gordon.[92] Similarly, John MacEwan confessed in 1673 that he had stolen 'a four yeer old gray horse' from Lachlan Maclean, fiar of Torloisk, but that he had only done so 'by the Laird of Lochbuys directions'.[93] Yet there were examples of more serious support. Neil MacLeod of Assynt led an insurrection in western Sutherland between 1669 and 1672, apparently in an attempt to defend himself from a major creditor, Seaforth. He was accused, among other misdemeanours, of employing twenty members of an infamous Sutherland bandit family, the Neilsons, to garrison his castle of Ardvreck.[94] Aboyne was still more notorious for his suspected involvement in the career of Patrick Roy MacGregor. Indeed, MacGregor's confession of May 1668 explicitly stated that Aboyne had not only offered funding and protection, but had personally chosen MacGregor's targets, including the laird of Muiresk.[95] But Aboyne was not alone; during the 1660s Lauderdale suspected both Seaforth and Tarbat of secretly consorting with broken men.[96]

Suspected complicity also involved turning a blind eye. In 1667, Thomas Mackenzie of Pluscarden complained that he and his tenants had over the previous year suffered a spate of thefts at the hands of Highland robbers, none of whose landlords – including Huntly, Hugh Rose of Kilravock, Ludovick Grant of Freuchie,

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[91] NRAS217 , box 6, item 449.

[92] NRS, SC14/69/1.

[93] NRS, SC54/10/1/3.

[94] *RPCS*, iv, p.157; Scott-Moncrieff, *Proceedings of the Justiciary Court*, ii, pp.224-28.

[95] Fraser, *Wardlaw*, p.487; NLS, MS.7033, f.128r and at f.129r.

[96] NLS, Yester Papers: Lauderdale Correpondence, 1664-1672, MS.7023, f.210r.

and Duncan Macpherson of Cluny – had made any effort to apprehend them.[97] Cluny was again accused of laxness in 1680, when he was requested by Macdonnell to capture a number of 'notorious thiewes' hiding on his lands, but hesitated to such an extent that Macdonnell threatened to go over his head and contact Huntly.[98] Moreover, local elites were occasionally willing to overlook depredations when they were committed against their enemies. John Forbes of Culloden was outraged in 1670 when a number of 'lewd lawless persons', who had stolen animals from his estates in Ferintosh on The Black Isle, were allowed to escape through the lands of his long-standing rivals, the Frasers of Lovat and the Chisholms of Strathglass 'without any stop or challenge, though they were in a capacitie to have stopped them'.[99] Macinnes' revisionist thesis states that Highland elites were largely determined 'to dissociate their clans from the protectionist rackets of the cateran bands'.[100] This is perhaps a little overdone, and a more fitting reading would be that, even if most bandit activity was physically perpetrated by 'masterless' men, many Highland (and some non-Highland) elites recognised the potential benefits of maintaining covert ties to such groups.

Lawlessness and cattle theft dominate historiographical accounts of the Restoration Highlands, but they are not the only components of the 'Highland Problem' model. Clanship is equally central. In general terms, Roberts posits that Highlanders' focus on kinship as an organisational agent fundamentally distinguished them from Lowlanders, whose socio-economic structures were considerably more fluid.[101] Dodgshon offers a similar general understanding of clanship, arguing that clans introduced a significant degree of separation between

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[97] *RPCS*, ii, pp.320-21.
[98] NRS, Macpherson of Cluny Papers, GD80/820.
[99] *RPCS*, iii, pp.154-55.
[100] Macinnes, *Clanship*, p.125.
[101] Roberts, *Clan, King and Covenant*, pp.12-13.

centre and locality because the interests of the clan, rather than the Crown, tended to be uppermost in chiefs' minds.[102] Stevenson presents a rather subtler picture. For him, Highland and Lowland society shared a number of common features, not least because ties of kinship remained crucial to many Lowland elites. However, he balances this with the assertion that, thanks particularly to the growth of commercial land markets and the emergence of an urban 'middling sort' in towns, the two societies were beginning to diverge.[103] Hopkins in many ways echoes Stevenson's thesis, only in reverse, arguing that a theoretical distinction persisted between the clanship of the Highlands and the pseudo-feudalism of the Lowlands, but that the two social structures had begun to intermingle by the later seventeenth century. In particular, he cites the growing popularity within the Highlands of written land leases.[104] The general weight of these readings is that Highland and Lowland social structures were fundamentally opposed, even if a degree of hybridisation was possible. Macinnes, however, offers a different understanding, maintaining that 'political, social and cultural developments within Scottish Gaeldom were not antipathetic to, merely differing in emphasis from, contemporaneous Lowland values'.[105] Alison Cathcart adopts a still more robustly revisionist stance, and argues that the nature of clan society, especially its need to preserve and protect landed assets, actually worked to stimulate integration.[106] Yet these are minority voices, and have not yet overturned the prevailing consensus that clanship, by introducing into

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[102] Dodgshon, *Chiefs to Landlords*, pp.10-11.

[103] Stevenson, *Highland Warrior*, p.16.

[104] Hopkins, *Glencoe*, pp.11-14. In their different ways, both Stevenson and Hopkins echo T.C. Smout's classic aphorism that 'Highland society was based on kinship modified by feudalism, Lowland society on feudalism tempered by kinship'. Smout, *Scottish People*, p.43.

[105] Macinnes, *Clanship*, p.24.

[106] A. Cathcart, *Kinship and Clientage: Highland Clanship 1451-1609* (Leiden, 2006), pp.217-18.

the Highlands a form of social organisation which challenged the Lowland norm, was to a greater or lesser extent a central component of the 'Highland Problem'.[107]

Contemporary observers certainly assumed that clanship was a straight-forward construct, characterised by a rigid and archaic tribal structure. The poet John Phillips described Highlanders as 'slaves' to their chiefs, and Englishman Roger L'Estrange later echoed this sentiment by opining that, amongst 'Highland Scots [...] the Honour and Interest of the Chief is the Glory of the whole Clan'.[108] The implicit assumption that clanship represented an alternative authority system was shared by other, more securely informed commentators. An anonymous pamphlet, arguing in 1661 against the restoration of the House of Argyll, made a key point of this potentially seditious feature of clanship:

> The restoring of this Family is in a special manner most dangerous, by reason of the scituation and vast bounds of the Estate of Argyle, in the High-lands, the great Claim, many Vassals and Tenants that depend on it; all, or for the much greater part, ill principled, and inured to Rebellion these last 20 years, who blindly follow their Masters commands, without any regard of their duty to God or the King.[109]

A telling indication of the way clanship was viewed was included in one of the 1677 memoranda. It noted that families such as the MacDonalds, Macleans, MacLeods, Camerons, Mackintoshes, Grants and so on could all legitimately be described as

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[107] The debate about how far clanship fomented discord between the Highlands and the wider Scottish polity has been mirrored in recent years by discussion of its nature as an organisational structure. For an expression of the traditional model, emphasising kinship and blood relations, see Stevenson, *Highland Warrior*, p.10. For one of the most extensive revisionist accounts, stressing clientage over kinship, see Cathcart, *Kinship and Clientage*, pp.59-98.

[108] John Phillips, 'The Royal Captive, or the World's Epitome' in *Wit and Drollery, Joviall Poems* (London, 1661), pp.148-50, at p.148; Roger, L'Estrange, *The state and interest of the nation, with respect to His Royal Highness the Duke of York discours'd at large, in a letter to a member of the Honourable House of Commons* (London, 1680), p.14.

[109] Anonymous, *Some Reasons why Archibald Campbell Sometime Lord Lorne, ought not to be restored to the Honour or Estate of his late Father Archibald sometime Marquess of Argyle* (1661), pp.1-2.

'clans', but that the Campbells and Mackenzies could not. Its explanation for this distinction was that 'most of them [Campbells and Mackenzies] are landit men [and] heritors and are not in such subjectione to ther cheefs as to be accunpted [*sic*] Clanns'.[110] This then reinforces the sense that, in contemporary eyes, clanship was a distinct form of social organisation which disrupted the normal hierarchies of lordship and intruded a powerful authority figure – the 'chief' – between centre and locality. While this does not mean that clanship was seen as necessarily subversive, it is certainly the case that a potential conflict was detected.

Gaelic poets likewise constructed a very distinct image of clanship. In their narratives, the chief was conventionally portrayed in a benign, patriarchal light. An anonymous elegy to Iain Mackenzie of Applecross (d.*c.*1685) was a case in point:

> *A' chraobh thu b'àirde a' choille,*
> *That gach preas bha thu soilleir,*
> *A' cumail dìon air an doire*
> *Le d' sgèimh ghuirm fo bhlàth dhuilleag.*

> (You were the highest tree in the forest, over every thicket you stood distinctive, affording shelter to the oakgrove with your vigorous beauty under heavy foliage).[111]

If the chief was expected to behave as the protector and nurturer of his clan, clansmen were exhorted to offer him loyalty in return. Iain Lom's professed horror at the Keppoch murders was based, in part at least, on a sense that this paternal contract had been broken:

> *'S iomadh murt bha 'san t-seaghal*

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[110] NRAS832, bundle 63/55, item 3. The fact that the 1661 pamphlet treated the Campbells as a clan, while this memorandum emphatically did not, is an interesting illustration of the duel Highland/Lowland identity of families like the Campbells.

[111] Anonymous, 'Marbhrann Thigearna na Comraich', at pp.176-77.

O mharbhradh Abel le bhràth 'ir,
Ach b'e samhladh a' ghnìomh so
Mar gum marbhta leis Adh'mh:
'N uair rinn na h-eucoraich dhaoiun' ud
An ceann teaghlaich a mhurt

(Many have been the murders committed in the world since Abel was killed by his brother, but this act was as though Adam had been killed by him – when those impious ones murdered the head of their household).[112]

Such an intensely familial view of clanship meant that Gaelic commentators tended to perpetuate a sense of a collective identity and inheritance.[113] In the estimation of poetess Mary MacLeod, the connection between the MacLeods of Dunvegan and their clan lands went far beyond simple proprietorship on the part of the chiefly line:

Cuime an tigeadh fear coigreach
Do thagradh ur n-oighreachd?
Gar nach 'eil e ro dhearbhta
Gur searbh e ri éisdeachd;
Ged tha sinne air ar creachadh
Mu chloinn mhac an fhir fhéilidh,
Sliochd Ruairidh mhóir allail,
Is gur airidh iad féin oirr'

(Wherefore should a stranger come to implead your heritage? Though it be well proven, it is bitter to hear. Though we are despoiled of the sons of the generous one, the race of Roderick great and renowned, they alone are worthy thereof).[114]

Iain Lom similarly exhorted the MacDonalds to reclaim by force what he perceived to be their natural lands in Ross-shire (the territory of the long-defunct earldom of Ross), despite the fact that these estates now legally pertained to the Mackenzies of

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[112] John MacDonald, 'Murt na Ceapaich' [The Keppoch Murder] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.82-93, at pp.86-87.
[113] Macinnes, 'Gaelic Culture', at p.168.
[114] Macleod, 'Cuhma do Mhac Leoid', at pp.58-59.

Seaforth.[115] Such poems echoed negative Lowland stereotypes by portraying clans as self-contained, independent structures. In this view, they were held together solely by the bonds of kinship, producing a closed corporate agenda which did not require outside channels of authority.[116]

In practice, of course, the situation was more fluid. Admittedly, kinship ties (real or putative) remained during the Restoration a vital source of strength for many Highland elites. At the most basic level, they offered a useful support network. As Seaforth observed in 1668, 'we [tha]t lives at [th]e back of gods elbow desyres to haue o[u]r relationes in a conditione to doe a good turne or ane ill for us'.[117] James Fraser of Wardlaw went further when he claimed that failing to exploit the natural reservoir of supporters provided by one's kin was abject folly:

> It was the preposterous practice of the nobility in the north, especially Seaforth and Lovat, to bring in strangers to be their servants, and get that mony which our own kinsmen should have. These prove but spyes amongst us, discovers our weakness, takes all the advantage of us they can, fledg their wings with our wealth, and so fly away and fixes it in a strange country.[118]

Argyll's involvement in Mull from the mid-1670s represented perhaps the most striking single instance of a chief exploiting his kin network. His campaigns involved mobilising most of the major Campbell gentry – Glenorchy (albeit reluctantly), Sir Hugh Campbell of Cawdor and Sir Alexander Campbell of Lochnell all accompanied him to Mull, with their retinues, at least once.[119] But Argyll's reliance on Clan Campbell was not restricted to just the major cadets. In the first half

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[115] MacDonald, 'Oran do Mhorair Chlann Dòmhaill', at pp.124-25.

[116] J. MacInnes, 'Clan Unity and Individual Freedom', *Transactions of the Gaelic Society of Inverness*, xlvii: 1972, pp.338-73, offers a detailed discussion of the familial image of clanship as expressed through vernacular poetry, while unfortunately making the classic error of assuming this corpus precisely reflected reality.

[117] NLS, Yester Correspondence, 1660-1669, MS.7003, f.115.

[118] Fraser, *Wardlaw*, pp.511-12.

[119] Innes, *Cawdor*, p.332.

of 1679 alone, he issued three commissions to John Campbell, the son of the baillie of Jura. The first ordered him to capture Moy castle, the second required him to produce an inventory of the men and arms commanded by Glenorchy and the third asked him to convey to the earl 'ane Chist and two litle Coffers' from Moy.[120] This intense reliance on the Campbell gentry characterised all expeditions to Mull, and exemplified the ongoing importance of kinship to the exercise of power in the Highlands.

The use of one's kin as a support network was possible because a sense of family solidarity remained pervasive throughout the Highlands.[121] Fraser of Wardlaw, who feared in the 1660s that the Frasers were likely to die out, betrayed a continuing attachment to the concept of a corporate clan identity:

> What a famous flourishing famely was this! [...] Lord Lovat hath but one sone; the Laird of Strachin but one sone; the Lord Salton but one sone; Laird of Inveralochy but one sone; Sir Alexander [Fraser of] Dorris one sone; and the Lord Fraser Muchell but one sone.[122]

The Sinclairs retained a similar sense of wider association, and it was argued in 1677 that any alterations to the political *status quo* in Caithness 'can onlie be satisfactorie' if 'the Bodie of the shyre or the Name of Sinclair at least' had given their consent.[123] Martin Martin, writing in the 1690s, detected this impulse even amongst common clansmen, who, he claimed, 'have a great respect for their chiefs', and would 'in case of a decay of estate, make a voluntary contribution on their behalf, as a common duty to support the credit of their families'.[124] The corollary to such solidarity was the

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[120] NRS, Campbell of Jura Papers, GD64/2/25, 26, 28.
[121] Newton, *Warriors of the Word*, pp.154-57.
[122] Fraser, *Wardlaw*, p.467.
[123] NRS, GD112/39/123/10.
[124] Martin, *Description of the Western Islands*, p.130.

expectation that it should not be breached. In 1664, Walter Ross of Invercharron committed the 'misdemeanor' of destroying the cruives of David Ross of Balnagown. Faced with this betrayal, the remaining Rosses rallied behind Balnagown:

> Wee B[alnagown]'s kinsmen undersubscribers doe unanimouslie consent that B[alnagown] persew I[nvercharron] legalie for the Riot [and] that he goe as far as the law will permit [...] and wee does faithfullie oblidge ourselffs that we will assist [and] contribut with o[u]r Cheiff for effectuating of his designe.[125]

In some cases, these kinds of corporate loyalties superseded all others. Ewan Cameron of Lochiel was suspected of seeking 'dominion, power and jurisdiction' over 'all of that name in what bounds or lands soever they duell'.[126] Such accusations were a standard component of the Camerons' black image, but in the case of another family, the Grants, the primacy of loyalty to the kin was conceded by the chief himself. When asked to perform military service, noted Ludovick Grant of Freuchie in 1685, 'Highlanders signifie nothing unless ther native officers be at their head'.[127]

Again, however, it was within the vast Campbell conglomerate that corporate identity flourished most clearly. Argyll tended to portray himself as the protector and patron of his kinsmen. In 1665, he lobbied Lauderdale assiduously in an attempt to secure the rehabilitation of James Campbell of Ardkinglass, who had been forfeited for his actions during the 1640s, stating that 'the old man [...] is very sencible of his fault' and claiming that 'all that family will be very thankfull and usfull in whatever service his Ma[jes]tie can find them capable of'.[128] In return, there

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[125] MacGill, *Old Ross*, ii, p.16.
[126] *RPCS*, iii, p.453.
[127] W. Fraser (ed.), *The Chiefs of Grant*, 3 vols (Edinburgh, 1883), ii, p.25.
[128] Sinclair, *Letters*, pp.16-17.

was an implicit understanding that Campbell gentry should avoid any actions displeasing to the earl; Tweeddale found that his design of appointing Sir James Campbell of Lawers to catch broken men in the Highlands in 1669 was almost derailed because 'lauers [...] desird I uold first speak [to] argyle for without his aprobatione beeing of his nam de darst not [accept]'.[129] More broadly, though, it was expected that all Campbells would present a united front. In 1671, James Menzies of Culdares, accused of murdering Colin Campbell of Lochinell, petitioned the Privy Council that he should be tried not in Inveraray, where the alleged crime had taken place, but in Edinburgh, because 'he finds it very unsafe for him to passe to the knowledge of ane assyse in these places' since 'the defunct is so related to all the gentlemen of that countrey as that they are neir of kin [...] and the gentleman being so generally beloved in that place'.[130] Campbell solidarity, in Culdares' estimation, would condemn him before his trial even began. This dynamic exemplified the pervasive importance of kin identities.

The notion of 'clan lands', a territorial base linked to the entire kindred, rather than simply the chief, also persisted. In 1669, the MacGregor chief, James MacGregor, felt unable to settle a dispute with the Laird of Weem because 'the name uer not at all uilling to it', while in 1676 Lochiel excused his failure to conclude an alliance with Argyll by noting that clansman 'absolutelie declyne to seriue yor lo[rdshi]p'.[131] This attitude could become particularly important when estates were under threat. The chief of the MacDonalds of Sleat, Sir James MacDonald, and his son Donald, had amassed significant debts by 1678. Their failure properly to service these obligations led a group of eleven clansmen to seize control of their lands as a

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[129] BL, Lauderdale Papers, 1669, Add. Mss. 23132, f.62r.
[130] *RPCS*, iii, pp.326-27.
[131] NRAS1209, bundle 21, item 5; bundle 114, item 157.

means of preserving the estate.[132] Notions of collective ownership caused inevitable problems when estates changed hands. Many of the Sinclairs resisted Glenorchy's encroachments upon Caithness' estates because they did not wish these lands 'to fall in any strangers hand'.[133] Similarly, Tarbat in 1684 had himself recognised by Jonathan Urquhart of Cromarty as his heir, but this development was challenged by other members of the Urquhart kindred, who attempted to sabotage Tarbat's projected succession by refusing to surrender the estate's charter chest, and by raising spurious citations against him for debt.[134] Both the Sinclairs and the Urquharts were resisting the imminent separation of legal from accustomed ownership, but in some cases 'clan lands' had never been accompanied by proprietary right.[135] This too could muddy the channels of authority, as the case of the Lochaber MacDonalds illustrated:

> The Laird of McKintosh his tenants in the Brae of Lochaber doe pretend that were wer *in tuto* by the quality of a band granted by the Lord McDonald not to remove at their masters instance untill they get lawfull advertisment.[136]

'Clan lands' were then a physical expression of the collective, corporate identity espoused by many Highland kindreds. Moreover, this trend was in evidence right across the region, and was by no means limited to the more securely 'Gaelic' clans of the western seaboard.[137]

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[132] Fraser, *Earls of Cromartie*, i, pp.27-29.

[133] NRS, GD96/673/117.

[134] *RPCS*, x, pp.57-58.

[135] The friction between accustomed clan rights (*duthchas*) and rights by charter (*oighreach*) has been much discussed as a source of disorder in the Highlands. See Stevenson, *Highland Warrior*, p.14; Hopkins, *Glencoe*, pp.16-17; Macinnes, *Clanship*, pp.6-7; Cathcart, *Kinship and Clientage*, pp.145-57; Newton, *Warriors of the Word*, pp.141-45.

[136] *RPCS*, v, p.251; NRS, GD176/555.

[137] For further discussion of the supposed cultural divide between the eastern and western Highlands, see chapter 2.

Eloquent testimony to the ongoing importance of kinship was provided by the sense that an incoming landlord could strengthen his position by adopting the name of his tenants. In 1677, while attempted to consolidate his grip on the earldom of Caithness, Glenorchy submitted a proposal to the Sinclairs, suggesting that he might 'assume the Name and bear the Armes of the Sinclairs off Caithnes', a plan greeted with cautious enthusiasm by at least a section of the kin group.[138] Four years later, George Gordon, 14th earl of Sutherland petitioned that he be allowed to emphasise his family's ancient right to that earldom by changing his name back to Sutherland, an appellation that had been lost in the sixteenth century.[139] In a similar vein, Tarbat, upon being ennobled in 1685 as Viscount Tarbat, with the subsidiary title of Lord MacLeod, was rumoured to have 'intended to assume the sirname of Maccloud' in an attempt to bolster his position in the western Highlands.[140] As a corollary, proscribing a surname, as James VII briefly considered with regard to the Campbells in 1685, was an obvious mark of disgrace.[141] These notions were not mere fripperies. Throughout the Restoration, Lachlan Mackintosh of Torcastle and Duncan Macpherson of Cluny both claimed to be the legitimate chiefs of clan Chattan.[142] The seriousness with which name-changes were regarded can be deduced from considering the reaction of Lachlan Mackintosh of Kinrara to the Macphersons' suggestion as to how Torcastle might secure pre-eminence:

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[138] NRS, GD112/39/123/10.

[139] NRAS217, box 7, item 307. This scheme was soon abandoned in favour of cementing ties with the Gordons of Huntly, a family visibly on the rise in the 1680s, especially after the accession of James VII. Robertson, 'Continuity and Change', p.172.

[140] Lauder, *Notices*, ii, p.685. This, of course, was a familiar tactic in the Lowlands as well.

[141] Historical Manuscripts Commission, *Fifteenth Report, Appendix, Part VIII. The Manuscripts of His Grace the Duke of Buccleuch and Queensberry, preserved at Drumlanrig Castle*, 2 vols (London, 1897), i, p.91 and at p.104.

[142] See below.

> If [...] you should engage yorselfe to add the word Cattmach [Cattanach] to yor surnam (after 520 yeirs keeping the surname of Mcintosh with credit without any addition or ground for it) And also to move thos of yor clan [and] followers to subscryve [the]mselvs cattmachs for ther surnames (q[uhi]lk is acting Imprestable be you [and] q[uhai]rvnto many of [the]m will never consent) Truly if thes things should be granted, The mcphersones might warrantally say that they have gained a considerable pairt both as to means [and] credite.[143]

Ties of kinship and clanship therefore retained a central place in the lordly culture of the Restoration Highlands. They provided a sense of authority, identity, solidarity, and accustomed right which powerfully bound disparate individuals together. Equally, they did so independently from (although obviously often in concurrence with) the formal structures of proprietary lordship.

Yet it is important not to overstate the uniqueness of clanship as a social construct. Kinship was important outwith the 'clans'. The Caithness heritor David Bruce expressed this sentiment in a letter to his cousin, also David Bruce, in 1665, urging that 'ws keipe correspondence so Long as we are heir that we may Live and die toggider'.[144] The organisational power of kinship was equally on display in the burgh of Inverness, where there was a long-standing feud between two burgess families, the Forbeses and the Cuthberts. The latter dominated the town council for most of the 1660s and 1670s, and used this position to attack their rivals by, for example, summarily imprisoning them for non-payment of stents, banning them from serving as magistrates and blocking members of the family from settling in the burgh.[145]

None of this differed greatly from the established dynamics of Lowland society, where family affairs continued to inform public life. The fall from power in

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[143] NRS, GD176/582/1-2.
[144] NRS, SC14/75/1.
[145] Mackay *et al*, *Records of Inverness*, ii, pp.256-57 and at pp.263-64; Fraser, *Wardlaw*, p.454.

1674 of Tweeddale, was largely the result of a family dispute between his daughter-in-law, Mary Maitland, and her father, Lauderdale – as Lee observes, 'Scottish politics was family politics'.[146] Even at the very pinnacle of Lowland society, kinship persisted.   The dukes of Hamilton throughout the seventeenth century saw themselves as heads of an extended family network which they were bound to support and protect.[147] Indeed, one anthropological observer felt comfortable using the word 'clan' to describe both Highland kindreds and Lowland families such as the Hamiltons, Kennedys, Maxwells and Scotts.[148]   All of this held true beyond Scotland.[149]   Kinship remained a crucial social and political lubricant across seventeenth-century Europe, and the differences in the Highlands were largely of emphasis.

If they were not unique to the Highlands, ties of kinship and clanship were also far from inviolable. Argyll observed obliquely in 1667 that 'clan Camerone have latly fallen in blood amongst themselves'.[150] The exact altercation to which the earl was referring is obscure, but the notion that clan hierarchies could be unstable is an important one. The experiences of two large and disparate clans, the MacDonalds and clan Chattan, illustrate this point. The chieftainship of Clan Donald had been in dispute since the collapse of the Lordship of the Isles in the fifteenth century, and various branches of the kindred continued to claim the honour into the

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[146] M. Lee, 'The Troubles of a Family Man: the Earl of Tweeddale and his Kin' in M. Lee (ed.), *The 'Inevitable' Union, and Other Essays on Early Modern Scotland* (East Linton, 2003), pp.246-68, *passim*.

[147] R.K. Marshall, *The Days of Duchess Anne: Life in the Household of the Duchess of Hamilton, 1656-1716* (East Linton, 2000), pp.32-33.

[148] Anonymous, 'Highland Rites and Customs', at pp.57-58.

[149] See S. Kettering, 'Patronage and Kinship in Early Modern France', *French Historical Studies*, 16:2, 1989, pp.408-35, at pp.408-11, on the role of kinship amongst the French nobility, I.A.A. Thompson, 'The Nobility of Spain, 1600-1800' in H.M. Scott (ed.), *The European Nobilities in the Seventeenth and Eighteenth Centuries, volume 1: Western Europe* (Harlow, 1995), pp.174-236, at p.193, on Spain, particularly Castile, and Heal *et al*, *Gentry in England and Wales*, pp.91-94 on England.

[150] Sinclair, *Letters*, p.83.

Restoration.[151] The most vigorous candidate was Macdonnell, head of the Glengarry branch. He gained an outspoken champion in Iain Lom who, despite his famous criticism of Macdonnell's cosmopolitan lifestyle, identified him as the likeliest candidate to reunite the clan.[152] But Macdonnell's rights did not go uncontested. He did not help matters by occasionally repudiating the chieftainship to avoid giving expensive cautions, and, in any case, there were other Clan Donald chieftains, particularly Sleat and Moidart, with better claims.[153] Indeed, in the late 1670s Sir James MacDonald of Sleat secured the backing of four other MacDonalds – Moidart, Ardnamurchan, Glencoe and Largie – for his claim to pre-eminence, and his successor, Sir Donald MacDonald, added Coll MacDonald of Keppoch.[154] These divisions are a striking reminder that a sense of blood ties did not guarantee solidarity, nor did it in any way preclude internecine disagreement.

The case of clan Chattan, another major grouping over which control was disputed, highlights more broadly the political frailty of clanship. Originating in the Middle Ages – traditionally 1291 – the Chattan alliance was in essence an example of clanship without kinship, since it involved a voluntary association between a range of distinct families, none of whom were closely related, either in reality or putatively.[155] The chieftainship of this confederation had usually lain with the Mackintoshes, but this inheritance was by no means secure. Indeed, as early as 1663 Lachlan Mackintosh of Torcastle himself was already admitting that some of Chattan

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[151] Stevenson, *Highland Warrior*, p.276; Hopkins, *Glencoe*, pp.45-46; L.G. Curry, 'Catholicism and the Clan Macdonell of Glengarry: Religion and Politics in the Highlands of Scotland, 1650-1750' (University of Leeds, PhD thesis, 2002), pp.50-51.

[152] MacDonald, 'Oran do Aonghas Og Morair Ghlinne Garaidh', *passim*. Iain Lom also supported the claims of the MacDonalds of Sleat to the defunct Lordship of the Isles.

[153] BL, Add. Mss. 23135, f.76r; Sinclair, *Letters*, p.31.

[154] A. MacDonald and A. MacDonald, *The Clan Donald*, 3 vols (Inverness, 1896-1904), iii, pp.654-55. The contested Glengarry claim was nonetheless upheld by Macdonnell's successor, Randal MacDonald. NRAS234, box 29/I/3, item 86.

[155] Macinnes, *Clanship*, pp.10-11; Cathcart, *Kinship and Clientage*, pp.13-18.

kindreds refused to obey him 'wethut spe[ci]all co[m]mand from authority', while others actively rebelled against him. One hostile observer went still further, suggested that fully two-thirds of the Chattan confederation refused to submit to the Mackintosh chief.[156] This challenge originated with Andrew Macpherson of Cluny (d.1666), who refused to serve with Mackintosh in his campaign against the Camerons unless he was recognised as chief of clan Chattan, and unless all lands pertaining to the Mackintoshes but which had at some point belonged to the Macphersons were returned. Cluny was eventually bought off for the sum of £100 sterling, but the respite was only temporary.[157] In 1672, his son Duncan Macpherson of Cluny attempted to break free from the Chattan alliance by having himself recognised as chief of an independent Macpherson kindred. Only after a bitter dispute before the Lyon King of Arms was Torcastle able to assert both his control over clan Chattan, and the Macphersons' membership of the confederation.[158] But by 1688, when the Macphersons refused to answer Torcastle's summons to serve in the Mulroy campaign, the rift was clearly still unhealed.[159] Instability within the Chattan alliance was hardly a new phenomenon; the Macphersons had split from the confederation once before, in 1591, in response to the stresses caused by the feud between the Gordons of Huntly and the Stewarts of Moray. They only renewed their association after the Statutes of Iona in 1609.[160] But this long-term friction, enduring throughout the Restoration, underscores the potentially fragile nature of clan

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[156] NRS, GD176/473/18; Drummond, *Memoirs*, pp.183-84.

[157] *Ibid*., pp.187-88; Lachlan Mackintosh of Kinrara, 'Epitome of the Origin and Increase of the Mackintoshes, 1679' in Walter Macfarlane, *Genealogical Collections concerning Families in Scotland, made by Walter Macfarlane* ed. J.T. Clark, 2 vols (Edinburgh, 1900), i, pp.144-404, at pp.337-46 and at pp.353-55. For more detail on the Mackintosh/Cameron feud, see below.

[158] *Ibid*., pp.387-95; NRS, GD176/546/1-6.

[159] BL, Add. Mss. 39200, f.2r.

[160] Cathcart, *Kinship and Clientage*, pp.192-94 and at p.206.

associations, and highlights the extent to which clanship as a political construct was susceptible to destabilisation.

Personal disagreements were a particularly potent source of tension within clan or family units, and it is hardly surprising that even the most closely-related individuals were capable of engaging in serious disputes. In 1660, Sir John Campbell of Glenorchy surrendered control of his debt-ridden estates to his son, also John Campbell (the future 1st earl of Breadalbane). Within months, the vigorous debt-tackling policies of the younger laird had generated intense resentment, as his father complained in February 1662:

> I find the affaires of my estaitte much worse then they wer some of my best landes being of late wedsett, where some of the former wedsetts might have beine redeimed, my rents in a great measoure misplayed, Casualties lost, my tennents extremlie impoverished by a number of mercieless instruments whom my sonn dooth too much trust [and] employ over all our countrie affaires, I sall not say much as to the indignities [and] prejudices that I susteine my selfe, q[uhi]ch a parents affectione [and] human modestie hinders me to express on paper.[161]

Various schemes for reconciling father and son – including arbitration by named third parties, intervention from the Chancellor, William Cunnighman, 9th earl of Glencairn, and even legal proceedings – all came to nought, and by 1666 the two had established rival households, one at Balloch, presided over by the elder laird, and the other at Finlarig, controlled by the younger.[162]

The career of the younger Glenorchy in another way illustrates the potential for personal friction. During the 1670s his relationship with Argyll grew increasingly

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[161] NRS, GD112/39/108/3.
[162] NRS, GD112/39/106/15, 19, GD112/39/108/3, 9, 12, 23, GD112/39/110/6, GD112/39/112/7.

frosty, primarily because of his lukewarm enthusiasm for the Mull campaigns.[163]

This, combined with his tenacious pursuit of noble status in Caithness and his

growing voice in Highland affairs, made Argyll suspicious that his kinsman was

seeking to challenge his superiority over the Campbell kindred. In a letter to

Glenorchy of May 1680, he wrote:

> I understand D[ominu]s de Campbello to be of Lands called Campbell but I
> understand D[ominu]s Campellus to be D[ominu]s Campbellorum primus
> and this I doe pretend to and will not willingly allow D[ominu]s
> Campbellorum to any other [...] let us not differ about words and names
> seing you may helpe it nobody will deny you nor y[ou]r son Campbell as a
> surname but as a title I cannot agree.[164]

Glenorchy's breach from Argyll was graphically confirmed in 1685 when, despite

some fears that ties of kinship might lead him to support the earl's rebellion,

Breadalbane, as he now was, became one of the government's most important local

supporters.[165] Breadalbane's fraught personal relationships with both his father and

the leader of his wider kin group is a striking reminder that disagreements between

individuals were just as likely amongst Highland kindreds as amongst Lowlanders.

The undermining of kin solidarity through personal friction was not however

the exclusive preserve of the Campbells. Huntly saw his dominance over the wider

kindred challenged by two powerful relatives. The first was his uncle, Aboyne, with

whom Huntly was throughout the 1660s and early 1670s embroiled in a dispute

concerning ownership of various lordships in Aberdeenshire and Banffshire.[166] The

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[163] NRS, GD112/127/10; Innes, *Cawdor*, p.332 and at pp.343-44; NRAS1209, bundle 70;
Hopkins, *Glencoe*, pp.57-58; Macinnes, *Clanship*, p.137.
[164] NRS, GD112/39/131/4.
[165] Historical Manuscripts Commission, *Twelfth Report, Appendix, Part VIII. The Manuscripts of
the Duke of Athole and of the Earl of Home* (London, 1891), pp.13-14 and at pp.19-20; Fraser, *Earls
of Cromartie*, i, pp.44-47; NRS, GD112/39/137/22. For a fuller narrative of Breadalbane's role
in the 1685 campaign, see Hopkins, *Glencoe*, pp.96-103.
[166] Robertson, 'Continuity and Change', pp.163-67

second was Haddo, created earl of Aberdeen in 1684, upon whose personal coldness

Gordon commented in his memoirs:

> [A]bout that tim I descowred that now Earll Aberdeen uas not [as] frindly to
> me as I might justly haw expected hawing doen him uery good offices in
> many actions yitt I continoued to oblige him all I culd in hopps to gain him
> hee being certainy a man off good partts [...] and off a famely off anciant
> Loyalty.[167]

Similar issues plagued the far north. George Sinclair, 6th earl of Caithness, was on

poor terms with Dunbeath, one of the most powerful Sinclair lairds who was

rumoured to have challenged him to a duel as early as 1652.[168] The two engaged in a

protracted power-struggle throughout the 1660s (a brief reconciliation in 1668

notwithstanding), and by 1669, when the Privy Council issued a commission of fire

and sword against Dunbeath, the earl was complaining that the dispute threatened

to undermine his control of the wider kindred, many of whom were 'ueri Laik' to

'oun his [Dunbeath's] wickdnes' and 'put themselues in his Conditione'.[169] Further

west, the Macleans were split in their response to Argyll's rebellion, to the extent that

Lachlan Maclean of Lochbuie found himself kidnapped, and his estates plundered,

by his own son, Hector Maclean.[170] By illustrating the ease with which family ties

could break down, these examples highlight the fragility of kinship as an

organisational model. This, in turn, emphasises the dangers inherent in relying on

the construct of 'clanship'. Kin groups were not stable and homogenous units

structuring Highland society independently of the wider Scottish polity. Rather,

clanship was a supplementary structure which, while usefully reinforcing the

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[167] WSRO, Unfinished memoir of the 1st duke of Gordon, Goodwood Mss 1428, f.6.
[168] BL, Lauderdale Papers, 1663-4, Add. Mss. 23120, f.153r.
[169] BL, Lauderdale Papers, 1668-9, Add. Mss. 23131, f.168r. For discussion of the conflict
between Caithness and Dunbeath as it related to office-holding, see chapter 4.
[170] *RPCS*, viii, pp.21-22.

authority of local elites, was secure enough neither to survive in isolation, nor to represent a standing challenge to the power of the state.

In terms of the historiography, however, the role of clans as alternative authority systems is a secondary concern. Much more prominent is the notion that clanship fomented endemic feuding, which in turn rendered the Highlands notoriously troublesome. Stevenson's reading is one of the most strident. He maintains that inter-clan feuding was fundamentally distinct from the kinds of conflict witnessed in the early-modern Lowlands, not only because it was much larger in scale, but because it was an end in itself – Lowland feuds, for Stevenson, were invariably local responses to 'national political issues'.[171] Dodgshon, writing from a largely sociological perspective, argues that clanship was by nature a competitive system, and that, since a clan's relative power rested upon its landed possessions, aggressive expansionism was an integral component of Highland society. Equally, this dynamic ensured that destruction of an opponent's property would remain a viable recourse.[172] Cathcart reinforces this perspective, arguing that the centrality of land as the focus of clan power and identity, combined with the often hazy nature of landholding rights, ensured that competition and tension were rife.[173] Modifications to this orthodoxy have however been offered by Brown and Macinnes. Neither of them denies the existence of feuding, nor do they question the importance of land and resource disputes. They do, however, stress that such clashes had by the later seventeenth century become increasingly exceptional, and that legal expedients were gaining traction.[174]

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[171] Stevenson, *Highland Warrior*, p.19.
[172] Dodgshon, *Chiefs to Landlords*, pp.34-35 and at pp.87-88.
[173] Cathcart, *Kinship and Clientage*, pp.130-45.
[174] Brown, *Kingdom or Province*, pp.39-40; Macinnes, *Clanship*, p.39. Brown does offer a rather more conventional reading elsewhere, insisting that 'the clan and its rhetoric of kinship'

There certainly were examples during the Restoration of competition for land spilling over into violence. Many of these disputes were fairly trivial. A quarrel between William Robertson of Inshes and John Grant of Glenmoriston, centring on the disputed ownership of the barony of Culcabock, culminated in 1664 with Glenmoriston burning two of Inshes' barns, and subsequently kidnapping him, to be imprisoned for several months.[175] Also in the vicinity of Inverness, John Forbes of Culloden in the 1670s secured control over the former Fraser lands of Bunchrew. His attempts to exercise his lordship (by, for example, repairing Bunchrew house, and building a mill) were violently opposed by a small group of 'desperat yowng men' of the Fraser kindred. The dispute was apparently only settled in a compromise, whereby Culloden agreed to tack the estate to a Fraser ally, Alexander Chisholm of Comar.[176] Other conflicts fomented more serious disorder. In Perthshire, Patrick Stewart of Bellachen (acting on behalf of Atholl) was accused of gathering in 1675 a 400-strong posse to attack and destroy the mills built on the river Tummel by Alexander Robert of Struan, assaulting Struan's heavily pregnant wife in the process.[177]

Yet the classic land-based feud was not the only kind in the Restoration Highlands. A more amorphous pursuit of influence lay behind another infamous altercation, this time involving Macdonnell. He complained to the Privy Council that a group of his dependents had in August 1665 been unjustly attacked while attending a fair at Inverness, and he succeeded in having the magistrates fined £400

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remained 'the basic unit of violent power' until the mid-eighteenth century. Brown, *Noble Power in Scotland*, p.60.

[175] *RPCS*, ii, p.99; Fraser, *Wardlaw*, p.453 and at pp.454-55; Innes, *Cawdor*, pp.317-18; C. Fraser-Mackintosh (ed.), *Letters of Two Centuries, Chiefly Concerned with Inverness and the Highlands, from 1616 to 1815* (Inverness, 1890), pp.83-84.

[176] Fraser, *Wardlaw*, p.513.

[177] *RPCS*, iv, pp.570-76. Bellachen was cleared of any wrong-doing.

sterling.[178] Earlier, however, Macdonnell had attempted to exploit this tumult by presenting a set of seven demands to the town, backed up by a muster of his clansmen. Most of these were concerned with locating those held responsible for the violence, as well as extracting massive compensation. But Macdonnell also included provision for an offensive and defensive alliance between himself and the burgh, and he clearly intended that, under this new relationship, the town would be brought under his influence:

> Q[uhai]rsoever the people of Innernes or any persone off them sees my Lord McDonald, his friends, followers, or any ane of them, that then and immediatelie they should lay doune ther armes one the ground in tokin of obedience [and] submission.[179]

These terms were promptly rejected by the town council as soon as the MacDonalds disbanded. The episode is nevertheless a revealing insight into the use of violence – or the threat of violence – as a tool for extending influence, as well as a means of protecting perceived interests.

However, the greatest feuds of the later seventeenth century were rooted not just in competition for land and influence, but in indebtedness – as Kirk observed, 'This is an universal infirmity now among all Ranks, That a plea of a shilling or two breaks all Christian bonds, and makes a base feud and reproachful talk among the parties'.[180] The importance of debt in Assynt's rebellion of 1669-74 has already been noted. The more familiar conflicts between Argyll and the Macleans, and between

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[178] *RPCS*, ii, pp.150-52; Kinrara, 'Origin and Increase of the Mackintoshes', p.356. According to James Fraser, the riot began when one Finlay Dow dropped a cheese from a market stall. Two MacDonalds were accidentally killed in the subsequent violence. Fraser, *Wardlaw*, pp.479-80.

[179] Mackay *et al*, *Records of Inverness*, ii, pp.223-25.

[180] NLS, MS.3932, f.28r.

Glenorchy and the Sinclairs, were both occasioned by debt.[181] In the case of Argyll, the story began as far back as the 1630s, when the marquis had bought up the Macleans' arrears of taxation, allegedly amounting to £85,000 Scots. A decreet obtained in 1659 had granted the Duart estates to the marquis in lieu of this sum, and this grant was confirmed when his son was restored in 1663. The new earl augmented his position by buying up further debts from more minor members of the Maclean gentry, including several thousand merks from the laird of Kinlochallan, and 400 merks from the laird of Torlisk. Repeated attempts throughout the 1660s to secure payment of these liabilities failed, and Argyll resorted to legal means, beginning in 1672 with a decreet, obtained from the Court of Session, ordering the Macleans to pay to him the Duart rents. The family's resistance to this and subsequent decreets precipitated the conflict that would endure, with increasing ferocity, for nearly a decade.[182]

Glenorchy's involvement in Caithness was of a more recent vintage. In the early 1670s he began buying up the earl of Caithness' debts, making himself one of the estate's two principal creditors, alongside the lawyer Sir Robert Sinclair. Sinclair's aggressive pursuit of satisfaction caused Caithness to become increasingly reliant upon Glenorchy, so much so that, in 1672, he agreed that the Campbell laird should succeed to his estates in settlement of the liabilities. Glenorchy duly came into this inheritance when the earl died in 1676, whereupon he became embroiled in a protracted conflict with the nearest Sinclair claimant, George Sinclair of Keiss, a conflict which became violent in September 1677 when Keiss invaded the disputed

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[181] Both of these feuds are narrated in exhaustive detail in Hopkins, *Glencoe*, pp.39-71, and more briefly in Macinnes, *Clanship*, pp.135-37.

[182] J.R.N. MacPhail (ed.), *Highland Papers*, 4 vols (Edinburgh, 1914-34), i, pp.251-75; Drummond, *Memoirs*, pp.193-95; Sinclair, *Letters*, p.18, pp.73-74 and at p.90; NRS, GD112/30/121/9.

lands.[183] If these Campbell feuds illustrate the manner in which indebtedness could precipitate violence, they are also a reminder that feuding was by the later seventeenth century not a direct corollary to 'clanship'. Rather, the impulse to protect one's interests through violence was underpinned not by a culture of inter-clan competition, but by a much more general pursuit of personal advantage which hardly reflected a specifically 'Highland' agenda.

That said, feuding on the basis of traditional enmities clearly persisted; as Gilbert Burnet laconically observed, conflict between Argyll and Atholl was inevitable because Atholl 'had a hereditary hatred of the lord Argyll and his family' – the two men were even rumoured to have arranged a duel in 1677.[184] The centrality of customary rivalries was clearly displayed in the early 1660s by the conflict between the Mackintoshes and Camerons. Their feud was recognised as an ancient one, and at its core lay the Lochaber estates of Glenluie and Locharkaig.[185] The Camerons considered these lands part of their *duthchas*, but the Mackintosh chiefs claimed to have acquired legal superiority over them in the fourteenth century. These competing claims ensured that relations between the families had been punctuated by sporadic outbreaks of violence ever since, and this friction bubbled to the surface once more during the Restoration.[186] In July 1661, Torcastle obtained a decreet from the Scottish Parliament instructing Lochiel to surrender the disputed estates.[187] He was able to bolster his case by contrasting the Camerons' collaboration with the Commonwealth regime, particularly after 1654, to what they claimed was

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[183] BL, Add. Mss. 23135, ff.220-21, f.236, f.257, ff.259-60, and at f.263; NRS, Supplementary Parliamentary Papers, 1681, PA7/11/80/1; *RPCS*, v, p.378.
[184] Burnet, *History*, i, p.534; Alexander Brodie, *The Diary of Alexander Brodie of Brodie*, ed. D. Laing (Aberdeen, 1863), p.400.
[185] *CSPDC*, iii, p.460.
[186] A potted summary of Cameron/Mackintosh relations in the later Middle Ages is provided in Cathcart, *Kinship and Clientage*, pp.145-49. The development of the feud during the Restoration is narrated in Macinnes, *Clanship*, pp.40-42, and in Hopkins, *Glencoe*, pp.47-48.
[187] *RPS*, 1661/1/406.

his own much more honourable record.[188] Lochiel initially managed to hold off this challenge by allying himself with the Middletonian faction at Court, but the fall of John Middleton, 1st earl of Middleton allowed Torcastle to secure a substantial, although ultimately abortive, commission of fire and sword in 1663.[189] Rothes, in his capacity as Chancellor, made unsuccessful attempts to broker a settlement throughout 1664 and 1665, as did both Argyll and Moray, before Glenorchy was able to negotiate a compromise in September 1665. At a ritual meeting between the two adversaries on the banks of Loch Arkaig, it was agreed that Lochiel should buy the disputed territories from Torcastle for 72,500 merks – although Lochiel's inability to raise this level of capital meant that the agreement was ultimately reworked so that Argyll would buy the lands, and feu them to the Cameron chief.[190] Although the ancient roots of the Cameron/Mackintosh dispute make it a striking example of the ongoing link between clanship and feuding, it should be noted that it was ultimately settled not by bloodshed, but by arbitration. Equally, the feud at every stage involved substantial intervention from both local power-brokers and central government, indicating that clan feuds were no longer the scourge of orderly government that they may once have been.

As the Mackintosh strategy of appealing for assistance to both Parliament and the Privy Council shows, local elites were aware that invoking the authority of the state offered a powerful means of strengthening one's hand. Argyll famously secured judicial commissions against the Macleans in 1674, 1675, and 1678, as well as

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[188] NRS, GD176/476/21.

[189] Drummond, *Memoirs*, p.175; *RPCS*, i, pp.410-16; EUL, Miscellaneous Papers, La.II.511, ff.21-22.

[190] BL, Lauderdale Papers, 1665, Add. Mss. 23123, f.235r; NRS, GD176/486; Sinclair, *Letters*, pp.22-24 and at p.30; Drummond, *Memoirs*, pp.188-92; Fraser, *Wardlaw*, pp.453-54; Kinrara, 'Origin and Increase of the Mackintoshes', pp.347-76.

a commission against their MacDonald allies in 1679.[191]   Inshes likewise won a commission against Glenmoriston in October 1665, as in March 1672 did Seaforth in his struggle with Assynt.[192]   Glenorchy, although never wielding a formal commission of fire and sword against Keiss, did enjoy solid moral support from the Privy Council until late 1680.[193] It has tended to be assumed that this trend of using public authority to legitimise private feuds undermined the power of the government by destroying its ability to behave impartially or stand aloof from squalid local quarrels.[194] Yet this is arguably an anachronistic reading, based upon a misunderstanding of the function of early-modern government. The Restoration regime did not seek to establish a notion of transcendent or exclusive public authority; rather, it aimed to govern in intimate partnership with the personal power of local elites.[195] This lent it a largely managerial ethos, so that reinforcing local clients, far from undermining control, was in fact a logical strategy. Again, therefore, care should be taken before accepting the persistence of feuding as evidence of weak or ineffectual government.

In any case, the association between Highland society and violent feuds must not be over-stated. Highlanders were as adept as any other Scots at settling disputes through the legal system, as evidenced by the large number of surviving sheriff court processes (402), most of which were initiated privately.[196] Submissions to Edinburgh – Parliament, Privy Council or Justiciary Court – were also routine; indeed, Argyll observed in 1665 that there were so many disputes pending adjudication in the capital that 'highland matters are to be much of my L[ord] Com[missioners] work for

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[191] *RPCS*, iv, pp.272-74 and at pp.432-35; *RPCS*, vi, pp.34-36 and at pp.169-72.

[192] *RPCS*, ii, p.99; *RPCS*, iii, pp.484-85.

[193] *RPCS*, v, p.446; *RPCS*, vi, p.277, p.337 and at p.618.

[194] See, for example, Dodgshon, *Chiefs to Landlords*, p.88; Stevenson, *Highland Warrior*, pp.280-81; Fry, *Wild Scots*, p.38; Lenman, *Jacobite Clans*, p.41.

[195] See chapter 2 for a more in-depth discussion of this issue.

[196] See above.

a whill'.[197]   Of course, as the overlap between feuding and judicial commissions indicates, legalistic and violent expedients were not mutually exclusive – Glenorchy accompanied his military campaign against the Sinclairs by citing at least eight individuals before the Justiciary Court of Edinburgh in 1681 alone.[198]   Nevertheless, the numerous instances in which Highlanders responded to a perceived wrong by raising a legal citation rather than by exacting bloody revenge illustrates that feuding should not be viewed as the only, nor even the pre-eminent means of settling disputes.

Moreover, inter-family relations were much more often marked by a range of peaceful expedients than by violence. The *ante bellum* practice of holding a series of horse races at Tomnahurich hill (to the west of the river Ness) was revived in the early 1660s, giving all the major luminaries of the central Highlands – including Moray, Seaforth, Lovat, Macdonnell, Balnagown, Foulis, Grant, and Torcastle – an annual arena for social interaction.[199]   Marriage alliances also continued to thrive, and there existed a complex web of matrimonial links between the major Highland kindreds. Through Argyll, Glenorchy and Cawdor, the Campbells were tied to the Stewarts, Mackenzies and Sinclairs; Lovat maintained links with the Mackenzies, Murrays and Rosses; through his children, Reay forged ties to the Munros, Frasers and Mackintoshes; Lochiel was the son-in-law of Sir Allan Maclean of Duart; both John and Donald MacDonald of Moidart wedded senior ladies from the MacLeods of Dunvegan; and Tarbat married into the Sinclair kindred.[200]   For the marquis of Argyll, a judicious choice of marriage alliance would add 'a firm monument to both

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[197] Sinclair, *Letters*, p.10.
[198] NRS, JC6/10, High Court Minute Book, 1679-82, f.261r-v, ff.263v-264r and at ff.265v-266r.
[199] Fraser, *Wardlaw*, pp.447-49.
[200] J.B. Paul, *The Scots Peerage: A History of the Noble Families of Scotland*, 9 vols (Edinburgh, 1904-14), i, pp.267-68, ii, p.206, iii, p.75, iv, p.534; v, p.565, vii, pp.170-74 and at p.509; Fraser, *Wardlaw*, p.424; Innes, *Cawdor*, pp.315-16; Drummond, *Memoirs*, p.182; J.L. Campbell, *Canna: The Story of a Hebridean Island* (Oxford, 1984), p.205.

Houses' and would augment the honour and glory of each.[201] More practically, a well-chosen spouse could bring useful political advantages.[202] The marriage between George Sinclair, 6th earl of Caithness and Argyll's sister, Mary Campbell, ensured that, in 1663, Caithness vocally supported the idea that the House of Argyll should be restored. In return, the match offered Caithness valuable access to the Campbells' network of allies; the countess appealed on his behalf to Lauderdale at least twice, once directly in 1666, and once through Lady Lauderdale in 1673, on both occasions seeking alleviation of her husband's substantial debts.[203]

Bonds of friendship and manrent provided a rather more formal means of maintaining social relationships. These agreements, which had been common across Scotland in the late fifteenth and sixteenth centuries, have been subject to detailed analysis by Wormald. For her, bonds of friendship (between two equals) and manrent (given by a lesser individual to a greater) were designed to reinforce kinship ties, and to extend analogous obligations beyond the kin-group. She also asserts, crucially, that such bonds were usually designed to secure peace, rather than to give advantage in war. [204] Within a specifically Highland context, the most detailed study of these issues has been offered by Cathcart. She broadly concurs with Wormald that bonds could either augment existing kin obligations (a process she calls 'internal clientage') or provide political allies beyond the kin-group ('external clientage'). In either case, in a further echo of Wormald's reading, they were intended to produce stability and security without recourse to violence.[205]

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[201] Archibald Campbell, *Instructions to a Son* (Edinburgh, 1661), p.12.
[202] Brown, *Noble Society*, pp.129-30.
[203] BL, Lauderdale Papers, 1663, Add. Mss. 23119, p.95; BL, Add. Mss. 23124, f.124; BL, Add. Mss. 23135, ff.259-60.
[204] J. Wormald, *Lords and Men in Scotland: Bonds of Manrent, 1442-1603* (Edinburgh, 1985), p.90 and at p.136.
[205] Cathcart, *Kinship and Clientage*, pp.85-93 and at pp.114-18.

There remained a visible culture of bonding throughout the Restoration Highlands. Straightforward bonds of friendship were one manifestation of this. Seaforth and Reay entered into one such agreement in 1672.[206] The following year, Cluny and Macdonnell, acting as heads of their respective kindreds, did likewise, promising to 'owne aide Love fortifie assist and defend' each other.[207] Humbler individuals could behave in a similar manner, as exemplified by the bond of friendship entered into in 1679 by Archibald Campbell of Inverawe, Alexander MacDonald of Poulliveik and John MacDonald of Achetachetan.[208] Bonds of manrent remained equally in evidence. In May 1669, Paul Macbean, on behalf of all the Macbeans, pledged himself to serve Lachlan Mackintosh of Torcastle above all men, with the exception of the king and Macbean's immediate superiors, Huntly and Cawdor.[209]

The most extensive surviving record of bonding culture in the Restoration period concerns the Campbells of Glenorchy, a family with a long history of using bonds of manrent very heavily.[210] Six survive, involving twelve individuals and all given to the younger laird: two from 1664, one from 1667, three from 1668 and three from 1681. In each case, the bonds were couched in conventional terms, promising service and obedience in return for protection. In two instances, this was supplemented by a specific promise on the part of the granter to help prevent animal thefts on Glenorchy's lands.[211] There also exists one bond given by Glenorchy to Argyll, signed in October 1679, and involving specific promises of wide-ranging

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[206] NRS, GD84/2/11.
[207] NRS, GD80/102.
[208] NLS, Campbell of Inverawe Papers, MS.1672, f.41.
[209] NRS, GD176/526.
[210] Wormald, *Lords and Men*, pp.101-2.
[211] NRS, GD112/1, 597, 601, 609, 610, 613, 677; GD112/24/1, 39, 44, 45.

support for Argyll's campaign against the Macleans.[212] If the Glenorchy bonds reveal

that family's ongoing expansionist ambitions, they also undoubtedly reflect a more

general peculiarity in the lordly culture of the Highlands, where bonds of friendship

and manrent persisted long after they had died out in the rest of Scotland. Wormald

argues that the decline of bonding had owed a great deal to the increasing

assertiveness and effectiveness of the Scottish state.[213] This would seem to imply that

the persistence of the phenomenon in the Restoration Highlands reflected both the

relative weakness of the government's authority in the region, and the semi-

independent character of the local elite. This, however, would be a blinkered

assessment, for the studied decentralisation of Scottish government must again be

borne in mind – that men kept the peace by making agreements between themselves

probably suited the regime rather well.[214] In terms of a 'Highland problem', the

penchant for ordering local society through formal agreements undermines the

simplistic equation often drawn between 'clanship' and violence. In the same vein,

the fact that local elites felt it necessary to augment their positions with bonds

underscores the limitations of clanship as an organisational structure. Far from

providing evidence that the Highlands were wild and untamed, bonding actually

reflects the existence of a society which, while undoubtedly rather different from the

rest of Scotland, was arguably just as well-ordered, and just as concerned to preserve

peace.

The 'Highland problem' remains one of the most ubiquitous constructs in

Scottish historical scholarship, and continues to be used as convenient shorthand for

the various peculiarities of Highland society throughout the early-modern period.

Moreover, its use for the Restoration clearly mirrors a strand of contemporary

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[212] NRS, GD112/24/1/40-41.
[213] Wormald, *Lords and Men*, pp.161-67.
[214] For further discussion of this issue, see chapter 2.

opinion which willingly characterised the region as uniformly anarchic, not to mention inherently subversive thanks to the existence of clans. Yet even at the level of polemic, the situation was not straightforward. The notion of general Highland lawlessness was mitigated by a more limited discourse focusing on Lochaber. The lazy assumption made by some contemporaries (and historians) that clanship represented a fundamental challenge to the authority of the state cannot conceal the more limited role of kinship ties as merely one facet of lordly authority. Even feuding, the most infamous of Highland disorders, was not as unique, ubiquitous or destabilising as is sometimes assumed. This is not to say that there were no law and order challenges in the Restoration Highlands. Theft of livestock may well have been more widespread than elsewhere in Scotland, and the use of violence as a tool for personal advancement remained common. What is crucial, however, is not to overstate the peculiarly 'Highland' origins of these challenges. Animal theft was at least as much a response to personal social difficulties as it was a clannish ritual, while violent feuds were often sparked not by great clan rivalries, but by a range of more mundane issues which would have been as familiar to Lowland elites as to Highlanders. In short, while there were certainly challenges to order within the Restoration Highlands, it is not at all clear that these were either unique or endemic enough to merit the dubious honour of being designated a 'Highland problem'.

<u>C<small>HAPTER</small> 4</u>

<u>The Restoration Settlement in the Highlands</u>

On Tuesday 29 May 1660, Charles Stuart entered London, from whence his father had fled nearly twenty years before. The newly-restored king was greeted ecstatically by the city's inhabitants; indeed, so rapturous was his welcome that he famously quipped (with more than a hint of characteristic cynicism) that his lengthy exile on the Continent must clearly have been his own fault, since everyone he met fervently declared they had always wished for his return.[1] Mischievous as this comment may have been, historians have tended to uphold the view that the Restoration of the monarchy was overwhelmingly popular in 1660, largely because the king seemed to offer respite from the increasing turmoil of the Commonwealth's dying years – although in Scotland, there was the added incentive that a return to the *ante bellum* constitution would end the ten-year humiliation of military occupation by, and forced union with, England.[2] The present chapter will attempt to reconstruct the ways in which the transition from republican back to monarchical government impacted upon the Highlands. It will begin with a general historiographical review which, in teasing out the main issues preoccupying historians, will provide a framework for what follows. Three broad topics will then be discussed in turn. First, the immediate aims of the Restoration regime in its dealings with the Highlands will be assessed. Second, the Highland response to the re-emergence of the monarchy will be analysed. Finally, the chapter will explore the attempts of the

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[1] A. Fraser, *King Charles II* (London, 2002), p.235.

[2] J. Miller, *Charles II* (London, 1991), pp.29-30; De Krey, *Restoration and Revolution*, p.17; T. Harris, *Restoration: Charles II and His Kingdoms, 1660-1685* (London, 2005), p.43, 85; L.K.J. Glassey, 'Politics, Finance and Government' in L.K.J. Glassey (ed.), *The Reigns of Charles II and James VII and II* (Basingstoke and London, 1997), pp.36-70, at p.36; Lee, 'Government and Politics', p.11; Patrick, 'Union Broken', at p.119; D. Bowen, *History and the Shaping of Irish Protestantism* (New York, 1995), pp.117-18.

new regime to reward those who had upheld its corner over the previous years, and conversely, to punish its erstwhile enemies.

Discussion of the Restoration settlements in the three Stuart kingdoms has tended, above all, to emphasise their conservatism. Tim Harris, for example, considers the political resolution in England to have represented 'a self-conscious attempt to put the clock back', meaning that nearly all the constitutional innovations imposed by the Long Parliament were annulled, and that the king was recalled without precondition.[3] For Miller, too, conservatism was crucial. He considers the willingness of the Cavalier Parliament to let Charles II govern freely and without constitutional encumbrance to have reflected a general perception that the turbulence of the preceding twenty years had been caused by the traditional structure of English government becoming destabilised; peace, in other words, demanded 'a return to the old constitutional balance between the powers of the king and the rights of his people'.[4] Historians of Ireland have similarly stressed the extent to which the Restoration witnessed an attempted return to the norms of the early seventeenth century. Harris traces a basic constitutional restoration akin to that of England, involving the resurrection of Ireland's status as a separate kingdom with its own Parliament.[5] More specifically, Jane Ohlmeyer argues that local government in Ireland quickly reverted to its pre-1642 pattern of dependence upon the cooperation of regional grandees such as Randal Macdonnell, 1st marquis of Antrim. Mike Cronin and Bernard have assessed the restored monarchy's attitude to land plantation, showing that it abandoned the grandiose Cromwellian scheme, expressed in the 1652 Act of Settlement, to gift two-thirds of Irish land to English Protestants, in

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[3] Harris, *Restoration*, p.47.
[4] Miller, *Charles II*, p.67.
[5] Harris, *Restoration*, p.89.

favour of resurrecting the more piecemeal, equivocal policy of the early Stuarts –

marked, in particular, by a more flexible attitude to Catholic landholding.[6]

Yet the consensus that conservatism was the dominant ideological impulse of

the Restoration settlements must not be allowed to obscure the fact that many

historians have spotted subtle innovations creeping into the political landscapes of

both England and Ireland at this time. Lionel Glassey, for example, has pointed out

that in 1660 no Englishman sought a return to the 'defunct' financial structure of

Charles I. Instead the introduction of a permanent revenue amounting to £1,200,000

sterling, based on customs, excise and hearth tax, was a genuine attempt to provide

the monarchy with an adequate financial base (whatever its successes or failures in

practice).[7] In reference to Ireland, the historiography similarly leaves room for

pragmatic innovation. Gary De Kray, for instance, echoes Glassey's point about

financial innovation, while both Sean Connolly and Pádriag Lenihan argue that the

king's desire to resurrect (some) Catholic landholding had to be reconciled with the

fact that Cromwell had overseen a substantial transfer of land towards incoming

Protestants, all of whom would have to be compensated if their newly-won lands

were to be taken away. The eventual (ultimately unsuccessful) formula for

settlement, the 1665 Act of Explanation, was not therefore a wholesale return to the

ante bellum situation, but an exercise in balancing that inheritance with the more

recent one of the 1650s.[8] Taken together, works such as these give a very strong

impression that political realignment during the early 1660s was deliberately

conservative in nature, aiming ultimately to overturn the innovations of both the

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[6] J.H. Ohlmeyer, *Civil War and Restoration in the Three Stuart Kingdoms: The Career of Randall MacDonnell, marquis of Antrim, 1609-1683* (Cambridge, 1993), p.289; M. Cronin, *A History of Ireland* (Basingstoke, 2001), pp.74-75; T. Bernard, *The Kingdom of Ireland, 1641-1760* (Basingstoke, 2004), p.31.

[7] Glassey, 'Politics, Finance and Government', at pp.40-47.

[8] De Krey, *Restoration and Revolution*, pp.41-42; Connolly, *Divided Kingdom*, pp.130-39; P. Lenihan, *Consolidating Conquest: Ireland 1603-1727* (Harlow, 2008), pp.156-61.

Civil War and the Interregnum and return to the *status quo* of the 1630s, but that this existed in tandem with a willingness to embrace change where expedient or necessary.

The idea of conservatism is also of very clear importance to the historiography of the Scottish Restoration settlement. Brown argues that the humiliation of English domination in the 1650s ensured that the intellectual climate of 1660s Scotland was thoroughly in favour of wiping out anything that smelt remotely innovative.[9] In practical terms, Harris notes that this led to a reactionary impulse which was even more pronounced than in England and Ireland, insofar as Scotland turned the constitutional clock back not to the early 1640s, but to 1633.[10] With a closer focus, MacIntosh has shown that the first three years of the new reign were characterised by a strong royalist reaction in the Scottish Parliament, whereby 'the radical innovations of the civil war period' were comprehensively rejected in favour of 'stability and order under a strong monarchy'.[11] By these readings, the early 1660s in Scotland were marked by a knee-jerk dismissal of everything that had been implemented since 1637.

Yet the juxtaposition of conservatism and change is perhaps an even more striking feature of Scottish historiography than either English or Irish. For a start, Frances Dow cautions against forgetting that 'it was years rather than months' before the Cromwellian administration was fully dismantled; the reaction, whatever its extent, did not simply sweep all before it.[12] To this can be added the view that there was a greater degree of innovation about the Scottish settlement than may at first be apparent. Donaldson, writing more than forty years ago, argues that the regime of

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[9] Brown, *Kingdom or Province*, p.141.
[10] Harris, *Restoration*, p.106.
[11] MacIntosh, *Scottish Parliament*, p.28.
[12] F. Dow, *Cromwellian Scotland* (Edinburgh, 1979), p.268.

Charles II was in some ways radically different from that of Charles I and that, indeed, 'in so far as the revolt against that monarch had been aristocratic and anti-clerical it found its fulfilment rather than its negation under Charles II'.[13]   More recent writers have also stressed the importance of change, particularly in terms of the reinvigorated power of the crown. Rosalind Mitchison argues that the settlement in fact worked to strengthen the monarchy by providing it with more formidable financial and military resources, so that Scotland was during the Restoration considerably more amenable to royal authority than it had been under James VI and Charles I.[14]   Lee shares this view, claiming that the settlement should be seen as 'dynamic and aggressive', especially in terms of its provisions for a peacetime standing army.[15] A broadly similar point has been made by Patrick:

> The King was the real ruler of Scotland. Though Charles II was often casual and easy-going in personal matters, he took the powers and privileges of the monarchy very seriously indeed. He had a clear idea of his rights as King of Scotland, and had no intention of devolving any of them north of the border. So long as he was King, all important decisions on Scottish affairs had to be made in London […] The heart of Scotland's government was to remain in London.[16]

Moreover, Jackson has shown that such trends accorded with the wider intellectual climate of Scotland in the early 1660s. By Jackson's reading, the turmoil of the mid-century troubles ensured that Scots viewed the preservation of civil order as an issue of paramount importance.   This became entwined with older strains of political philosophy which stressed the divine rights of monarchy, based upon such factors as hereditary succession, biblically-sanctioned patriarchalism and military conquest.

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[13] Donaldson, *James V to James VII*, p.358.
[14] R.A. Mitchison, *Lordship to Patronage: Scotland 1603-1745* (Edinburgh, 1991), pp.70-71.
[15] Lee, 'Government and Politics', p.43.
[16] Patrick, 'Union Broken', at p.120.

Together, these impulses created, for Jackson, a strong intellectual predilection towards powerful, even absolute monarchy.[17] The impression left by Mitchison, Lee, Patrick and Jackson is that the Restoration in Scotland actually went beyond merely raising Charles II to the position enjoyed by his father – in some ways it raised him further, and was therefore innovative, as well as conservative. Accordingly, in common with the historiography of England and Ireland, the Restoration settlement in Scotland has tended to be viewed as a self-conscious reaction against the developments of mid-seventeenth century. But, again in common with the rest of the British Isles, historians have not taken this to imply a slavish re-imposition of the political *status quo* as it had stood in the first three or four decades of the century. They have seen conservatism, in other words, as providing the guiding principle behind the Restoration, rather than a rigid template.[18]

Historiographical assertions about the reactionary, conservative nature of the Restoration settlement naturally imply that the strategies and structures of the 1650s were consciously rejected under Charles II. This is particularly interesting regarding the Highlands because the consensus is that, especially after the defeat of Glencairn's rising (1653-54), the Cromwellian Protectorate could boast a positive record in the region. Donaldson's view is that the republic introduced 'a degree of order [...] which would have rejoiced the heart of James VI', and despite its age, his thesis has

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[17] Jackson, *Restoration Scotland*, pp.48-59 and at p.133.

[18] Similar conservatism has been traced with regard to social hierarchy. Acorss the three kingdoms, the aristocracy tended to consolidate their power after 1660, although some have argued that this was offset by the the gradual emergence of other, longer-term trends, such as the rise of the English gentry or the growing centrality in Scotland of Parliament and patronage over conventional lordship. J. Cannon, 'The British Nobility, 1660-1800' in H.M. Scott (ed.), *The European Nobilities in the Seventeenth and Eighteenth Centuries, volume 1: Western Europe* (Harlow, 1995), pp.53-81, at pp.63-73; Brown, *Kingdom or Province*, pp.142-43; Lee, 'Government and Politics', pp.43-44; Heal *et al*, *Gentry in England and Wales*, pp.226-34, p.231 and at pp.380-81; D. Stevenson, 'The Effects of Revolution and Conquest on Scotland' in R.A. Mitchison and P. Roebuck (eds.), *Economy and Society in Scotland and Ireland 1500-1939* (Edinburgh, 1988), pp.48-57, at pp.48-53; Goodare, *State and Society*, p.328.

not been significantly challenged.[19] Dow notes that George Monck, after assuming control of Scotland in 1654, managed to pull off a trick which had eluded the Stuart kings by ensuring the cooperation of local elites without having to concede to them 'a fair measure of independent power'.[20] Fry, meanwhile, claims that Monck was the first person to achieve any real success in the pacification of the Highlands, while Lenman similarly observes that the Commonwealth achieved a position of strength there which had been beyond the reach of all previous regimes.[21] Although a cautionary interjection has been made by Macinnes, warning that the activities of the Cromwellians did not achieve total success in eradication banditry, the overwhelming weight of the historiography remains that, after 1654, the Protectorate was able to secure an unprecedented degree of real authority in the Highlands.[22]

In very broad terms, the strategy employed by Monck had been two-headed. Firstly, he relied upon local elites to enforce order within their respective spheres of influence. Ewan Cameron of Lochiel, for example, agreed in May 1655 that:

> What robbery shalbee committed by any of the Laird of Loughyell's servants or tennants that belong to him, hee shalbee ingaged either to produce the robbers, or give satisfaction to the people injured in case it bee required.[23]

This, of course, was hardly novel: the Statutes of Iona had envisaged something similar in 1609, while the Restoration regime itself would come to rely upon these tactics as well. What was new was the second prong of Protectoral governance. In

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[19] Donaldson, *James V to James VII*, pp.348-49. The historiography of Scotland more generally is rather less clear-cut, and for a recent critique of the Protectoral administration north of the border, see P. Little, 'The Irish and Scottish Councils and the Dislocation of the Protectoral Union' in P. Little (ed.), *The Cromwellian Protectorate* (Woodbridge, 2007), pp.127-43, at pp.135-40.

[20] Dow, *Cromwellian Scotland*, pp.224-25.

[21] Fry, *Wild Scots*, p.30; Lenman, *Jacobite Clans*, pp.28-34.

[22] Macinnes, *Clanship*, p.113-14.

[23] Firth, C.H. (ed.), *Scotland and the Protectorate: Letters and Papers relating to the Military Government of Scotland from January 1654 to June 1659* (Edinburgh, 1899), pp.278-79.

September 1657, Monck recorded that he had a total of 1,085 foot and 180 horse garrisoned in the Highlands, divided between forts at Inverness, Ruthven, Castle Sinclair, Inverlochy, Dunstaffnage and Duart (a further 3,595 foot and 803 horse were stationed at a number of posts on the Highland periphery and in the Lowlands).[24] The point of this expansive military presence, he later informed the second Lord Protector, Richard Cromwell, was unambiguous:

> It would bee a meanes to keepe the enemy from rendezvouzing at those places, which were heretofore the cheife places of their meeting. Besides having these forts among them they durst not draw out any men of those parts, least these garrisons should destroy them, which would bee a meanes to keepe those parts in good order.[25]

It is this feature to which historians have credited much of Monck's success. Dow, for one, is in no doubt that it was the government's oppressive military supervision, more than anything else, which ensured that the policy of delegation to chiefs ran smoothly.[26] The point, then, is that the broad approach of both the Commonwealth and the Protectorate to governing the far north and west was not markedly different from the strategies employed before 1651, but that it was rendered more effective by the stronger coercive machinery at its disposal. The forts, in other words, were the crucial defining feature of republican governance.

It is unsurprising, therefore, that almost the first impulse of the restored monarchy was to dismantle the garrison network, notwithstanding Parliament's recommendation that at least one be maintained at Inverlochy.[27] On 13 July 1661, the day it reconvened, the Privy Council issued a number of warrants for the demolition

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[24] *Ibid.*, pp.370-71.
[25] *Ibid.*, pp.367-68.
[26] Dow, *Cromwellian Scotland*, p.225.
[27] *RPS*, M1661/1/36; *Calendar of the Clarendon State Papers preserved in the Bodleian Library*, 5 vols (Oxford, 1872-1970), v, pp.42-43.

of citadels around the country, including one to Alexander Stuart, 5th earl of Moray regarding Inverness. Just over two weeks later, a similar commission was given to the Laird of Ardchatten for Dunstaffnage.[28] Rosehaugh believed the merits of such a policy were twofold – it would, firstly, save the king money, and, secondly, symbolise Scotland's 'aversion from [...] former rebellious principles'.[29] Certainly, it seems to have been implemented tolerably quickly. The Dunstaffnage garrison was gone by October, and in December the Secretary of State, Lauderdale noted approvingly that 'the slighting' of the citadels was 'in a good measur already obeyed'.[30]

A major exception, however, was the fort at Inverness. Macdonnell wrote in June 1661 that the removal of the Invernessian garrison was 'as yet so oncertan', and by January 1662 the Privy Council expressed its irritation at the slow pace of the demolition work. The fort, in fact, was never fully removed.[31] Local resistance may have played a part in this. The town council, lamenting (not for the first time) that the burgh lay 'in the mouth of the hylands', feared that losing the English soldiers would leave it dangerously exposed to banditry.[32] Moreover, James Fraser of Wardlaw claimed that the garrison, having been stationed at Inverness for over ten years, had developed something of an emotional bond with the townspeople:

> Never people left a place with such reluctancy. It was even sad to see and heare sighs and teares, pale faces and embraces, at their parting farewell from that town. And no wonder; they had peace and plenty for 10 yeares in it. They made that place happy, and it made them so.[33]

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[28] *RPCS*, i, p.6 and at p.15.

[29] George Mackenzie, *Memoirs of the Affairs of Scotland from the Restoration of King Charles II* (Edinburgh, 1821), pp.24-25.

[30] *RPCS*, i, p.62 and at p.125.

[31] NRAS1209, bundle 97; *RPCS*, i, p.149; Lenman, *Jacobite Clans*, p.39.

[32] Mackay *et al*, *Records of Inverness,* ii, p.211.

[33] Fraser, *Wardlaw*, p.447.

Invernessian reticence may of course have had a more practical basis, since the garrison had been something of a boon to the local economy. Hugh Fraser of Struy apparently sold 30,000 merks of timber to the garrison during its construction, some £80,000 sterling was paid out to local craftsmen before 1657, and the garrison's importation of English goods gave the locals unprecedented access to such luxury items as claret, fine cloth and medicine.[34] Yet there were other reasons, beyond local intransigence, for the slow abandonment of Inverness, not the least of which was the difficulty of finding workers. Moray, for example, attempted to recruit men from Badenoch and Strathspey, but the most important local laird, James Grant of Freuchie, refused to accept his authority so to do. Ultimately the Grant chief did cooperate, but only after reaching an agreement with the Privy Council directly.[35] Money too was a problem, since the workers responsible for building the citadels in the first place had still not been paid, forcing the government to allocate the materials from Inverness for settling the debt (no doubt to the annoyance of Moray, to whom these resources had initially been gifted).[36] If the restored monarchy's determination to distance itself from the Cromwellian period was exemplified by its assault on the garrisons, the Invernessian experience illustrates not only the ill-planned and knee-jerk nature of the policy, but also the practical constraints on its implementation.

The same dynamic can be observed in the regime's drive to resurrect the *ante bellum* administrative structure, embodied in its decree of April 1661 that all local legal jurisdictions were to revert to their pre-1637 status.[37] The process of turning back the jurisdictional clock proved difficult. There was predictable uncertainty over the sheriffship of Argyll, vacant on account of the marquis' forfeiture (see below),

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[34] *Ibid.*, pp.413-5; R.S. Spurlock, *Cromwell and Scotland: Conquest and Religion 1650-1660* (Edinburgh, 2007), p.43.
[35] NRS, GD248/363/3/13; *RPCS*, i, p.220.
[36] *RPCS*, i, p.279; *RGSS*, xi, p.451; Mackenzie, *Memoirs*, p.25.
[37] *RPS*, 1661/1/235; Lee, 'Government and Politics', p.27.

and in November 1662 Montrose was requested temporarily to discharge the duties of that office – he presumably remained in post until the restoration of the 9th earl of Argyll eleven months later.[38]   Much more protracted confusion emerged in Caithness, where the lack of a widely accepted administration became intertwined with a power-struggle between two factions of the Sinclair family. Both the earl of Caithness and William Sinclair of Dunbeath claimed to be the legitimate successors of the former sheriff of Caithness, Sir James Sinclair of Murkle.[39] The two held rival courts throughout 1661 and 1662, and each also made a point of violently interrupting their opponent's sittings.[40]   Caithness ultimately emerged as the government's choice for sheriff, although Dunbeath was still resisting (as part of a much wider law-breaking career) in 1669.[41] From 1663, moreover, the dispute spilled over to affect the shire's justice of the peace courts, to which both Dunbeath and Caithness had been appointed.[42] Caithness complained that Dunbeath, as convenor, had refused to allow him to take his seat and, thereafter, had stolen the court books from the legally appointed clerk. Dunbeath, for his part, accused Caithness of holding a break-away justice court from which Dunbeath and his allies were excluded.[43]

There was disarray further south as well, based on the fact that Parliament in April 1661 legislated for the separation of Ross from Inverness-shire, and the former's elevation to the status of a fully independent sheriffdom, on the grounds that it would be 'verie usefull for the more convenient and speedy administration of

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[38] *RPCS*, i, p.293.
[39] BL, Add. Mss. 23120, f.153.
[40] *RPCS*¸i, pp.187-88 and at pp.225-26 and at pp.435-38.
[41] *RGSS*, xi, pp.23-27; BL, Add. Mss. 23131, f.168.
[42] *RPS*, 1663/6/144.
[43] *RPCS*, i, pp.435-38.

justice'.[44] Yet a sheriff was not immediately named. The Mackenzies, marshalled by

Tarbat, promptly mounted a robust campaign to have Seaforth appointed to the new

office, but this caused friction with Moray, the hereditary sheriff of Inverness. Moray

argued that, since he had acquired his office while Inverness and Ross had still been

conjoined, he should remain in possession of both jurisdictions. He proceeded to act

upon what he perceived to be his rights by holding courts at Tain and Dingwall

throughout the winter of 1661, accompanied by a heavily armed retinue. The

Mackenzies duly complained to the largely Middletonian Privy Council which,

apparently viewing Moray as a potential cipher for Lauderdale in the north,

censured him and recommended to the king that the sheriffship of Ross should be

bestowed upon Seaforth. This it duly was in April 1662, although eight years later

Moray was still scheming to regain his lost influence by allying with the Balnagown

Rosses.[45] In each of these cases, the fundamental problem was the failure of the

government to take firm, proactive measures for the settlement of the Highland

administration. The resultant conflicts illustrated that without such supervision the

process would inevitably become mired in the intricacies of local (and sometimes

national) politics. Ironically, then, the regime's determination to leave the Highlands

to its own devices actually undermined the ability of the regional infrastructure to

function independently.

While the government focused heavily on repudiating its Cromwellian

inheritance, the response of the locality to the Restoration was rather more complex.

Iain Lom was famously exultant:

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[44] *RPS*, 1661/1/197. This separation had first been mooted as far back as 1503, and successive regimes – most recently the Covenanters in 1649 – had attempted to enforce it, without lasting success.
[45] BL, Lauderdale Papers, 1662, Add. Mss. 23117, f.14r, f.16r, f.17r, f.33r and at f.46r; *RPCS*, i, pp.177-78; *RGSS*, xi, p.118; BL, Lauderdale Papers, 1670, Add. Mss. 23133, f.45r.

Mi 'n air m'uilinn
An àrdgleann munaidh,
'S mór fàth mo shulais ri gàire.

'S ge fad am thosd mi,
Mas e 's olc leibh,
Thig an sop a m' bhràghad.

On bha sheanns oirnne chluinntin,
Ged bu teann a bha chuing orinn,
Gun do thionndaidh a' chuibhle mar b'àill leinn.

(As I lie on my elbow in a high mountain glen, I have good reason to find joy in laughter. Although I have long been silent, if that is what displeases you most, I shall remove the silencing wisp out of my throat. Since we have chanced to hear, although the yoke was tight upon us, that the wheel of fortune has turned propitiously for us).[46]

Iain Lom can hardly be considered the most balanced of witnesses, but his glee was not unique. Fraser of Wardlaw stated that the population of the Highlands was so firmly behind Monck when he marched south in 1659 in support of Charles II that none of the English soldiers garrisoned there dared oppose him,[47] while two years later Archibald Campbell, lord Lorne declared that:

I ame now resolued allmost with all Scotland to seeke the satisfaction to kisse his Ma[jes]ties hand [there is] no man in this country so old or sikly or sullen or poore or peevish but is making readie.[48]

More concrete was the behaviour of the Town Council of Inverness which, on 25 May 1663, made arrangements for a military parade through the streets of the burgh, both to celebrate the birthday of Charles II and, simultaneously, to 'testifie [and]

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[46] John MacDonald, 'Crùnadh an Dara Rìgh Teàrlach' [The Crowning of King Charles II] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.76-81, at pp.76-77.
[47] Fraser, *Wardlaw*, p.421.
[48] BL, Add. Mss. 23113, f.111.

euidence ther joy [and] thankfulnes to God for so ferme [and] palpable a favor done to this kingdome as to restore our gratius King', the same 'haueing beine practised yeirlie since his ma[jes]ties ingress'.[49] If all this tends to confirm that the Restoration was 'in the Highlands [...] almost universally welcomed', it is nevertheless necessary to sound a note of caution.[50] On the very day that Charles II entered London, George Sinclair, 6th earl of Caithness wrote a letter 'desyring that the presb[ytery] [of Caithness] wol[d] appoynt a day for publick thanksgiving for that mercie to the land in restoring our king in such a peacable way'. Far from responding with unbounded enthusiasm, a deeply cautious presbytery decided to refer the earl's letter to the consideration of the next provincial assembly.[51]

At the same time, the Restoration was for many marked less by honest jubilation than calculated jockeying for position. One tendency can be detected in Montrose's suggestion of April 1661 that John MacCombie, a Highlander accused of stealing cattle from James Ogilvy, 1st earl of Airlie during the 1650s, should be excused because his father had seen active service with the royal army.[52] Reay, in a petition of 1664, also sought to convert a Royalist record into material gains by pushing for action to be taken against an old enemy, Robert Gray of Arboll, at whose hands Reay had suffered during the Interregnum:

> The saids Robert Graye Joyned with [th]e vsurper [and] conducted ane pairtie to Strathnaver to Garissone [th]e house of Tounge [and] to reduce [tha]t Country from [the]r former Loyaltie Therby yo[u]r pet[itione]r wes necessitat to burne his houses [and] vaist his Countrye for [th]e ferderance of yo[u]r Maiesties Service. May it [the]rfor please yo[u]r Sacred Maiestie to Send and

[49] Mackay *et al*, *Records of Inverness*, ii, pp.215-16.
[50] Stevenson, *Highland Warrior*, p.277.
[51] NRS, CH2/47/1, ff.46-7.
[52] NRS, GD16/41/379.

ordour to yo[u]r Maiesties Com[m]issioner [and] Parliament That [th]e fornamed Robert Graye may be brought to tryall.[53]

Opportunism was not, however, restricted to erstwhile Royalists. Sutherland told his son in September 1660 that the expected flurry of fresh governmental appointments should be exploited to insert kinsmen or allies into key local administrative positions, as this would naturally work for the best interests of the family and its tenants.[54] Accordingly, it may well be accurate to say that the Restoration was broadly welcomed in the Highlands, but it is probably also the case that that support was largely cautious and pragmatic.

This conclusion can be fleshed out by analysing the region's engagement with the Restoration Parliament, which sat at Edinburgh between 1 January 1661 and 9 October 1663. MacIntosh has observed that, across Scotland as a whole, the patterns of representation spoke of a widespread rejection of the revolutionary inheritance of the 1640s, because 'the vast majority of commissions were given to 'new men', individuals who had no previous experience of serving in Parliament'.[55] More precisely, John Young has calculated that only some 30 per cent of those elected to the Restoration Parliament had also sat in its Covenanting predecessors.[56] These observations are clearly valid for the Highlands specifically. Of the eighteen commissioners known to have been elected, only three – Sir James Sinclair of Murkle, Sir Robert Gordon of Embo and John Campbell of Ardchatten – had had previous careers in Parliament, and a further two – Sir William Sinclair of Dunbeath and Tarbat – were the sons of Covenanting Parliamentarians. Thus, with a contingent of

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[53] NRS, GD84/2/231; I. Grimble, *Chief of Mackay* (Edinburgh, 1993), p.173. Charles acceded to this request, although no prosecution seems to have taken place. NRS, GD84/2/226.

[54] Fraser, *Sutherland Book*, ii, pp.181-82

[55] MacIntosh, *Scottish Parliament*, p.15.

[56] J.R. Young, *The Scottish Parliament 1639-1661: A Political and Constitutional Analysis* (Edinburgh, 1996), pp.309-10.

'new men' amounting to thirteen, or some 70 per cent of its total representation, the Highlands shared fully in the wider pattern of electing novices.[57] Also telling is the fact that there was an election dispute in Inverness-shire, with two individuals, Hugh Fraser of Belladrum and Colin Mackenzie of Redcastle, both claiming to have won the right to sit as the shire's second commissioner (Sir John Urquhart of Cromarty had already been elected as the first representative). Neither man had ever sat in Parliament before, but Belladrum was from a staunchly Covenanting lineage while Redcastle was not; ultimately the latter won through.[58] On the surface this says much about the extent to which the Highlands embraced the general ideological shift away from Scotland's radical past.

Nevertheless, the patterns of attendance throughout the life of the Restoration Parliament introduce a rather different perspective. Table 3 summarises these trends:

Session	*Nobility*		*Shires*		*Burghs*		*Totals*	
	Potential	*Actual*	*Potential*	*Actual*	*Potential*	*Actual*	*Potential*	*Actual*
1661	6	5	12	9	8	8	26	22
1662	6	3	12	8	8	3	26	14
1663	6	3	12	8	8	4	26	15

Table 3: Highland attendance in Restoration Parliament, 1661-63.[59]

Overall, attendance was relatively solid. All those with a right to participate did so in at least one of the three sessions, the only exceptions being Cromartyshire, which failed to elect commissioners, and the still under-age Lovat. The Highlands were

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[57] *RPS*, 1661/1/2, 1662/5/2 and at 1663/6/2; Young, M.D., *The Parliaments of Scotland: Burgh and Shire Commissioners*, 2 vols (Edinburgh, 1992-93), *passim*.
[58] NRS, Supplementary Parliamentary Papers, 1661, PA7/9/1, f.3; *RPS*, M1661/1/2. MacIntosh, *Scottish Parliament*, p.15. Young, *Scottish Parliament*, p.310. This should not be pushed too far, since Belladrum did secure a number of local offices.
[59] See appendix 1 on the attached CD for a full list of attendance.

represented by, on average, seventeen individuals in each session – an attendance level of around 65 per cent. Yet these headlines conceal important nuances. Firstly, the second and third sessions were much more poorly attended than the first, with a participation level of 85 per cent in 1661 dropping away to about 54 per cent and 58 per cent in 1662 and 1663 respectively. This mirrors the national pattern, which saw attendance fall by some 15 per cent in 1662 compared to the previous year, with a modest rally for the final session.[60] Secondly, there was a great deal of variation between the estates. The gentry – that is, the shire commissioners – remained consistent, save that Caithness and Sutherland both lost one commissioner after the first session (Sir James Sinclair of Murkle, the missing commissioner in the case of the former, probably stayed away due to age and infirmity) while Argyll gained one. The small group of nobles performed a little worse, since both Sutherland and Reay stayed away after 1661 (Sutherland, indeed, retired from public life altogether in 1662). But it was the burgh estate that was the most volatile, and after fielding a full complement in 1661, Cromarty, Dornoch, Inveraray and Wick all failed to send commissioners to either of the succeeding sessions, while Tain was unrepresented in 1662. This, again, shadowed wider trends, since burgh attendance at both the 1662 and 1663 sessions was around a third below the 1661 peak.[61]

 As MacIntosh has observed, these phenomena cannot plausibly be attributed to ideological opposition to Parliament's legislative programme, because nearly all the commissioners later held government offices from which they would have been excluded had they actively opposed the regime. Instead, she observes that most of the post-1661 absentees were from the north of Scotland, and on this basis concludes

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[60] MacIntosh, *Scottish Parliament*, p.15, p. 37 and at p.48.
[61] Lee, 'Government and Politics', p.30; MacIntosh, *Scottish Parliament*, p.15, p. 37 and at p.48.

that cost was the primary motivation for staying away.[62] Certainly, the financial pressure of supporting representatives in Edinburgh could be prohibitive – the earl of Sutherland noted that his shire was 'werie vnable to find chairges for on much less for two', no doubt because of the formidable cost involved in the commissioners' allowance of £5 per day, combined, in the case of Caithness and Sutherland, with an extra sixteen days travel money at the same rate.[63] But too much should not be made of this, since Fortrose managed to sustain a representative at every session, despite complaining, as late as 1665, that it remained heavily impoverished through the 'demolishing of [its] tolbooth, schoole house, and steaple, and vthair desolatiouns' dating from 'the tyme of thair late rebellion'.[64] What should be recognised is that the 1661 session had made the mood of the political nation clear for all to see.[65] Some had already gained what they wanted during this sitting. The charters and privileges of the royal burghs, for example, had received blanket ratification in April, and at least one latterly absentee burgh – Cromarty – had won a specific endorsement of its rights.[66] Similarly, Reay's desire to get some compensation for the losses his family had suffered in the 1640s had been legitimised, at least in theory, by June (see below).[67] For others, it may have become rapidly obvious that they were unlikely to wring much personal advantage from the Estates, and such was the tenor of a letter written to James Sinclair of Canisbay in May 1661, observing that '[y]o[u]r w[orshi]p hes bein wyss in tareing at hom at this tym, [because] this parliament will ly sadlie to sum off them yea to the most pairt off them'.[68] Two points are worthy of

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[62] MacIntosh, *Scottish Parliament*, pp.37-38.
[63] Fraser, *Sutherland Book*, ii, p.181; *RPS*, 1661/1/316.
[64] J.D. Marwick (ed.), *Records of the Convention of the Royal Burghs of Scotland*, 6 vols (Edinburgh, 1866-1915), iii, p.582.
[65] Lee, 'Government and Politics', pp.13-24.
[66] *RPS*, 1661/1/191 and at 1661/1/14.
[67] *Ibid*., 1661/1/351.
[68] NRS, GD96/673/105.

note here. Firstly, it would seem that one of the main forces shaping attendance patterns between 1661 and 1663 was self-interest. Highlanders flocked to Edinburgh in 1661 with a view to securing their private or sectional advantage. By 1662, the imperative to exercise one's voice in Parliament had grown less pressing. Secondly, and by way of a caveat, one should be cautious about overplaying the specifically 'Highland' nature of this response, since in many ways the patterns of attendance closely mirrored the behaviour of the Scottish political community more generally.

Nevertheless, the sense that the Highlands' relationship with the Restoration Parliament was notably less than passionate can be reinforced by considering the involvement of the region's representatives in the many committees and commissions set up during its lifetime. Many of these did have Highland members; there were, in fact, twenty-one such appointments spread across thirteen bodies. This, however, was less impressive than it sounds, since twelve of these commissions went to Tarbat (a close ally of the High Commissioner Middleton), and a further nine were for Sir John Urquhart of Cromarty (the head of a consistently Royalist family). This means that these two Easter Ross lairds hoarded no less than 95 per cent of all Highland committee appointments between 1661 and 1663, and only one other individual – Seaforth – was able to secure a position. Thus, whatever their attendance record, the Highland representatives in the Restoration Parliament do not seem to have become too deeply involved in its administrative business. Such a lack of engagement is on the face of it hardly indicative of a close relationship between the Highlands and government.

Historians have tended to agree that, with certain notable exceptions – especially his condemnation of the regicides, and the grisly exhumation of Cromwell, Henry Ireton and John Bradshaw – Charles II adopted a remarkably even-handed

attitude in regards to 'settling the score'.[69] Indeed, with regard to the Highlands, it

has been suggested that he was too cautious – Stevenson, for one, argues that in

failing properly to reward the loyalist families of the Highlands, the king squandered

a potential reservoir of goodwill.[70] James Fraser's assessment of Charles' actions was

certainly caustic. He complained that Reay and Seaforth – both of whom belonged to

kindreds that had suffered greatly in the Royalist cause – attended the king soon

after his restoration, each 'expecting some favour' for their services. Instead, the

former had to be content with the fact that his wife was greatly admired, while 'all

that Seaforth gained at Court was the kings countenance'. Only Angus MacDonald,

chief of clan MacDonald of Glengarry was, in Fraser's estimation, properly treated.[71]

This latter observation, at least, is accurate. Glengarry had been a prominent

adherent to Glencairn's rising, and Charles had as early as 1655 suggested that he

could expect a suitable reward.[72] Moreover, an order from the king in March 1661

illustrates the strength of his feelings with regard to Glengarry:

> [He] hath given great and eminent proofs of his loyalty to us and our father of
> ever glorious memory, for the which he hath suffred exceedingly [...] and wee
> being willing and desirous that [he] may be repaird and rewarded for his sad
> and heavy losses, wee do therefore heartily recomend him to yow and our
> parliament.[73]

Accordingly, on 10 December 1660 Glengarry was ennobled grandly as Aeneas, Lord

Macdonnell and Aros, and awarded a pension of £3,600 per year. Not satisfied with

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[69] Fraser, *King Charles II*, p.239; Miller, *Charles II*, pp.46-47; De Krey, *Restoration and Revolution*, p.26; Harris, *Restoration*, pp.47-48. Not everyone agrees; Malcolm argues that Charles exploited the general sense of unease about dissent to clamp down on any and all potential enemies in England. J.L. Malcolm, 'Charles II and the Reconstruction of Royal Power', *Historical Journal*, 35:1, 1992, pp.307-30, at p.317.

[70] Stevenson, *Highland Warrior*, pp.277-78.

[71] Fraser, *Wardlaw*, pp.450-52. This was not entirely fair as regards either Reay or Seaforth, see below.

[72] Dow, *Cromwellian Scotland*, pp.79-141; Firth, *Scotland and the Protectorate*, p.230.

[73] *RPS*, A1661/1/63.

this elevation, he continued to press, unsuccessfully, for the yet grander title of 'Earl of Ross'.[74]

Yet if Macdonnell was the most prominent Highland winner in the Restoration settlement, he was not the only one. A second Highland laird, James Grant of Freuchie, was in 1663 considered worthy of elevation to the nobility as 'Earl of Strathspey, Lord Grant of Freuchie and Urquhart', although his death that year rendered the idea redundant.[75] In general, however, Charles' rewarding of past service took three forms. The most straightforward was to rescind forfeitures imposed before 1660. In April 1661, Parliament approved a petition from clan Gregor, asking to be relaxed from all punitive legislation previously passed against them because they had 'vpon all occasiones bene ever readie' to show 'their loyaltie to his sacred Ma[jes]tie in the dayes of his Ma[jes]ties extremitie w[i]t[h] lyffes and fortunes' – a reference to the clan's royalist past and, in particular, its accession to Glencairn's rising.[76] The MacGregors' outlawry of course long pre-dated the Covenanting revolution, but 1661 also saw the rescinding of forfeitures passed in the 1640s against Angus MacDonald of Largie, Hector Maclean of Lochbuie, Hector Maclean of Kingairloch, the MacDonalds of Colonsay (the kin of Alasdair MacColla) and Archibald MacDonald of Sandy.[77]

Rather less common was the issuing of direct payments to individuals deemed deserving. The most significant beneficiary here, on paper at least, was Reay. Charles II had already in January 1655 promised the Mackay chief that he

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[74] *Ibid.*, 1661/1/226; NRS, E26/11/1, f.69, f.71, f.73 and at f.76; NRS, Audited Treasury Accounts, 1671-1676, E26/11/2, f.174, f.178, f.184 and at f.187; NRS, Audited Treasury Accounts, 1676-1679, E26/11/3, f.229; NRS, Audited Treasury Accounts, 1679-1682, E26/11/4, f.340; BL, Add. Mss. 23120, f.7.

[75] Fraser, *Chiefs of Grant*, iii, pp.345-46.

[76] NRS, PA7/9/1, f.38.

[77] *RPS*, 1661/1/166, 1661/1/411, 1661/1/216, 1661/1/306, 1661/1/307; NRAS1209, bundle 99, item 37.

would, in deference to his strong Royalist record, endeavour to fix 'such a marke of Our fauour on you, as may both repayre what you hauw suffered for vs, and be a Record to posterity of your fidellity and Loyalty'.[78] Consequently, the king wrote to the Scottish Parliament in January 1661, recommending that some compensation be awarded for these losses, calculated six months later to stand at £20,000.[79] This, however, was unique, and payment was generally restricted to much smaller sums awarded to ministers ejected from their parishes during the troubles: Patrick Durham, sometime minister of Ardersier, was ordered to be paid the outstanding stipend for the year 1658-59; pensions were given to Hector Maclean of Morvern, John Boig of Kirkilston, and the Dean of the Isles; and William Davidson, minister of Canisbay was awarded a lump sum of 1,000 merks.[80]

Finally, the government sometimes ordered the repayment of monies levied by the Covenanting and Commonwealth regimes. In April 1661, Laurence Dundas was ordered to repay to Seaforth £205 sterling, extracted after the earl's forfeiture by the Commonwealth in 1659, and two similar awards were made the following year, one to Rory MacLeod of Dunvegan, ordering several individuals to repay a total of £2,500 sterling extracted from him in 1655, and another to James MacDonald of Sleat decreeing that he be reimbursed for 5,800 merks (plus interest) paid in 1649 in obedience to an order of the Covenanters' second Triennial Parliament.[81] The most striking feature about all of this was its modesty. With very little public money changing hands and few prominent individuals involved, it did not cost the government very much, either financially or politically. It served, instead, as a gentle

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[78] NRS, GD84/2/224.
[79] *RPS*, A1661/1/64, 1661/1/351; NRS, GD84/2/220. Reay does not seem actually to have received any money, although Charles was still active on his behalf, recommending him in 1664 to Frederick III of Denmark. NRS, GD84/2/229-30.
[80] *RPS*, 1661/1/113; *RPCS*, i, p.81 and at pp.222-23; NRS, PA7/9/2, f.213.
[81] *RPS*, 1661/1/493, 1662/5/162-3 and at 1662/5/64; NRS, PA7/22, f.20.

reminder that former Royalists were now to be openly considered favoured subjects of the crown.

In terms of punishments, Lee has argued that there was no strong 'desire for blood' in Scotland.[82] This may be true – and certainly Moray's agent, Alexander Mackintosh, advised against over-zealous persecution of former Covenanters for fear 'it wold make ill blood in the Cuntrey' – but it should not imply that no punitive measures were taken in the Highlands.[83] In many cases, punishment simply took the form of publicly censuring past actions. Thus, in September 1662, Parliament endorsed a petition entered by Thomas Mackenzie of Inverlauell against John MacLeod, brother to the laird of Assynt, condemning the fact that:

> Haueing conceaved ane deadlie hatred and prejudice against [th]e petitioner for his loyaltie He and many v[the]r his accomplices did in [th]e moneth of october 1654 yeires In a hostile maner without anie warrand or authoritie invade the landes of Inverleall And did violentlie robb and take away from [th]e petitioner and his tennents Fourtie seven peice of horse [and] mears and Fourtie cowes [and] Fourtie Four Folls.[84]

This kind of action was also used to great effect to punish various Campbell gentry for their involvement in two infamous conflagrations in the late 1640s.[85] In July 1661 Parliament endorsed a petition from the MacDougalls against the lairds of Ardkinglass, Invereray and Ballichorrie, pivoting on the treatment meted out to the MacDougalls during the Scottish civil war of the mid-1640s, especially the massacre of the 500-strong garrison of Dunaverty in 1646 and the subsequent seizure of many clan holdings. In accepting the complaint, and ordering the return of the lands in question, the Estates bemoaned:

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[82] Lee, 'Government and Politics', p.23.
[83] NRAS217, box 6, item 449.
[84] NRS, PA7/22, ff.33-36.
[85] Macinnes, *Clanship*, pp.105-6; *Clarendon State Papers*, v, p.83.

> The crymes, facts and deids of heigh treason and other acts of murther, slaughter, oppression, robrie, fyre raiseing and other misdeids and maleversations [...] against [...] his majesties frie subjects, for their adherence and loyaltie to his majistie and his said umqhile dearest father.[86]

Closely comparable was a petition against a number of Campbell lairds, principally James Campbell of Ardkinglass and James Campbell of Orinsay, claiming that, during their attack in 1646 on the Lamont strongholds of Toward and Ascog in Cowal, they committed the crime of murder under trust by killing the majority of the garrison after it had surrender to them. This complaint too was endorsed by Parliament, leading to the production of a substantial indictment in August 1662, and the forfeiture of Ardkinglass and Orinsay in September.[87] In addition to the strategy of official condemnation, a number of Highlanders – John Munro of Lamlair, Neil MacLeod of Assynt, Colin Mackenzie of Kilcowie and Robert Murray of Pulrossie – faced individual treason processes in the course of 1661, although all of this was rendered moot by the passage the following year of the Act of Indemnity (see below).[88]

None of these activities, therefore, achieved very much in terms of material punishment, but they did have an important symbolic significance. When, in 1661, it appeared that James Grant of Freuchie would be summoned before Parliament in reference to an ongoing land dispute with his brother, he received a letter from his agent in Edinburgh, who attempted to fortify him for the ordeal ahead:

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[86] *RPS*, 1661/1/466; MacPhail, *Highland Papers*, ii, pp.248-60.
[87] NRS, PA7/22, f.27; NLS, Lamont Papers, MS.545, ff.17-19; John Nicoll, *A Diary of Public Transactions and Other Occurrences, chiefly in Scotland, from January 1650 to June 1667* ed. D. Laing (Edinburgh, 1836), pp.377-78.
[88] NRS, PA7/9/2, ff.240-42.

Ye are wnjustly soght, but persuad your selff quhen yow cum heir ye will find als mani frindis as any gentillman in Scotland will. It is not your honour to be cited, I confess, but seing so it is, let yow compeer and windicat your honor and reputatione.[89]

By subjecting specific individuals to the embarrassment of public censure, the regime advertised what it considered to be an honourable record and what was to be deemed dishonourable. In this way, it reinforced the intellectual reaction against Covenanting thinking, and was able subtly to augment its own claim to legitimacy.

Much the most significant victim of the Restoration, certainly in Scotland and possibly across the three kingdoms, was himself a Highlander: Archibald Campbell, marquis of Argyll. Believing that 'yeilding pacified grat offences', he determined to travel to Whitehall in the summer of 1660 and submit to the king.[90] Once there, however, he was arrested and imprisoned in the Tower of London, before being transported back north in December to be held at Edinburgh Castle.[91] By January 1661, a truly ferocious indictment had been compiled against him. Beginning with a long list of the laws – some going back to the reign of James I (r.1406-37) – that Argyll was accused of contravening, including statutes against failing to uphold royal authority, raising arms, leasing-making, slandering Parliament, arson, murder under trust and regicide, it then set out fourteen specific charges, in four broad classes.[92] Firstly, it accused the marquis of being a leading combatant during the Bishops' Wars (1639-40), and in particular of attacking Airlie and Dumbarton Castles. Secondly, it attempted to paint Argyll as the guiding force in the Covenanting

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[89] Fraser, *Chiefs of Grant*, ii, p.88. In the event Freuchie was not summoned.

[90] NLS, Yule Collection: Argyll Letters, MS.3138, ff.20-21.

[91] Robert Baillie, *The Letters and Journals of Robert Baillie*, 3 vols, ed. D. Laing (Edinburgh, 1842), iii, p.443; Burnet, *History*, i, p.194; Wodrow, *History of the Sufferings*, i, p.130; Fraser, *Wardlaw*, pp.431-32; Edward Hyde, *The Life of Edward Earl of Clarendon*, 2 vols (Oxford, 1857), i, p.98; Mackenzie, *Memoirs*, p.13; Nicoll, *Diary*, pp.295-96 and at pp.308-9.

[92] *The Grand Indictment of High Treason Exhibited against the Marquess of Argy*le (Edinburgh, 1661), *passim*.

movement of the 1640s, according to him a leading role in the formulation of the

Solemn League and Covenant (1643), the surrender of Charles I to the English

Parliament (1647), the Whiggamore raid (1648) and the ill-treatment of Charles II

during his first reign (1649-51), as well as accusing him of attacking Menstrie,

Dunaverty and Cowal in the mid-1640s. Thirdly, it claimed that Argyll had willingly

collaborated with the Cromwellians, especially by opposing Glencairn's rising,

sitting in the third Protectorate Parliament (1659) and making repeated public

statements endorsing the republican regime. Lastly, it argued that the marquis had

been complicit in the execution of Charles I in 1649.[93] Yet despite this lengthy,

complex and legalistic content, the underlying message of the dittay (indictment)

was starkly simple:

> You the said Marquis of Arguile [...] trayterously intended and purposed the eradication [and] subverting [of] the fundamental Government of this Kingdom: At least the ennervating, violating, derogating, or impairing [of] the Soveraign Authority, Royal Prerogative of his Majesty, and priviledge of the Crown.[94]

Essentially, the indictment sought to characterise Argyll as the diabolical

mastermind behind everything that had happened to the detriment of the monarchy

in Scotland since 1637.

The trial began in Parliament on 13 February 1661, when the dittay was read

aloud. Argyll was given until the start of March to construct his defences,

examination of which then occupied the Estates until the end of April.[95] These

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[93] *Ibid.*, pp.6-23.

[94] *Ibid.*, pp.5-6.

[95] Nicoll, *Diary*, p.322. Full, if inevitably rather partisan descriptions of the processes against Argyll can be found in Wodrow, *History of the Sufferings*, i, pp.130-58, and Willcock, *Great Marquess*, pp.308-38. A more analytical modern account is A.I. Macinnes, *The British Confederate: Archibald Campbell, Marquess of Argyll, c.1607-1661* (Edinburgh, 2011), pp.296-303.

defences, running to over 100 pages when printed, were considerably weightier than the original indictment. His advocates – led by Mackenzie of Rosehaugh, a future Lord Advocate – answered the indictment in forensic legal detail, and cited numerous procedural and technical irregularities in its preparation and presentation. In addition, each individual article was met with at least three or four separate rebuttals.[96] The crux of the defence, though, was easily understood. It pointed out that none of the actions in question were either unique to Argyll or had been considered treasonous at the time. Equally, it asked that Argyll not be judged by the 'sad and unexpected consequences' of any of his actions; he had, it claimed, simply attempted to respond to the unprecedented circumstances of the time.[97] Parliament was unmoved, and it rejected the defences on 29 April.[98]

Throughout the following month, a succession of witnesses, no fewer than fifty-two in total, offered depositions on most of the articles of the indictment.[99] Ultimately, however, the Lord Advocate, Sir John Fletcher, was forced to drop all of the charges save those (articles eleven, twelve and thirteen) associated with Argyll's conduct during the Commonwealth and Protectorate.[100] This was hardly from lack of testimony, since at least twenty-four of the depositions dealt with articles one to ten. Contemporaries offer a number of explanations. Baillie and Burnet both pointed out that many of the actions attributed to the marquis had in fact been carried out by subordinates without his knowledge, and that therefore the charges could not be made to stick.[101] Rosehaugh, meanwhile, was adamant that Fletcher's

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[96] Archibald Campbell, *The Marques of Argyll his Defences against the Grand Indytement of High Treason* (Edinburgh, 1661), *passim*; NRS, PA7/9/1, f.83/9. The defences are summarised in Bod., Clarendon State Papers, volume 82, f.283r-v.
[97] Campbell, *Defences*, pp.15-19.
[98] *RPS*, M1661/1/40.
[99] NRS, PA7/9/1, ff.83/11-3.
[100] *RPS*, M1661/1/41-2.
[101] Baillie, *Letters*, iii, pp.465-67; Burnet, *History*, i, p.222.

hand had been forced by an order from the king insisting that the Act of Indemnity he had granted in 1651 should be respected – an instruction procured by Lauderdale (allegedly without the king's knowledge by having it 'shuffled in amongst other papers when his Majesty was in haste') in an effort to destabilise the Middletonian regime in Edinburgh.[102]

More widely, it seems that Argyll's defences were genuinely affecting. Fraser, no friend of his, admitted that he was 'very bold and confident in his own defence'; the English Chancellor, Edward Hyde, 1st earl of Clarendon – a similarly unsympathetic witness – conceded that 'the Proofs were not clear enough to convict him'; and the Catholic priest Alexander Gordon noted on 11 April, that 'it is feared [Argyll] will be absolued'.[103] Indeed, Rosehaugh suggested that 'the probation [was] not full enough' even in regard to those articles upon which Fletcher had insisted, and that the prosecution's case was ultimately carried solely by a last-minute intervention from Monck, now 1st duke of Albemarle.[104] Albemarle submitted to Parliament six letters sent by Argyll to the Cromwellian authorities in Scotland between July 1653 and September 1654, which together showed that he had thrown himself into the suppression of Glencairn's rebellion with a great deal more enthusiasm than may have been expected from a reluctant collaborator.[105] Armed with this new evidence, Parliament on 24 May found Argyll guilty, in full or in part, of articles eleven, twelve and thirteen, adding the general judgement that:

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[102] Mackenzie, *Memoirs*, p.37.

[103] Fraser, *Wardlaw*, p.433; Hyde, *Life*, i, p.403; SCA, BL1/25/8.

[104] Mackenzie, *Memoirs*, p.39. As one of Argyll's advocates Rosehaugh's opinion is perhaps a little suspect, but he was by no means alone in this judgement. See Baillie, *Letters*, iii, pp.465-67; Burnet, *History*, i, p.224; James Kirkton, *A History of the Church of Scotland 1660-1679*, ed. R. Stewart (Lampeter, 1992), p.55; Willcock, *Great Marquess*, pp.319-20; Paterson, *No Tragic Story*, p.20.

[105] Quoted in Willcock, *Great Marquess*, pp.380-86.

> The pannell his crymes of Treason ar aggravat by his constant and malicious
> opposition to the au[th]o[ri]tie and commands of his Maj[es]tie and his royall
> father ever since the beginning of these troubles in the yeir 1637.[106]

Albemarle's letters could do nothing to prove the final, most serious article –
regicide. Despite the strenuous assertion of Andrew Gilmour (brother to Argyll's
counsel, Sir John Gilmour) that 'his hand hes being palpablie deep in the counsels
[amd] wayes taken in the death of his own Soverain Lord [and] king, Charls the first
of ever blesses memorie', Argyll was cleared of this charge.[107] Although certainly
some comfort to his family, this was of little practical benefit to the marquis, who,
protesting his innocence to the end, was executed on 27 May.[108] His severed head
was displayed from Edinburgh's Tolbooth, a grizzly warning that remained in place
until January 1664.[109]

There is more than a passing impression that Argyll's conviction was a
foregone conclusion. Robert Baillie had recognised as early as December 1660 that
Argyll's head would be the price of peace, and this was reinforced two months later,
when James Sharp wrote that the marquis was already 'a gone man'.[110] The marquis
himself was apparently little more optimistic: while imprisoned in London in
November 1660, he resigned all his lands and writs in favour of his son, Archibald
Campbell, lord Lorne, a transparent attempt to preserve the family estates in the
event of his forfeiture.[111] The apparent hopelessness of Argyll's position was further
confirmed at the very beginning of his trial, when his desire to employ the ablest

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[106] NRS, PA7/9/1, f.83/1.
[107] EUL, La.II.511, f.17v.
[108] Archibald Campbell, *The Speech of the late Marquiss of Argyll upon the Scaffold* (Edinburgh, 1661), *passim*.
[109] Nicoll, *Diary*, pp.413-14; NRAS1209, bundle 16, item 15.
[110] Baillie, *Letters*, iii, p.418; Airy, *Lauderdale Papers*, p.72.
[111] NRAS1209, bundle 18.

lawyers in Edinburgh foundered because none would agree to represent him. He

was forced into supplicating that Parliament appoint advocates on his behalf.[112]

Other commentators, looking back on the event of 1660-61, were similarly

convinced that the marquis had been doomed from the start. Fraser claimed that

there was throughout Britain a 'general hatred and detestation' for him which made

survival impossible; Gilbert Burnet lamented that 'the [Scottish] parliament was so

set against' him that 'every thing was like to pass that might blacken his name'; and

for James Kirkton, many 'ignorant people' eagerly anticipated his fall because his

career had occasioned 'a great deal of envy'.[113] This ingrained hostility found its

most virulent expression in an anonymous poem of 1660:

> No words can serve to utter what I think,
> No world of Paper, nor Sea of Ink,
> Can well point out these Villanies which he
> Hath acted by infernal Trechery
> Against his God, his Countrey, and his Prince,
> His Father, Friends, and Kindred, all at once.[114]

The most significant prejudice came from the king himself. Charles largely blamed

Argyll for his unhappy experiences during his brief first reign in Scotland, and from

this developed hearty personal dislike.[115] This fact alone was almost enough to

guarantee the marquis' condemnation, something which he himself recognised when

he complained that 'if his Ma[jes]ties preiudice wer laid asyd my accusations

otherways ar [the] Comon failing of the nation'.[116] Argyll, in other words, was from

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[112] Nicoll, *Diary*, p.321.
[113] Fraser, *Wardlaw*, pp.431-32; Burnet, *History*, i, p.224; Kirkton, *History*, p.37.
[114] *Argyles Arraignment, Or, Treachery Displayed* (London, 1660).
[115] M. Lee, '*Annus Horribilis*: Charles II in Scotland, 1650-1651' in M. Lee (ed.), *The 'Inevitable' Union, and Other Essays on Early Modern Scotland* (East Linton, 2003), pp.205-22, at pp.219-20.
[116] NLS, Single Letters and Small Collections, MS.3648, f.1r.

the start handicapped by widespread dislike and a general belief throughout the political nation that he really did deserve to be condemned.

In 1661, a second anonymous pamphleteer hit upon another strong impulse working towards the conviction of Argyll, observing that 'many of his Majesties loyal Subjects [...] can expect no other reparation of their losses, but from the forfeiture of the said estate'.[117] Middleton himself confirmed that this impulse did indeed exist in Parliament, and the process was facilitated by the fact that the Argyll estates were placed under arrestment even before the conviction in May 1661. Throughout that year, a succession of civil actions succeeded in achieving a huge redistribution of the marquis' supposedly ill-won wealth.[118] On 16 April he was ordered to pay Montrose more than £70,000 which he had accrued through his possession, after 1645, of part of those lands forfeited from Montrose's father.[119] Similarly, possession of the estates of the late George Gordon, 2nd marquis of Huntly, which had been enjoyed by Argyll since 1649, was in May transferred back to the royalist Gordons.[120] All this continued after Argyll's death. On 12 July, some of his lands were handed back to their former owner, John Scrymgeour, 1st earl of Dundee, while in May 1662 Parliament asked permission of the king to examine both those 'well affected persons' who had suffered 'violence and oppression committed upon them be the late marques of Argyll', and 'the interests of the creditors of the said late marques'.[121] By November, an edict had been issued 'desyrand all persones quha heirtofoir wer ony wyfe injured, opressed, or wronged by the lait Marques of Ergyll'

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[117] Anonymous, *Some Reasons*, p.4.
[118] NRS, Campbell of Dunstaffnage Papers, GD202/20/3; Bod., Clarendon State Papers, volume 72, f.324r; volume 82, f.263v.
[119] *RPS*, 1661/1/220.
[120] *Ibid.*, 1661/1/259; Robertson, 'Continuity and Change', p.163.
[121] *RPS*, 1661/1/453 and at 1662/5/10.

to present their claims to the Privy Council.[122]   This redistributive climate was naturally exploited by some – as John Campbell, 1st earl of Loudoun observed, there were always some who sought to 'rais themselfes vpon the Ruine of others'.[123]   The MacDougalls, for example, secured in 1661 the return of numerous estates in western Argyll seized by tenants of the marquis during the 1640s.[124]   Soon, however, this became a pretext for attempting to appropriate some former MacDougall lands which had been acquired legally by other scions of the Campbell gentry before 1637.[125]   Writing to Iain MacDougall of Dunollie in May 1663, Glencairn was not amused:

> It was exspected that yow wold have wsed the favour done yow by [th]e parli[amen]t very moderatly And that yow wold have bein obsequias to any ane of these many Letters sent yow vpon Duncan campells accompt […] If therfore the said Duncan be hindered from posessing the s[ai]ds lands as he posessed [the]m before the obteineing of [th]e decreat by yow or any els Asswre yowrself the Counsell will recent and punish the same as ane hie ryot.[126]

By 1665, the king himself had been forced to get involved in order to protect Argyllshire's feuers from over-eager creditors.[127]   The perception, then, that Argyll had profited unduly at the expense of former Royalists, and the attendant determination to reverse this trend, certainly contributed to his fall.

Yet there were other more subtle factors at work. The fact that Argyll had a partially Highland identity was not lost on contemporaries, and if there is little direct indication that this contributed towards his condemnation, it clearly did inform the

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[122] Nicoll, *Diary*, p.384.
[123] NRAS1209, bundle 100, item 101.
[124] *RPS*, 1661/1/466.
[125] NRS, Supplementary Parliamentary Papers, 1662-78, PA7/10, f.16; NRS, GD202/20/1.
[126] NRS, GD64/5/1.
[127] NLS, MS.1672, f.39.

rhetoric against him. The 1661 pamphlet, for example, noted that the vast numbers of tenants and clansmen he could potentially command in his guise as *MacCailein Mór* made his lands 'a most fit place to be the Nest and Seminary of Rebellion', meaning that the marquis was a uniquely dangerous figure.[128] Slightly differently, Argyll himself complained in January 1661 that the libel 'repeat[ed] all that hath been done by Kirk or Kingdom, to be the Marquiss of Argyles deeds', and several months later he further objected that his enemies sought 'to lay the blaime at one mans doir (tho moir inocent then many others) raither then to putt it wher it ought Iustlie to lye'.[129] Kirkton developed this concept when he wrote that Argyll was selected by the new regime 'partly to be a sacrifice for revenge'.[130] Alongside this image of Argyll as scapegoat, contemporaries also recognised the warning implicit in his fate. Perhaps predictably, the anonymous pamphleteer of 1661 was the most enthusiastic advocate of this exercise:

> The exemplary punishment and eradicating of this Family, (especially at this first happy appearance of his Majesties justice) will be a Scar-crow to all others, and serve as a Beacon, to make them shun the rocks of Rebellion.[131]

If, therefore, widespread envy and personal dislike facilitated Argyll's forfeiture, the underlying reasons for his fall from grace were much more fundamental. As the most prominent member of the Scottish leadership in the 1640s and 1650s, he was essentially doomed as a sacrificial lamb, the spilling of whose blood would be doubly symbolic: it would draw a line under the turmoil of mid-century, while sating the Royalist desire for revenge.

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[128] Anonymous, *Some Reasons*, p.2.
[129] Archibald Campbell, *The Marquess of Argile his Answer to his Charge* (Edinburgh, 1661), p.1; Bod., Clarendon State Papers, volume 82, f.261r.
[130] Kirkton, *History*, p.54.
[131] Anonymous, *Some Reasons*, p.3.

After the execution of Argyll – whose fate was ultimately shared by a number of other prominent Covenanters such as James Guthrie and Archibald Johnston of Wariston – the main recriminations for past actions surrounded the Act of Indemnity, passed on 9 September 1662.[132] This legislation was designed to pardon all misdemeanours committed during the Covenanting and Commonwealth periods, but it did list a small number of people who were to be exempted absolutely from its terms. Three of them were Highlanders: Argyll, whose troubles were apparently not over despite being dead, James Campbell of Ardkinglass and James Campbell of Orinsay. However, a second act, also passed on 9 September, listed fully 896 individuals from whom punitive fines – totalling more than £1,000,000 – were demanded before indemnity would be granted to them.[133] Those who had sat, or were sitting, in the Restoration Parliament were generally freed from any fines for which they may otherwise have been liable, something which explains why a number of very prominent Covenanters – most notably Sutherland, who had been amongst the most consistently Covenanting peers in the realm – escaped censure. Nevertheless, a total of eighty-seven individuals from the core Highland shires were named. Table 4 (overleaf) displays the total liabilities incurred by each shire.[134] In total, the financial burden imposed on the Highlands amounted to nearly £111,000. Although the average value of fines was therefore around £27,689 per shire, liability in fact varied wildly, and, in terms of totals, there was a clear division between Argyll and Inverness-shire on the one hand, and Sutherland and Caithness on the other – the former were made liable for sums several times greater than those expected from the latter. Naturally this reflected the number of fines imposed, since

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[132] *RPS*, 1662/5/87.

[133] *Ibid.*, 1662/5/96; Wodrow, *History of the Sufferings*, i, pp..271-78.

[134] Under the act, Inverness-shire was deemed to include Ross-shire and Cromarty-shire, as these three shires were not officially separated until later in 1662; 'Inverness-shire', then, incorporated an enormous tract of land stretching from Lochaber to Assynt.

Argyll and Inverness-shire between accounted for nearly 90 per cent of all exemptions.

Shire	Number of Exemptions	Total Fines (£ Scots)	Average Fine (£ Scots)
Argyll	51	55,554	1,089
Caithness	3	1,800	600
Inverness, Ross and Cromarty	27	42,000	1,556
Sutherland	6	11,400	1,900
Totals	**87**	**110,754**	**1,259**

Table 4: Exemptions from the Act of Indemnity in the Highland Shires, 1662.[135]

The reality of the mid-century troubles was clearly reflected in this pattern. Argyll and Inverness-shire had, after all, witnessed a great deal more activity and disruption before 1660 than the more northerly shires, and equally, their leading men had been stalwarts of both the Covenanting regime and, especially in the case of Argyll, had collaborated significantly with the Cromwellians.[136] These points are further reinforced when one considers exactly who was fined. Of those who can be positively identified, the vast majority – around seventy-six – were lairds, and about eleven were burgesses (almost all from the Covenanting stronghold of Inverness). Fifty of the lairds – nearly 60 per cent – belonged to major families (the Campbells in particular, but also Munros, Rosses, Frasers, Sinclairs, Grays and Sutherlands) which had gravitated towards the Covenanting cause before 1651. Clearly, the distribution of fines in the Highlands generally conformed to the expressed intention of the 1662 act – namely, to single out those who had 'concurred in the contriveing, fomenting or

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[135] *RPS*, 1662/5/96.

[136] Macinnes, *Clanship*, pp.242-43; Dow, *Cromwellian Scotland*, pp.115-42.

carieing on of the late most unnaturall rebellion' and 'did therby render themselffs eminently instrumentall in all his majesties' troubles'.[137]

Yet if the pattern of exemptions was broadly logical from this point of view, there were peculiarities, especially given the official guidelines that fines should be roughly equivalent of one year's rent.[138] Caithness remained the region with the smallest liabilities – their mean fines being half the Highland average – but the gentlemen of Argyll were in fact in the next-best position, and they were cited to pay, on average, slightly less than was standard for the Highlands. The inhabitants of Inverness-shire were rather worse off, but it was the gentlemen of Sutherland who suffered most, paying roughly 50 per cent above the Highland average. A great deal of further research into Scottish landholding is needed, but there are nevertheless some hints that these patterns did not accurately reflect variations in rental income. Shaw and Macinnes have for instance shown that Argyll proprietors tended to hold unusually large blocks of land, but this peculiarity was not reflected in the modest levies imposed upon the shire.[139] Moreover, comparison with surviving rental rolls reveals some peculiarities. For example, Alexander Campbell of Lochnell was fined £3,000, but in the 1680s his estates were valued at less than £2,000. A similar situation faced Hector Maclean of Torlisk (fined £4,000, valued at £635), Neil Mackellor of Letter (fined £3,000, valued at £92) and Alexander Maclean of Otter (fined £2,000, valued at £674).[140] In Inverness-shire, too, such over-charging was not uncommon: John Forbes of Culloden, whose valued rent was about £760 in 1671, was fined £1,200; Thomas Shives of Muirton, fined £1,800, had land valued at £145; and the Mackintosh lairds of Killachie and Connage both endured fines of £3,600 on land

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[137] *RPS*, 1662/5/96.
[138] Airy, *Lauderdale Papers*, i, p.104
[139] Shaw, *Northern and Western Isles*, pp.16-20; Macinnes, *Clanship*, pp.142-48.
[140] NRS, Exchequer Records: Valuation Rolls, E106/3/1, f.6, ff.11-12, ff.17-18, f.20 and at ff.25-26.

worth £594 and £1,470 respectively.[141] Admittedly these comparisons are not without difficulty, largely because the extant valuation rolls are not precisely contemporary with the Act of Indemnity, and it is possible (particularly in the case of war-torn Argyll) that the intervening period had witnessed a reduction in the value of land. Nonetheless, it seems clear that, in many cases, fines exceeded the statutory level on one-year's valued rent.

At the same time, the government's declared intention to impose punishments which were proportionate to perceived crimes does not seem to have been observed terribly scrupulously. Perhaps the most actively Covenanting burgesses in Inverness had been Duncan Forbes of Culloden and his son, John Forbes, both of whom had sat on numerous committees, both centrally and locally, during the 1640s and had been their town's commissioner to the Covenanting Parliaments at least twice each. Yet both of them were fined £1,200, when their fellow Invernessian burgess, the much more low-profile Alexander Dunbar, was expected to pay three times that. It also seems odd that one member of the Gray family – Robert Gray of Arbo – was cited to pay £4,800, when another – Robert Gray of Skibo – escaped with just £1,200, when Skibo is known to have had held office under the Covenanters but there is no record of Arbo ever having done so.[142] Analysing the value of individual fines, in other words, reveals a haphazard and rather bizarre pattern which does not comfortably fit with the official guidelines.

This confusion is in fact hardly surprising. For Wodrow, the whole process of indemnity was shamefully handled by the government, not least because the

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[141] NRS, E106/17/1, ff.2-3 and at ff.5-6. In the absence of extant valuation rolls it is impossible to assess the relationship between rents and fines in Sutherland, although, given the pattern laid out here, it seems likely that the unusually high liabilities imposed upon that shire did not reflect rental values.

[142] *RPS*, 1643/6/91, 1644/6/225, 1645/1/124; 1646/11/34, 1646/11/409; M.D. Young, *The Parliaments of Scotland: Burgh and Shire Commissioners, volume 1* (Edinburgh, 1992), p.246.

decision to delay the passage of the Act until late 1662 was a transparent mechanism for stifling opposition to Middleton's legislative programme.[143] More particularly, however, Wodrow railed against the injustice of the exemptions list, arguing that those named were 'arbitrarily fined [...] without any libel, probation, or pretended crime, but what was common to the whole nation during the usurption', and that, moreover, 'a good many were put in, as much from little private pique, as from any activity in the late times'.[144] Wodrow was echoing earlier sentiment. Kirkton claimed that the list was both unjust and illogical, since many of those named were either dead, impoverished or (perhaps slipping into hyperbole) had never existed. The point of the exercise, he concluded, was to furnish 'a sort of drink-money' for Middleton and his allies.[145] Burnet too stated that the list was composed in secret and with 'no proofs', with the result that the value of fines was entirely arbitrary and 'no consideration was had either of men's crimes or of their estates'.[146] It would, therefore, be misguided to seek a logical pattern in the imposition of fines because exemption from indemnity was, like the execution of Argyll, as much about the present as the past. But whereas Argyll's death had been intended to cement the position of the Restoration regime by illustrating the dangers of disloyalty and symbolically bringing to an end the mid-century troubles, the fines of 1662 were more about using the general climate of royalist sentiment in Scotland to facilitate a cynical exercise in fiscal exploitation, something which the Highlands did not escape.

In general, then, the pattern of rewards and punishments in the Highlands, as across Scotland, was thoroughly moderate. Certainly there was one big winner –

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[143] Wodrow, *History of the Sufferings*, i, pp.278-79.

[144] *Ibid.*, p.271 and at p.277.

[145] Kirkton, *History*, p.84. The veracity of this latter accusation would seem to be reinforced by a letter of Charles II to Middleton in March 1661, rebuking the commissioner for taking private bribes in return for pardons. Airy, *Lauderdale Papers*, i, pp.92-93.

[146] Burnet, *History*, i, p.262.

Macdonnell – and one big loser – Argyll – but beneath these headlines, there was no great bonanza for former Royalists, and no systematic attempt to destroy those who had fought against the Crown before 1660. What there was, instead, was a more low-key pattern of small-scale gifts and mild censures, all of which were concerned more with shaping the present than setting the past to rights. The various mechanisms for rewarding loyalists – ennoblement, payment, rescinding of forfeitures and returning of taxation dues – all served to honour those whose records were considered to merit it, without actually ceding much of substance, while the use of public condemnations and abortive treason processes allowed the young and still insecure restored monarchy to show its displeasure without causing any major social or political upheavals. The same focus on the present can be observed in the two major retribution initiatives of the period. The historical justification for executing Argyll was tenuous, but its political value, as sacrifice and warning, was immense, while the bizarre pattern of indemnity exceptions can only really be understood if one approaches it as an exercise in fiscal opportunism. The whole process, then, was a balancing act between score-settling on the one hand and entrenching the regime on the other. The result as far as the Highlands were concerned was a policy that sacrificed substantive achievements in favour of symbolism.

Historians dealing with the Restoration settlements on a national (or even international) scale have reached a broad consensus based upon a number of premises. First, that the return of the monarchy was popular. Second, that both centre and locality worked hard to produce a conservative settlement tempered by pragmatism. Third, that there was a conscious effort to minimise the need for retribution. These themes were certainly crucial in the Highlands, but they were allied to a distinct sense of drift and half-heartedness. Support for Charles II seems to have been largely ubiquitous, but so too was caution and self-interest. There was

a conscious attempt to eradicate the governing infrastructure of the Cromwellian period, but the lack of a clear strategy for replacing it led to local administrative muddle, and the pattern of rewards and punishments relied so heavily on modest acts of approbation and censure (the execution of Argyll notwithstanding) that arguably it achieved very little in practice. An explanation for all this can be found in the fact that the Restoration (like the Revolution of 1688-89) was essentially an English phenomenon, exported of necessity to Scotland.[147] The Stuarts' northern kingdom therefore experienced the process at one remove, and the Highlands even more distantly than that. Put simply, the sedate and lackadaisical nature of the Highland Restoration reflected the region's ambivalent relationship with central government. Over the succeeding two decades, official policy in the Highlands would be shaped by the uncertainties which this dynamic generated.

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[147] Lee, 'Government and Politics', pp.11-2.

CHAPTER **5**

Engagement and Containment, 1660-78

> Duke Lauderdale's insolence, and his engrossing every thing to himself and
> to a few friends, and his wife and his brother setting things to sale, raised a
> very high discontent all over the nation [...] so that in all respects we were
> quite out of joint.[1]

Gilbert Burnet's unflattering description of the regime overseen by Lauderdale, is
hardly a maverick voice. Rather, thanks largely to the Whiggish ideology which
dominated British history-writing until the early twentieth century, it reflects a
powerful traditional perception of Scotland in the 1660s and 1670s. This
characterisation had its most profound impact on historians' understanding of
religious policy, but it also had implications for the Highlands. Lauderdale's
corruption, the thinking ran, meant that the Highlands were simply ignored, left to
their own devices until the reign of James VII.[2] More recent historiography has of
course done much to undermine the simplistic understanding of Lauderdale's
government, and in light of this, a more measured re-examination of Highland policy
during his ascendancy is necessary. Seeking to provide such a revaluation, this
chapter will trace the government's responses to the perceived problem of Highland
lawlessness from 1660 until the end of Lauderdale's regime. It begins by exploring
the strategic underpinnings of the government's approach, before assessing how
these ideas influenced the actual development of policy until 1678.

The general issue of the Restoration regime's reaction to perceived challenges
has of course attracted a fair degree of historiographical attention, principally as
regards Presbyterian nonconformity. The conventional picture, as drawn by Cowan,

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[1] Burnet, *History*, ii, p.25.
[2] See, as an example, MacKenzie, *Highlands and Isles of Scotland*, pp.250.

Buckroyd and G.M. Yould, and more recently re-stated by Brown and Harris, is that policy was marked by chronic vacillation between two opposing strategies. The first was oppression, either through punishing dissenters or relying on the military to suppress conventicling activity. The second was conciliation, involving either toleration of dissenting activity, or attempts to incorporate Presbyterians within the establishment. The accepted chronology is that repression was practiced before 1666, when the shock of the Pentland Rising stimulated a phase of conciliation exemplified by the First Indulgence (1669). Repression returned by 1670, before moderation again reasserted itself in the Second Indulgence (1672). The final phase of Lauderdale's policy was another round of severity from the mid-1670s, culminating in the Highland Host (1678), and sparking the Covenanter Rebellion (1679).[3] An important challenge to this orthodoxy has been offered by Ronnie Lee. For him, the reputed vacillation between severity and moderation was, at best, a public relations exercise. In reality, because the government's attitude towards disorder was based less upon the specifics of Presbyterian militancy than upon Charles II's own terror of all forms of unrest, direct repression remained at the heart of official thinking throughout the reign.[4] Despite Lee's contribution, it remains the overall consensus that Lauderdale's regime was unable to formulate a consistent response to militant nonconformity, and that this failure sprang from its indecision (mirrored by division within the episcopacy) as to whether engagement or repression was the best strategy.

There is some evidence of comparable strategic uncertainty in reference to the Highlands. Although Charles II had been restored to his thrones in May 1660, the republican authorities continued to exercise control in Scotland until 23 August,

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[3] Cowan, *Scottish Covenanters*, pp.64-103; Buckroyd, *Church and State*, pp.57-132; G.M. Yould, 'The Duke of Lauderdale's Religious Policy in Scotland, 1668-79: The Failure of Conciliation and the Return to Coercion', *Journal of Religious History*, 11:2, 1980, pp.248-68, *passim*; Brown, *Kingdom or Province*, pp.153-54 and at pp.157-58; Harris, *Restoration*, pp.16-29.
[4] Lee, 'Government and Politics', pp.159-60.

when the Committee of Estates, the central executive body of the Covenanting era,

reconvened in Edinburgh. It sat for just over four months, and was tasked simply

with maintaining order until Parliament itself could meet from 1 January 1661.[5]

Within this brief, its approach to the Highlands was marked by a predilection for

indirect control – that is, a desire to engage with local elites, and maintain order

indirectly through their agency. On 29 August, it issued a circular letter to a large

number of landholders in the Highlands or on the Highland periphery, essentially

delegating to them all control over the region:

> Take speciall notice of all such of your Clan kinsmen followers servants and
> tennents, and of all others travelling through your bounds whom yow may
> stop of lett that they cary themselfs peaceably, and doe not in any sort truble
> the peace of this Kingdome, by gathering themselfts together in bands or
> companies, or makeing of any other insolencys privat or publict.[6]

On a number of subsequent occasions the Committee issued more focused

commissions for specific purposes. In August, it wrote to James Grant of Freuchie,

requesting that he apprehend the notorious cattle-thief Donald MacDonald, better

known as 'Halket Stirk'. Freuchie obliged, and in October the Committee wrote a

letter of thanks, assuring him that it was 'very desireous to protect [and] maintaine

yow [and] your followers for doeing so good a work for his Ma[jes]tie [and] the

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[5] Dow, *Cromwellian Scotland*, pp.268-69; Lee, 'Government and Politics', pp.11-12.

[6] NRS, PA11/12, ff.10r-v. The lords to whom the committee wrote were: Kenneth Mackenzie, 3rd earl of Seaforth; James Murray, 2nd earl of Tullibardine; John Murray, 2nd earl of Atholl; James Ogilvy, 1st earl of Airlie; Charles Gordon, 1st earl of Aboyne; John Mackay, 2nd lord Reay; Hugh Fraser, 8th lord Lovat; David Ross of Balnagown; Sir Robert Munro of Foulis; Duncan Stewart of Appin; Roderick Macleod of Dunvegan; Angus MacDonald of Glengarry; James MacDonald of Clanranald; Ewan Cameron of Lochiel; Lachlan Macintosh; James Grant of Freuchie; Robert Farquharson of Invercauld; Sir John Campbell of Glenorchy; Sir Dougal Campbell of Auchinbreck; Calum MacGregor, tutor of MacGregor; Sir John Colquhoun of Luss; Walter Macfarlane; John Buchanan; Archibald Campbell of Kilpunt; Sir Thomas Stewart of Garntullie and David Lindsay of Edzell.

peace of the Kingdome'.[7] John Buchanan of Buchanan also received a commission in September, ordering him to apprehend two individuals, Robert og Buchanan and John Campbell of Torrie, accused of assaulting and robbing a tenant of Archibald Napier, 2nd lord Napier, and a third was given in October to Freuchie for the apprehension of all bandits within his lands.[8] Perhaps even more tellingly, the Committee was forced on at least one occasion to give retrospective approval for a peacekeeping initiative undertaken unilaterally in the locality. On 19 September, it agreed to assume responsibility for a group of eight individuals captured in Rannoch, Badenoch and Lochaber by Robert Campbell or Glenlyon, limply offering him 'thanks for his service in apprehending [and] secureing of the forsaids persones'.[9] On 11 September, the Committee commissioned a subcommittee to 'consider vpon some overturs for satling the peace of the hielands and preventing of roberes', but the members never reported, and for the duration of its transient existence the Committee of Estates was content to exercise authority through, and by the sufferance of, local elites.[10]

In part, of course, the Committee's options were constrained by the fact that it was very obviously a holding body, but its approach to the Highlands reflected wider thinking which stressed the centrality of extensive delegation in the far north and west. This idea was based largely on a sense that a recognised landlord, or more broadly an established social hierarchy, was a vital means of controlling the locality. In the words of Archibald Campbell, marquis of Argyll, 'Family, Dependants and Vassels' would only 'be ever serviceable to their Supreme' if they were 'in a due

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[7] NRS, PA11/12, f.50; Fraser, *Chiefs of Grant*, ii, pp.19-20; Hopkins, *Glencoe*, p.30.
[8] NRS, PA11/12, f.21 and at f.60; Fraser, *Chiefs of Grant*, ii, pp.21-22.
[9] NRS, PA11/12, f.30
[10] *Ibid*., f.16r.

subjection to [...] their immediate Lord'.[11] An anonymous memorandum of the 1660s illustrated the way in which this thinking was applied to the particular problem of Highland banditry:

> And If their be any brokin men [...] it must be exactly tryed whair thoes Limmeris maks thir residence In the winter tyme, And [th]at the landslordis in whoes boundis they ar fund to remaine [...] Be ather oblished to exhibit thoes Limeris Or else to produce thair tennentis and servantis whoe resets them To the effect that [th]e sadis tennentis and servandis may be sencored and punished.[12]

Such ideas were informed largely by contemporary conceptualisations of Highland society. The region was seen as distant, wild and backward, all of which meant that the more sophisticated mechanisms of control which characterised Lowland government could not be applied.[13] This translated into a clear preference that Highland affairs remained confined to the Highland theatre. In 1665, for example, the Chancellor, Rothes, set out his vision for a largely self-governing Highlands, based upon delegation to a triumvirate of leading local noblemen:

> My lord sefforthe being cald hear [...] I haue mead yous of the opertunatie that ther might be a right understanding betuixt him and argayll and trulie I Faind argayll uerie redie to du it sins I tould him I did beliff it uold be of great aduantage that persons uho had so great intrist should be in a right understanding and I thinck they ar nai uerie ueall togeather, and so is my lord of atholl and argayll uhich meack me houp that them thrie uill inffluans all the most considerabill persons in the haylands.[14]

Too much should not be read into this. Rothes' hands-off approach may well have reflected a lack of interest in the minutiae of local business, but it was hardly an

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[11] Campbell, *Instructions to a Son*, p.10.
[12] NRS, GD16/41/379.
[13] For a fuller discussion of the Highlands' image during the Restoration, see chapter 2.
[14], BL, Add. Mss. 23122, f.273.

attitude unique to Highland affairs. It in fact reflected the general ethos of the early Restoration across Scotland, which emphasised the resurgence of elite power in the localities.[15]   Nonetheless, notions of devolving authority to local luminaries also represented a definite strategy for dealing with the problem of Highland lawlessness.

Yet as time wore on, enthusiasm for engaging with regional elites, and consequently keeping government at arms length from the locality, began to cool. In part this reflected broader trends, for in the years after the Pentland Rising of 1666 the government, spurred on by the continuing problem of nonconformity, adopted a noticeably more interventionist attitude towards controlling the localities.[16] Jackson has provided the most sophisticated reconstruction of this as intellectual development, discerning two complementary trends in the political culture of Restoration Scotland. The first was an overweening concern that domestic peace should be preserved at all costs. The second, which build upon both sixteenth-century thinking and the experiences of the mid-century troubles, emphasised the role of the monarch (and, by extension, the administrative machinery of an absentee King of Scots) as the legitimate agent of order. When these two impulses collided after 1666 with a heightened degree of paranoia over the subversive potential of disorder, they stimulated a new stringency and intrusiveness in the government's drive to enforce order.[17]

But mistrust of regional elites was also based upon observations peculiar to the Highland theatre. Some individuals were suspected of being lukewarm in their willingness to serve.   Huntly, for example, was generally thought to be 'not conserned for securing the peace of the highlands' and, as a result, was considered

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[15] Lee, 'Government and Politics', pp.26-27.
[16] *Ibid.*, Lee, 'Government and Politics' pp.172-73.
[17] Jackson, *Restoration Scotland*, pp.132-8 and at pp.145-55.

reluctant to 'medle in highland affairs'. [18] Others, though amenable, were unreliable.
Tweeddale, for example, advised in 1668 that Seaforth's record in exercising the
functions of local government was not distinguished:

> The earel of seaforths frinds say if he had the trust of a Regiment he uold
> ruine the hole country [...] uhen he is in Rose he lifts all the rents they haue
> for ther Relife or Robs them of it uhen it is colectid [and] to be sent south
> [and] som say he is troubelsom amongst ther wifs. [19]

Seaforth was not alone in attracting such criticism. In 1678, Macdonnell was accused
(admittedly by adherents of Argyll, his enemy) of abusing his judicial commission
over the Highlands to enforce financial rights over the Camerons. [20] More trenchant
criticism was attached to Argyll himself, who consistently exploited his judicial
authority in promotion of his own interests. The Macleans were his most significant
victims. An assiduous policy of buying up the family's debts had made the marquis
of Argyll its leading creditor, and the earl's attempts to enforce his rights put them
under immense pressure. Armed resistance followed by the early 1670s, and Argyll
then used his authority as Justiciar of Argyll and the Isles to put all the leading
clansmen to the horn. [21] Aside from mistrusting the regional elite, government also
grew more concerned about how Highland lawlessness was impacting upon the
Lowlands. Two commissions against Highland robbers granted in mid-1666 were
justified not because such men caused mayhem in their own lands, but because they
were beginning to trouble the Lowland portions of Dumbartonshire, Stirlingshire
and Argyll. [22] The cumulative effect of these problems was summed in an

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[18] WSRO, Goodwood Mss 1166, items 2 and 3.
[19] BL, Add. Mss. 23131, f.111r-v.
[20] NLS, MS.975, f.30r. On MacDonald's commission, see below.
[21] *RPCS*, iv, pp.272-74; *JR*, pp.36-41; Lauder, *Notices*, i, p.108; Sinclair, *Letters*, p.18, pp.73-74
and at p.90; MacPhail, *Highland Papers*, i, pp.260-63; Drummond, *Memoirs*, p.199.
[22] *RPCS*, ii, p.175 and at pp.182-83.

anonymous memorandum of 1677 which bluntly complained of the senior Highland noblemen that 'ther Authoritye and Jurisdictione prevealls not in making the heighlands peaceable'.[23]

As a result of such pressures, much more rigorous attitudes towards disorder eventually began to emerge. By 1669, Tweeddale spoke of the need to exploit 'the aue of awtority' to bring certain recalcitrant Highlanders (particularly Lord Macdonnell) to heel, and by the mid-1670s Argyll's allies were calling for 'a solide Course' to reduce rebellious Highlanders 'under his Ma[jes]ties authority'.[24] However, the key champion of a more rigorous Highland policy was John Campbell, younger of Glenorchy (the future 1st earl of Breadalbane), who by the 1670s had developed an understanding of Highland government which stressed the centrality of the Crown. As he explained to Elizabeth Murray, duchess of Lauderdale, in 1677:

> To hav all affairs in the highlands keepit quiet [...] I uill contribut all my endeavours for it and uill publiclly declair that to be my opinion as uhat is necessar for the Kings service let it displease uhom it uill, and this I have asserted.[25]

Glenorchy set out the details of his vision in a memorandum written probably in the mid-1670s. He made four specific suggestions. First, he called for a detachment of the militia to be quartered in Lochaber for suppressing bandits. Second, he argued that a permanent garrison should be set up at Inverlochy. Third, he proposed that a new royal stewartry of Lochaber should be erected, formed by purchasing with public money lands and jurisdictions held by the likes of Huntly, Argyll and Ewan Cameron of Lochiel, totalling around £14,000 sterling. Finally, he stated that the

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[23] NRAS832, bundle 63/55, Bundle 63/55.
[24] NLS, MS.7024, f.157r; NRAS1209, bundle 70.
[25] BL, Lauderdale Papers, 1676-8, Add. Mss. 23138, f.29r.

office of steward of Lochaber should always be exercised by an impartial appointee of the crown, and never awarded to a local grandee. However, what is important about these proposals is less their specific content – most of which was never implemented – but their general tone:

> If continowed wnder his Maj[esties] Imediat com[m]and [and] the trwst given to fitt persons The dependance of [th]e Camerons [and] Mcdonalds in Lochaber [and] the McGregors in Ranoch will be Imediatlie on his Ma[jes]tie [and] the persones Imployed as stewart [...] So [tha]t from being the actors [and] co[m]mitters of all the mischeifs [and] owtrages in the highlands they may be redwced [and] made obedient to his Maj[esties] lawes [and] verie wsefull to his service.[26]

Glenorchy's thinking represented a Highland application of the more general intellectual trend in favour of embracing strong monarchical control. It also represented a fundamentally different way of conceptualising Highland government. Received wisdom stressed the importance of wholesale delegation to regional grandees, of the primacy of personal authority. What Glenorchy offered was the reverse, a vision of Highland policy in which the lead was taken by the Crown, and in which power resided in the public sphere. This introduced a strategic tension between direct and indirect rule which marked policy throughout the Lauderdale era.

Initially, however, indirect theories held the field. On 18 July 1661, the freshly reconvened Privy Council established a committee chaired by Tweeddale, to 'consider what is fitt to be done anent the chiftans of the clans'.[27] The deliberations of this body led, two weeks later on 2 August, to a series of proclamations aiming to

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[26] NRS, GD112/1/682. Macinnes, *Clanship*, pp.138-39.
[27] *RPCS*, i, p.11.

tackle Highland disorder through the conventional expedient of reasserting existing laws:

> The Lords of his Majesties Privie Councill, by these presents, ordaine that all lawes and acts of Parliament made against thefts, robberies, masterful depredationes, spuilzed, murthers, and against sorners and vagabonds be carefullie observed be the whole lieges and the paines and penalties therof levied and execute with all rigour.[28]

In particular, the Council focused on a statute passed under James VI in 1587, the 'Act for the quieting and keping in obedience of the disorderit subjectis, inhabitantis of the bordouris, hielandis and ilis.' The pivot of this fairly substantial piece of legislation had been a requirement for chiefs to give bonds of caution for the peaceable behaviour of their followers, or for the provision of compensation when order broke down, to which end it had included a list of those gentlemen considered 'chiefs' and from whom, consequently, bonds would be required.[29] Seizing upon this list, the council asked all those named (or, rather, their successors) to deliver bonds by 1 October 1661. Insofar as it was a precise expression of the ideological attachment to the pivotal role of the lord in law and order, the policy of bonding reflected the ascendency in the early 1660s of indirect control strategies.

Whatever the underlying thinking, the wisdom of (partially) resurrecting the 1587 act is open to question, since it is by no means certain that it was particularly successful first time around.[30] Moreover, there were very real practical problems with anchoring government policy in the roll of names accompanying this seventy-year old statute. The original act had reflected the political climate of the 1580s

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[28] *Ibid.*, i, p.25.
[29] *RPS*, 1587/7/70.
[30] Goodare, *State and Society*, pp.266-67; M. Lynch, 'James VI and the 'Highland Problem'' in J. Goodare and M. Lynch (eds.), *The Reign of James VI* (East Linton, 2000), pp.208-27, at p.212.

(indeed, Lynch posits that it was upon the Borders rather than the Highlands that Parliament had been more focused in, and immediately after, 1587), so that many lords who by the 1660s had very little to do with Highland politics, such as Thomas Scott of Abbotshall and Sir John Moncrieff of that Ilk, found themselves named.[31] Slightly differently, Martin Cameron of Letterfinlay complained in April 1662 that he had been called to give caution for the good behaviour of the Camerons, even though Lochiel, and not Letterfinlay, was the chief of that name.[32] Such slip-ups did not go unacknowledged, and at least six individuals who were originally cited were later granted exemptions.[33] At the same time, the Council itself admitted in August 1661, and again in November, that the 'roll of names of cheifes of clanns, landlords and others' did 'not comprehend many persons who ought to be bound'.[34]

It is therefore hardly surprising that the success of bonding was strictly limited.[35] By the deadline of 1 October, only nine bonds had been received – a response rate of under 10 per cent – and the Council proceeded to put the remaining ninety-three individuals to the horn. A further seventeen men would submit bonds over the succeeding four months, but this still left the total level of compliance at less that 25 per cent. Perhaps even more alarmingly, the sheriff of Sutherland wrote to the Council early in November stating that five of the men within his jurisdiction who had been named in the original list 'absolutely refused' to find caution; evidently the failure of bonding cannot simply be explained by ignorance.[36] The policy should not be totally condemned – it did manage to extract sureties from some of the major trouble-making clans including the Camerons, MacGregors and

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[31] *Ibid.*, p.213.
[32] *RPCS*, i, p.196.
[33] *Ibid.*, pp.55-56 and at p.70.
[34] *Ibid.*, p.25 and at p.100.
[35] Macinnes, *Clanship*, p.126; Roberts, *Clan, King and Covenant*, p.134.
[36] *RPCS*, i, p.71.

MacDonalds of Keppoch, and at least one laird not named by the council, James Ross of Eye, felt compelled to find caution anyway – but it is nevertheless clear that bonding was no shining success. [37]   Even on paper, the lacklustre reliance on an outdated Jacobean statue looked crude, and in practice, the Council was unable to enforce its orders with any consistency.

Bonding, however, was not abandoned, and a variation on the theme emerged on 22 December 1664. The Council issued another decree, demanding all those named on the 1661 list to 'compear personally before the saids Lords […] yearly in tyme coming'.[38]   Annual accountability was another well-worn device, having actually appeared in the 1587 legislation (even if it had remained a dead letter for a further nineteen years).   The absence of sufficiently detailed records unfortunately makes it impossible to ascertain with any precision how effective was this second incarnation of bonding, but the frequency with which it was re-introduced suggests a repeating cycle of non-enforcement. By February 1667, only about fourteen months after the original decree, Argyll was championing its re-implementation under a fresh list. This duly materialised in 1669. Less than three years later, however, the English clerk of Council, Sir Joseph Williamson, was informed that annual accountability had been mooted again, and it was re-introduced on two further occasions before the end of the reign, in October 1678 and March 1681, both times using completely revised lists.[39]

There were also were numerous instances of citations being flouted. In 1669, three earls – Atholl, Perth and James Murray, 2nd earl of Tullibardine – all absolutely refused to give bonds, apparently because they considered such obligations unfair,

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[37] MacGill, *Old Ross*, i, p.231.
[38] *RPCS*, i, p.638.
[39] Sinclair, *Letters*, p.66; *RPCS*, iii, pp.58-59; NRS, GD112/39/115/6; *CSPDC*, xii, p.223; *RPCS*, vi, pp.36-44; *RPCS*, vii, pp.78-84.

while the analogous recalcitrance in 1672 of Lochiel, MacDonald, Donald MacDonald of Clanranald, Sir James MacDonald of Sleat and Sir Allan Maclean of Duart earned each of them a spell of imprisonment in Edinburgh Castle.[40] As Macinnes points out, such reticence may have had more to do with fear of rapacious creditors than wilful flouting of governmental orders, and between 1664 and 1678 the Council issued more than sixty safe conducts allowing heavily indebted Highland landlords – including the heads of the Frasers, Urquharts, Stewarts of Appin, MacAllisters, Camerons, Macleans, Rosses, MacLeods, MacDonalds of Glengarry and MacDonalds of Sleat, as well as a range of lesser clan gentry – to make the journey unmolested.[41] Nonetheless, it is obvious that the enforcement of annual accountability fell far short of achieving complete or consistent obedience.

More importantly, the nature and extent of the responsibility implied by the oaths remained unclear. Initially, in 1661 and 1664, this had been defined only in the loosest terms; chiefs would endeavour to prevent their followers committing thefts or any other crimes. In 1669, however, the Privy Council issued an approved text to which all liable individuals were to subscribe. It bound its signatories, on behalf of themselves and their dependants, to obey all acts of Parliament and to commit no crimes. Principals were also obliged to provide compensation to all persons wronged by their dependents, and to present all criminals to the relevant judicial authorities. These terms were carried forward into a second approved text in 1670, although with the addition of specified punishments for those who broke their bonds, namely fines (pegged to range between 1,000 and 3,000 merks) or horning.

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[40] Airy, *Lauderdale Papers*, ii, pp.131-32; *RPCS*, iii, p.32 and at p.478.
[41] Macinnes, *Clanship*, p.126; *RPCS*, ii, p.58, p.64, p.114, p.130, pp.140-41, p.168, p.182, p.187 and at p.193; *RPCS*, iii, p.2, pp.21-22, pp.102-4, p.112, p.115, p.139, p.167, p.182, p.263, pp.277-79, p.351, p.399, pp.420-21, p.430, p.472, p.536, p.556, p.564 and at p.599; iv, p.112, p.133, p.146, p.171, p.309, p.334, p.483 and at p.596, *RPCS*, v, pp.3-4, p.175, pp.182-83 and at pp.187-88.

1681, however, saw a return to a slightly looser obligation; signatories promised that they (and their dependents) would commit no crimes, that they would redress wronged parties, and that they would present criminals to justice.[42] There also exists at least one other model text. It is undated, but seems to represent the strictest extant bond; as well as mirroring the 1669 text, it includes specific terms against receiving black-mail money and harbouring known criminals. It also imposes an obligation for chiefs to provide annual lists of all their dependents, which suggests it was produced to accompany the renewal of the annual bonds policy in October 1678.[43] Although each of these texts is linked by the underlying obligation to remain peaceable, the fact that the detail of Highland bonds varied so markedly, particularly between 1669 and 1681, can hardly have engendered a great deal of clarity as to exactly what landlords were expected to do.

In addition, the pool of landlords from whom bonds were required was rather unstable. The initial list, based on the 1587 act, named 102 individuals, but the 1669 revision cut this to forty-five. The reasons for the reduction are unclear, although Glenorchy's suggestions that there was little point in pursuing thieves who had 'nothing to loose', and that there should be an indemnity for some past crimes, may have been a factor.[44] In any case, by September 1669, a special list relating to Lochaber, Badenoch and Perthshire, amounting to fifty-three names, combined with a second, eight-strong list, brought the total back up to 106. Two further additions – one in August 1670 naming thirty-five, and one with five names from March 1671 – made a final tally of 146, an expansion of over 300 per cent in fewer than two years. Such erratic growth seems unlikely to reflect a particularly efficient or effective policy, and would seem to suggest a distinct lack of strategic clarity, although it

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[42] *RPCS*, iii, p.75; *RPCS*, iii, pp.223-24; *RPCS*, vii, pp.83-84.
[43] NLS, Yester Charters, Ch.10884.
[44] NRS, GD112/39/115/6 and at GD112/39/115/9.

should be noted that the 1678 list, incorporating 142 men, the majority of whom had been cited in the past, was apparently an attempt to consolidate and rationalise these developments.

A rather different problem was illustrated by a complaint raised in 1667 at the instance of Magdalene Scrymgeour, lady Drum. Her Aberdeenshire estates had suffered a series of attacks by thieves who were tenants of Argyll. The earl, naturally, was held responsible, but he objected on three counts. First, he claimed that only five of the roughly one-hundred robbers were his tenants. Second, he argued that, since he had neither known about nor supported the raid, it was unjust to hold him responsible. Finally, he noted that the wildness of the Highland landscape meant that it was a physical impossibility for him either to prevent or punish bandit activity in the remote glens. On this occasion Argyll argued in vain, and he was handed a fine in excess of £7,000 Scots, but he was not the only landlord to raise such objections.[45] One more minor Ross-shire laird, Kenneth Mackenzie, made a similar point in December 1677:

> Jhon Grant off Corinronges hath stolne out an decret agenst mee for an stolne horse q[uhi]ch (he alledges) was Marked in the possesion off An david Mccrebiter an mealer off my fathers I can no see whow hee can say any thing to mee supose all was trew he aledges agenst Mccrebiter I not being his Master.[46]

These examples underscore perhaps the key weakness in the tactic of landlord responsibility. Identification of a criminal's legal landlord was far from straightforward, nor was there anything to stop a superior from simply denying his responsibility. Equally, the predominance amongst the lawless elements of

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[45] *RPCS*, ii, pp.329-32; EUL, La.III.354, f.145.
[46] BL, Add. Mss. 39187, f.36.

Highlands society of 'masterless men' – that is, individuals who by definition did not have a fixed lord – introduced an obvious flaw into the policy.[47]

In addition, bonding could be undermined by the perennial tension between feudal and clan hierarchies. In 1666, for example, Alexander Robertson of Struan entered a complaint against a group of Camerons, accusing them, under the influence of their chief, Lochiel, of raiding his lands. Some of these men were Struan's own tenants, which put him in the rather anomalous position of being legally responsible for settling his own losses.[48] All of this demonstrates that the central strength of bonding as a policy – its ability to exploit regional power networks – was also its key failing. The concept of control through existing socio-political networks depended upon the existence of clear, stable hierarchies within Highland society, and as this was something of an idealised model, bolting central authority to local lordship meant that the government necessarily circumscribed its effective jurisdiction.

Despite the problematic nature of bonding, the general approach of holding chiefs and landlords responsible for their subordinates did become a key expedient. The government itself often invoked it in response to specific disorders. Thus, in 1677, Ludovic Grant of Freuchie and Lachlan Mackintosh were both fined £200 sterling because 'their men, for whom they, as the heads of thesse two clans, were bound, had comitted a grosse ryot, in burning a house'.[49] Perhaps even more striking is the extent to which landlords themselves began to exploit the tactic. Argyll in 1666 boasted that, because he had introduced a policy of forcing his tacksmen to take bonds for the behaviour of their sub-tenants, he was 'sure ther are

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[47] For a more detailed discussion of 'masterless men', see chapter 3.
[48] *RPCS*, ii, pp.219-20. In recognition of this oddity, the Council proceeded to dissolve Struan's bond insofar as it related to the Camerons.
[49] Lauder, *Notices*, i, p.180.

none of my tenants theeues or els I know whom to make lyable'.[50] Similarly, David

Ross of Balnagown in 1664 received a letter from George Sinclair, 6th earl of

Caithness, informing him that:

> Ther be divers persons who for [the]r delinquences being declared figitivs
> from this contri are sheltered in Strathocle, and from thence, by associats
> [the]r, mak intrusione upon the borders of this contri.[51]

Significantly, Caithness suggested that, since the gang's continued banditry was

made possible by assistance from some of Balnagown's tenants, and since those same

tenants had received much of the stolen livestock, it was the Ross chief's

responsibility both to apprehend the thieves, and provide compensation for all

losses.[52] Nine years later, a similar situation arose when tenants of Hugh Campbell

of Cawdor stole two pigs from Strathavon. Cawdor received demands from both

Huntly and Aboyne that he ensure either the return of the animals, or the payment of

reparations.[53] Of course, compliance was not automatic – Sutherland, for example,

was in 1668 accused of refusing to provide reparations for large-scale thefts

committed by his tenants within the shire of Caithness – but the very fact that both

government and local lords made such requests illustrates that the concept of

landlord responsibility found a significant role in terms of the day-to-day

administration of justice.[54]   It is clear nevertheless that the grander design of

formalising this impulse into an overarching policy proved unworkable.

If bonding represented the early ascendency of indirect theories of control, a

second tactic for maintaining order in the Highlands displayed rather more strategic

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[50] BL, Add. Mss. 23125, ff.104r.
[51] MacGill, *Old Ross*, ii, p.16.
[52] *Ibid.*, p.16.
[53] Innes, *Cawdor*, p.329.
[54] *RPCS*, ii, pp.404-6.

ambiguity. The granting of judicial commissions was unique neither to the Highlands nor to the Restoration, but was rather standard practice in early-modern Scotland.[55] Between 1660 and 1685, however, fifty-three such commissions for dealing with Highland business have been identified. There are two crucial observations to be made about judicial commissions. They were, firstly, always granted with very specific aims. A commission given on 1 October 1662 was representative of this trend. It empowered a group of six men to 'meitt at such tymes and places as they shall think most expedient, and then and there to use all diligence for finding out and trying' a group of robbers who had been targeting the lands of John Lyon of Muiresk and Patrick Strachen of Kinnady.[56] The second point is that they were invariably legitimised through some rhetorical invocation of royal authority. Thus, a commission of 1671, which charged four men to apprehend a group of named thieves, mainly from the Clan Donald, was backed up by letters from Charles II stating that the commissioners had been 'giveand, granted and committand […] our full power and commission, expresse bidding and charge' to carry out their duties.[57] By invoking the authority of the crown, and focusing it for specific purposes, commissions both allowed the government to reinforce its claim to a monopoly on judicial authority, and gave practical expression to its responsibilities for the preservation of peace. In this way, they were self-conscious exercises in direct control.

Nevertheless, the extent to which this theoretical position could translate into practical control was limited by the continued need to seek the co-operation of local elites. Table 5 sets out the pattern of appointments to judicial commissions with reference both to family affiliations and geographical location:

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[55] D.M. Walker, *A Legal History of Scotland*, 7 vols (Edinburgh, 1988-2004), iv, p.141.
[56] *RPCS*, i, pp.274-75.
[57] *RPCS*, iii, p.372.

Social Status	Total	Family Affiliation		Location		
		Major Kindreds	*Others*	*Highland*	*Fringe*	*Lowland/ Unknown*
Nobles	**87**	65	22	41	23	6
Lairds	**239**	163	76	211	48	1
Burgesses	**14**	1	13	13	1	0
Unknown/Other	**24**	9	15	4	5	11
Totals	**364**	**238**	**126**	**269**	**77**	**18**

Table 5: Judicial Commissions created in the Highlands, 1661-85.[58]

The most striking point about this data is the extent to which commissions relied upon established local authorities. Nearly 70 per cent of those named as commissioners belonged to major Highland kindreds, with the Campbells (sixty-seven appointments) and Mackenzies (fifty-five) doing particularly well. These two families had long before 1660 established themselves as government agents in the north and west respectively, but it should also be noted that four other families – the Gordons (twenty-three, including both the Huntly and Sutherland branches), Grants (sixteen), Mackintoshes (fifteen) and MacDonalds (eleven) – secured more than ten commissions, while a further twenty-three enjoyed between one and ten appointments. Approaching the data from a different angle, it can be shown that, again, more than 70 per cent of appointees were resident within the Highland shires, while a further 20 per cent (such as the earls of Moray, Atholl, Tullibardine or Aboyne) lived on what might be termed the 'Highland fringe' zone, and therefore had a personal stake in upholding law and order in their own spheres. In total, less than 5 per cent of appointments were given to men with no discernible connection to the Highlands. All of this indicates strongly that, in appointing commissioners, the

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[58] See appendix 4 on the attached CD for a full breakdown of commissions and commissioners.

government sought to appropriate existing familial and proprietary relationships. This, of course, was hardly unique to the Highlands. The Lowland commissions created in 1676 to enforce legislation against conventiclers, for instance, deliberately employed leading regional magnates, including Alexander Erskine, 3rd earl of Kellie, Patrick Lyon, 3rd earl of Kinghorn and David Wemyss, 2nd earl of Wemyss for Fife, George Livingstone, 3rd earl of Linlithgow and John Hamilton, 1st lord Belhaven for the south-east, and William Fleming, 5th earl of Wigtown and William Cochrane, 1st earl of Dundonald for the south-west.[59] Nevertheless, the reliance on Highland elites reflected precise strategic continuity with the policy of bonding, and shows that government through commission, despite taking the appearance of more immediate supervision of the locality, relied in practice on indirect control.

The running tension between direct and indirect theories of control inevitably blurred the distinction between public and private justice. Perhaps the most graphic illustration of this was the Keppoch murders, probably the most notorious instance of clan violence in the entire Restoration period. In September 1663, the young chief of the Keppoch MacDonalds, Alexander MacDonald and his brother, were brutally murdered by disaffected elements within his own clan. For many historians, the most important point about this episode was that it illustrates the predatory tendencies of groups like the Keppoch MacDonalds; the murders, after all, were perpetrated by a titular vassal, Alexander MacDonald of Inverlair, who had objected to his chief's policy of curbing cattle theft.[60] But an equally crucial point relates to the wider response which the episode provoked. In the summer of 1665, some fifteen months after the murders, the guilty men (although not their reputed patron Alasdair MacDonald, the new chief of Keppoch) were hunted down and killed by

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[59] Buckroyd, *Church and State*, p.125; *RPCS*, iv, p.551.
[60] Macinnes, *Clanship*, p.50; Hopkins, *Glencoe*, pp.30-31; Roberts, *Clan, King and Covenant*, pp.135-36.

Alexander MacDonald, brother of Sir James MacDonald of Sleat and a relative of the murdered brothers. In theory, this punishment was sanctioned by a formal judicial commission, granted on 22 June 1665 to a group of three nobles and five lairds. In practice, both the securing of the commission, and the killing of the murderers, was accomplished solely by Sleat's private exertions.[61] Moreover, the sense that the punishment of Inverlair and his associates was interpreted by the local community less as an exercise in impartial royal justice than as one in brutal tribal revenge, was given typically vivid expression by Iain Lom:

> *'S mór an sgainneal 's am mìochliu*
> *Do Chlann Dòmhnaill air fad,*
> *Ma bhios stad 'nan dùsgagh*
> *Gu dìoghaltas grad;*
> *Tha lagh Dhia agus dhaoine*
> *Ag òrdach' sgiosadh gun ghrab*
> *Air marbhaich' an uachdrain,*
> *Righ, ceann teachlaich no treab.*

> (It is a matter of great reproach and dishonour to the entire MacDonald clan if they delay to arouse themselves to exact immediate vengeance. Human and divine law demands unconditional annihilation of one who murders a superior, a king, the head of a household or clan).[62]

Examples such as that of the Keppoch murders illustrated that, in extreme cases, judicial commissions merely provided a veneer of centralisation to initiatives which were wholly the product of local politics.

Moreover, its inherent reliance on the local community meant that, in purely practical terms, government through commission could be problematic. It was not

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[61] *RPCS*, ii, pp.62-64 and at p.110; Scott-Moncrieff, *Proceedings of the Justiciary Court*, i, p.127; Fraser, *Wardlaw*, pp.461-63; John MacDonald, 'An Ciaran Mabach' [The Stammering Ciaran] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.128-31.

[62] MacDonald, 'Murt na Ceapaich', at pp.92-93. The murdered brothers had been Iain Lom's patrons.

always effective. The largest single grant was the thirty-three-strong commission appointed in August 1663 against the Camerons of Lochiel, ostensibly for invading Mackintosh lands in Glenloy and Locharkaig (in reality, these estates had been in dispute for generations).[63] However, the entrenched position of the Camerons in Lochaber ensured that nothing came of this formidable body, and the tension was only resolved two years later by the private mediation of Argyll and Moray.[64] Alongside mere lethargy there was the problem of active disobedience. In 1667, the heritors of Sutherland refused to allow the three commissioners for the apprehension of John Nielson (Seaforth, Caithness and Balnagown) to carry out their orders because they did not want to 'truble the cuntrey with strangeris', and preferred to wait for Strathnaver, their *de facto* chief, to take action.[65] Just as challenging was the potential for abuse. In 1669 Glenorchy was awarded a commission against the long-term law-breaker William Sinclair of Dunbeath and his associates. In carrying out his obligations, however, he employed such questionable tactics, including drawing up a bond for the Sinclair gentry to sign, and then summarily imprisoning anyone who refused, that the Privy Council received a litany of complaints the following year.[66] The net result of all these tensions was summed up in Tweeddale's laconic observations about an earlier, abortive commission against Dunbeath:

> This Afternoun at council ther is Letters of Intercomoning [and] comissione of fyre [and] sword granted agains dumbaith (he beeing declaird fugitue befor) at My lady Raes instance [and] ther ar 6 or 7 persons named in it […] which comissione I am affrayed trouble the p[e]a[c]e of thos contrys.[67]

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[63] *RPS*, 1661/10/406; *RPCS*, i, pp.410-16; *CSPDC*, iii, p.223 and at p.460; Macinnes, *Clanship*, p.40; Hopkins, *Glencoe*, pp.47-48. Lenman, *Jacobite Clans*, pp.40-41.

[64] Drummond, *Memoirs*, p.183 and at pp.192-93; Sinclair, *Letters*, pp.22-24 and at p.30; Fraser, *Wardlaw*, pp.453-54; BL, Add. Mss. 23123, f.235r.

[65] Fraser, *Sutherland Book*, ii, p.187; *RPCS*, ii, pp.356-58.

[66] *RPCS*, iii, pp.134-37, 144-45 and at p.157. A comprehensive narrative of Glenorchy's conduct, and the background to the commission, can be found in Hopkins, *Glencoe*, pp.53-54.

[67] BL, Add. Mss. 23131, f.3.

Judicial commissions were a self-consciously more direct form of governmental control than bonding, at least insofar as they involved the regime taking an immediate concern in local issues. Nevertheless, their power relied at least as much on the prestige of the named commissioners as on the aura of royal authority with which they were imbued, and success or failure ultimately rested upon the willingness of local society to cooperate. In practice, if less so in theory, commissions were a fundamentally indirect system of control.

Perhaps the most eye-catching policy employed by the Restoration regime in the Highlands was the employment of *de facto* viceroys. The renewed prominence of the House of Argyll was the earliest manifestation of this tactic. On the eve of his execution, the marquis had not been hopeful about the Campbells' future prospects. 'Many have been the forfeitures of the Scotch Nobility', he wrote to lord Lorne, 'yet I never knew any so dangerous as yours is like to prove; for I will not dissemble that odium and envy against me'.[68] The widowed marchioness was equally quick to remind her son of the family's pariah status:

> Ye doe not think how much people sheis to be sein to advance any thing for
> yow; the malice of grate persones is so grat against yow [...] tho I and my
> children be rackoned out cast and maid beggers we ar in the hand of our
> good god who can doe us no wrong.[69]

Lorne himself, in a petition sent to Charles II in 1661, sought to mollify the king with grovelling expressions of loyalty, as well as a reminder that the House of Argyll had 'alwayes been most willing to sett themselves for bearing doun the insolencie of the Remote rebellious lawles men which is much occasioned by the remoteness and

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[68] Campbell, *Instructions to a Son*, p.91.
[69] NLS, MS.3138, ff.20-21.

distance of thes places'.[70]   But, like his parents, he does not seem to have been

optimistic; prior to his father's execution he asked the advocate George Warrand for

advice on how best to 'provyd against ane Act of Forfaultoure', and by April 1662 he

was even prepared to consider the idea of emigrating to Jamaica and establishing a

plantation.[71] His position became especially precarious the following summer. He

had been lobbying in London both during and after his father's trial for the

restoration of the Argyll estates. In frustration, he wrote a letter to his friend, the

Privy Councillor Alexander Sutherland, 1st lord Duffus, implying that his family's

enemies in the Scottish Parliament were seeking to set the king against him.[72] This

letter was intercepted by Middleton and submitted to Parliament on 24 June 1662 as

evidence of leasing-making.   The House convicted Lorne on 25 August, and

sentenced him to death – although an order from the king prevented the execution

from actually being carried out.[73]

Paterson claims that the campaign against Lorne was entirely the brain-child

of Middleton, and that it was predicated upon his desire to inherit the titles and

estates of the House of Argyll.[74] This was certainly the view taken by Kirkton,

Burnet and Wodrow, although given their uniform hostility towards the

Commissioner, such an accusation must surely be treated with caution; it is also

possible, as Rosehaugh suggested, that Middleton attacked Lorne because the latter

was an ally of Lauderdale, or even that he genuinely believed the charges were

justified.[75] In any case, Middleton's party clearly was the primary sponsor of Lorne's

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[70] NRAS1209, bundle 15, item 43.

[71] NRAS1209, bundle 100, item 96; Brodie, *Diary*, pp.247-48.

[72] Paterson, *No Tragic Story*, p.24; Wodrow, *History of the Sufferings*, i, p.297; *RPS*, 1662/5/24.

[73] *RPS*, 1662/5/24, A1662/5/16; Burnet, *History*, i, p.262; *Clarendon State Papers*, v, p.256, p.259 and at p.272; Nicoll, *Diary*, p.369, p.372, and at p.376.

[74] Paterson, *No Tragic Story*, pp.22-23.

[75] Kirkton, *History*, pp.81-82; Burnet, *History*, i, pp.261-62; Wodrow, *History of the Sufferings*, i, p.297; Mackenzie, *Memoirs*, p.70.

disgrace, something it had earlier been attempting to bring about by suggesting that

he had connived in his father's downfall.[76] Two days before submitting the

incriminating letter to Parliament, Middleton was already offering to his ally Tarbat

cryptic hints that he intended to exploit it to the fullest:

> I shall only say, that ther is so mvch of weight in the mater as will deserve his Majestie's consideratione befor he determine anie thing in Lorns bvsiness [...] yow may sie with what indvstrie Lorne persueth his bvsiness, and how hopefvll his is to accomplish his desires.[77]

Still more telling was Middleton's hyperbolic exposition on 25 June of both the

criminality and the potential consequences of Lorne's remarks:

> Ther is not anie crime that heas so manie standing lawes against it as this; and that vpon most excellent and solid grovnds: for if ther be not a good vnderstanding betwixt his Majestie and his people, it wold be a sad misfortune; so that all fomenters of jealosies, misinformers, and lyers are strongly provyded against by ovr lawes.[78]

These attacks on Lorne commanded little public support. His close friend Alexander

Brodie lamented 'his sufferings' and ruefully noted the irony that 'he suffered for the

King by the usurpers [...] and now [...] he suffers by the King's authoritie', while

Burnet declared that he 'never knew any thing more generally cried out on than

this'.[79]

If Lorne's disgrace was rooted in Middleton's hostility, his restoration as 9th

earl of Argyll in October 1663 reflected the sympathetic stance of the Lauderdale

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[76] NLS, MS.3138, ff.20-21.
[77] Fraser, *Earls of Cromartie*, i, p.4.
[78] *Ibid.*, p.7.
[79] Brodie, *Diary*, p.267; Burnet, *History*, i, p.262.

administration.[80]   Indeed, the Secretary's regime instinctively worked to reinforce Argyll's authority.   In 1666, for instance, when the earl and his neighbours were embroiled in a number of petty financial and jurisdictional disputes, Charles II's commissioner to the Scottish Parliament, Rothes, wrote unequivocally that 'your Lo[rdship] will have the Benfite of the Law; [and] what Infflewence I Can have wpon Any, that is able to sew your Interest: I will Interpose my selft'.[81]   From the mid-1670s, this favoured position was emphasised with a pension of £6000 a year.[82]   The re-emergence of Argyll should therefore be interpreted, in part at least, as a consequence of the wider sea-change in Scottish government after 1663.

The restored earl could hardly contain his glee, boasting that 'one prophecie may now be looked on as I euer did to be false that ther should be no more Earle of Argyll'.[83]   Certainly, his ambitions were extensive.   In September 1664, he set out his vision:

> If [...] ther could be somewhat from his Ma[jes]tie to me, laying his commands upon me in termes that I might communicate, with somewhat requiring obedience to me, in his Ma[jes]ties name, in such things as I desire to be done, by command from him, inviting all to a hearty concurrence in his service, and giving some certification against such as I shall complane of, it may very much contribut to the advancement of his Ma[[jes]ties service, and make both friends and nighbours stand the more in aw.[84]

Although Argyll never seems to have acquired such wide-ranging formal power, he quickly secured a pivotal position, so much so that, as early as July 1664, Lachlan Mackintosh of Torcastle could observe that 'Argyll is a very great man in power at

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[80] Mackenzie, *Memoirs*, p.141. Lee, 'Government and Politics', p.61.

[81] NLS, MS.975, f.7r.

[82] NRS, E26/11/2, f.174 and at f.178; NRS, E26/11/3, f.239, f.243, f.246, f.249 and at f.255; NRS, E26/11/4, f.321, f.324, f.327, f.330, f.333 and at f.336.

[83] NRS, GD112/39/109/7.

[84] Sinclair, *Letters*, pp.8-9.

p[rese]ntt'.[85] Locally, the terms of his restoration, which included the traditional

Campbell offices of hereditary Justiciar of Argyll and the Isles, and King's Lieutenant

within that same jurisdiction, accorded him unparalleled authority in the western

Highlands.[86] In central government too, Argyll outshone any other Highlander.

Between 1663 and 1678 he was appointed to at least twenty-six parliamentary and

consular committees or commissions, some of which, such as his sitting on the Lords

of the Articles in 1669, placed him at the very heart of the governmental machine.[87]

In consequence, Argyll's influence over the formulation of Highland policy was

significant. During the 1660s he was the only Highlander to sit on the Privy

Council's Committee for the Highlands, and often his requests, such as his desire for

the revival of annual accountability (using a list of his own composition), were

simply imposed wholesale.[88]

However, Argyll's position was not wholly secure, for if Lauderdale and his

allies were staunch supporters, others were less enthusiastic. This was inevitable; the

traditional acquisitiveness of the Campbells meant thay had acquired an unsavoury

reputation long before the Restoration. An anonymous pamphlet of 1661, for

example, argued that 'the scituation and vast bounds of the estate of Argyle', along

with the large number of tenants it supported, made the family 'in a special manner

most dangerous'.[89] The Privy Council as a whole was at best lukewarm in its

support, leading Argyll to complain frequently that his authority in the locality was

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[85] NRS, GD176/486.

[86] *RGSS*, ix, p.559. A detailed account of Argyll's law-enforcement activities in the 1660s can be found in Hopkins, *Glencoe*, pp.41-4.

[87] *RPS* 1665/8/7, 1667/1/6, 1669/10/6, 1669/10/149 and at 1672/6/49; *RPCS*, iii p.37 and at p.40; *RPCS*, iv, pp.29-30, p.111, pp.125-26, p.191, p.241 and at pp.348-49; *RPCS*, v, p.2, p.14, p.52, p.76, pp.82-83, p.134, p.235, p.239, p.339, p.390, pp.451-52, p.454 and at p.459.

[88] *RPCS*, ii, p.11, iii, p.37 and at pp.85-86; Sinclair, *Letters* p.66; Drummond, *Memoirs*, pp.196-97.

[89] Anonymous, *Some Reasons*, pp.1-2. Not everyone agreed, and at least one northern peer, Caithness, had before 1663 pressed for the restoration of the Campbells because they 'hath bein fathfull and often tyms performed emenent seruice for the Kings Maj[estie] [and] his Royall projenitors'. BL, Add. Mss. 23119, f.95.

being undermined, and to petition Lauderdale for a grant of wider powers from the king.[90]   Equally, in 1669 Parliament's ratification of his rehabilitation faced such stringent opposition (mainly from his creditors) that Lauderdale decided to force it through without a vote.[91]   Such a hostile climate naturally encouraged resistance. The earl complained about public slanders suggesting he was looking after his own private interests rather than those of the crown, and in October 1666 he noted to Lauderdale that 'I find myselfe bund to giue your Lo[rdship] ane account of many things not worth your paines to read after because euery thing I doe is so carped of at'.[92]

A perhaps more significant problem was observed by Tweeddale in 1669, when he complained that the only contributions Argyll ever made to Privy Council discussions concerned protecting his own interests from other Highland lords, particularly Caithness and Huntly.[93]   The potentially distorting impact of Argyll's focus on his personal fortunes was graphically revealed during his officially-sanctioned campaign of the 1670s against the Macleans of Mull.[94]   Part of the problem was the simple fact that Mull was a distraction – indeed one commentator was claiming by 1678 that the entirety of the government's Highland policy was now geared to no other end than the sustenance of Argyll's war effort.[95]   Moreover, the attack on the Macleans stimulated an intense outbreak of retaliatory violence perpetrated by a coalition of other Highland lords including MacDonald, Seaforth

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[90] BL, Add. Mss. 23125, ff.99-100 and at f.101r; Sinclair, *Letters*, p.2, p.8 and at p.37.
[91] *RPS*, 1669/10/1662 and at 1669/10/63; Sinclair, *Letters*, pp.97-98; Mackenzie, *Memoirs*, pp.177-79; MacIntosh, *Scottish Parliament*, p.96.
[92] BL, Add. Mss. 23125, f.99v; Sinclair, *Letters*, p.8 and at pp.14-15.
[93] BL, Add. Mss. 23132, f.62.
[94] Numerous published accounts of the development of this feud exist, but much the most exhaustive is to be found in Hopkins, *Glencoe*, pp.56-70.
[95] *CSPDC*, xx, p.468.

and Atholl.[96] The disorder thus engendered spread far beyond Mull. The presbytery

of Lorne suffered a six month hiatus in its meetings in 1675-76, partly due to the fear

of invasion by Argyll's enemies.[97]   In 1678, Locheil – initially a supporter of the

Macleans but bribed onto Argyll's side in that year – complained that his lands were

being repeatedly harried by armed bands, while the following year the gentry

around Inverness, 'in a great sturre' because the conflict threatened to creep still

further north, began to organise watches on the shores of Loch Ness.[98] So tense had

the situation become by mid-1679 that Argyll was forced to establish supplementary

watches throughout his territory 'to gward our braes'.[99]   The damage all this

uncertainty was doing to Argyll's reputation was summed up in a candid warning

written by Glenorchy in February 1677:

> If yo[u]r Lo[rdship] had been pleased to be as observing of yo[u]r freinds
> advyce as they hav been zealous to giv it yo[u]r affairs and credit had not so
> sufferd here as I find at my arryvall, by yo[u]r absence it hes besids the
> miscontructions yo[u]r staying from yo[u]r publict Imployment at such a
> crisis may admitt of.[100]

Resurrecting an Argyll lieutenancy was an understandable, and perhaps inevitable,

consequence of the conservative ethos surrounding the Restoration settlement.

Nevertheless, the Maclean war illustrated that reliance on the House of Argyll to

maintain order was unstable in practice. Binding policy to the interests of this one

noble family rendered control both highly volatile and extremely partial.

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[96] Lauder, *Notices*, i, p.108.

[97] NRS, CH2/984/1, ff.271-73.

[98] NLS, MS.975, f.16r, f.27r, f.32r, f.33r and at f.35r; *RPCS*, v, pp.361-64; NLS, Fraser of Strichen and Lovat Correspondence, 1670-1700, Dep.327/142, 142.

[99] NRAS217, box 6, item 49.

[100] NLS, MS.975, f.25r.

This loose framework was given something of a shake-up in the later 1660s. The Privy Council decided that the bonding tactic of diffusing authority 'upon many persons' was not working, and that it therefore needed to appoint a single man who would 'make it his work' to ensure order in the Highlands.[101] There were also wider national considerations at work, since the combined pressures of the Second Dutch War (1665-67) and the Pentland Rising injected a punitive, militaristic ethos into Scottish law and order policy, especially in regard to religious nonconformity, which lasted until at least 1669, and possibly much longer.[102] As early as autumn 1666, all of this had crystallised into a determination to appoint a single commissioner 'to undertake the securing all the Highlands', and the initial choice, representing very much a confirmation of Argyll's influence, was Colin Campbell of Ardkinglass.[103] But when a commission was finally granted, on 3 August 1667, its recipient was not Ardkinglass, or any other representative of the Argyll interest, but Atholl, someone described by one historian as a 'rising star' of Scottish politics whom Lauderdale was anxious to woo.[104]   Atholl's term ended in February 1669, at which point the government fell back upon earlier expedients by ordering subscriptions to a new bond, accompanied by orders for landlords to collect further sureties from their tenants.[105] By November, however, it had been decided to resurrect the commission, and it would remain extant for the next nine years.   The first of the new commissioners was Sir James Campbell of Lawers. He lasted until 1 January 1674, when he was replaced by another man of middling rank, Major General George Grant.   Lawers resumed the office in March 1677, and later that year Lord

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[101] *RPCS*, ii, p.325.
[102] Buckroyd, *Church and State*, pp.71-74; Cowan, *Scottish Covenanters*, pp.69-72; Lee, 'Government and Politics', pp.167-83. See chapter 7.
[103] EUL, La.III.354, f.143; NRAS217, Box 6, item 886.
[104] Lee, 'Government and Politics', p.70.
[105] *RPCS*, ii, pp.600-2 and at pp.609-10.

Macdonnell was added to the commission. This final, joint commission was renewed for a projected fourteen months in August 1678, although in the event it was superseded in October by another shift in policy (see chapter 6).[106]

The lack of systematic records means that the success of this thief-catching experiment can only be judged impressionistically. Certainly the Privy Council congratulated itself profusely, declaring on four separate occasions (1669, 1671, 1672 and 1674) that its commissioners had enjoyed great success in apprehending criminals.[107] Others were not so enthusiastic. Alexander Chisholm, sheriff-depute of Inverness, observing in May 1677 that '[the]r is Slaught[e]r Comitted in vrq[uha]rt be the brea of Lochaber me[n] [and] great Insollencies is lyke to be this su[m]mer', questioned the capacity of the then-commissioner, Lawers, to do anything about it.[108] Moreover, recorded success was highly variable. Lawers caught eight thieves during his first year, and a further twenty-one by the end of 1678, whereas Grant apprehended no fewer than forty during his inaugural year. The government was so pleased with his performance that it awarded him a bonus of £1,200.[109]

But if the actual impact of the commissions is difficult to quantify, much more can be said about their importance in the development of government strategy. In some ways, they represented a considerable evolution of the regime's capacity for direct control. As Kincardine observed to Glenorchy, it was important that it 'be seine the law can keipe your contrie in order better then any extraordinary way'.[110] This was reflected in the commissions' terms. Atholl in 1667 was empowered to raise an independent company which would act as 'a constant guard for securing the

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[106] *Ibid.*, pp.324-29; *RPCS*, iii, pp.87-90; *RPCS*, iv, pp.135-37; *RPCS*, v, pp.92-94, pp.243-46 and at pp.496-97; *RPCS*, vi, pp.1-2; Hopkins, *Glencoe*, pp.48-51; Macinnes, *Clanship*, p.131.
[107] *RPCS*, ii, p.594; *RPCS*, iii, pp.270-71 and at p.471; *RPCS*, iv, p.278.
[108] NRAS217, box 6, item 528.
[109] *RPCS*, iii, p.271; *RPCS*, iv, p.378; NRS, E26/11/2, f.36, f.130, f.131, f.134 and at f.136; NRS, E26/11/3, f.231.
[110] NRS, GD112/39/115/6.

peace in the Highlands', and would 'watch upon the braes and in other places where

he shall think fit and quher thieves and broken men doe resort'. He was instructed

to pursue and apprehend anybody accused of theft, and thereafter to present them

for trial to the relevant judicial authorities. In addition, it was declared his

responsibility either to return all stolen goods to their lawful owners or, since it was

generally assumed that he would have little success recovering livestock, provide

financial compensation. Each of the subsequent commissions was couched in nearly

identical language.[111] Insofar as they provided for a glorified policeman, these terms

clearly signposted a shift away from landlord responsibility and towards the

imposition of direct government controls. All this should be read alongside the

assessment of Atholl's performance made by Linlithgow in 1669:

> Ever since the Earle of Atholl had commission from the councill for preserving those of the lowlands from the molestation of the theeves and robbers of the highlands, the countrey hath been keept as quyat and free from all depredations as att any tyme heretofore.[112]

The impression that the commissions were perhaps rather more about protecting the

Lowlands than settling the Highlands was reinforced by the jurisdiction to which

Atholl and his successors were confined. Their commissions related to Inverness-

shire and the 'Highland fringe' shires of Nairn, Moray, Banff, Aberdeen, Forfar,

Perth, Clackmannan, Stirling and Dumbarton, although admittedly with the addition

of Argyll from 1669.[113] Although it was reported that a commission had also been

awarded to Seaforth for the shires of Ross, Sutherland and Caithness, this was not

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[111] *RPCS*, ii, pp.324-29; *RPCS*, iii, pp.87-90; *RPCS*, iv, pp.135-37; *RPCS*, v, pp.92-94, pp.243-46 and at pp.496-97; BL, Lauderdale Papers, 1667-8, Add. Mss. 23127, f.178r. For a fuller discussion of the role of the military in Highland government, see chapter 8.
[112] Airy, *Lauderdale Papers*, ii, pp.98-99.
[113] *RPCS*, ii, p.325; *RPCS*, iii, pp.88; *RPCS*, iv, p.135; *RPCS*, v, p.93.

recorded by the Privy Council, which, apparently, was only interested in the more southerly jurisdiction.[114] Given this Lowland-focused orientation, the commissions naturally adopted the punitive aims of punishment and containment. In this way, they represented a conscious change in direction from the more collaborative ideas that had underlain bonding and judicial commissions.

Alongside this more repressive attitude, there was an explicit intention to move away from reliance on local personal power. Already in late 1666 Argyll had (apparently with no trace of irony) expressed a preference for placing 'his Maj[es]ties authority' in the hands of 'meane persones' who would not 'act according to interests',[115] and by July 1669, Kincardine confirmed that such thinking had become standard on the Council:

> There shall be a privat gentleman found […] And who shall serve thus for one yeare without any condition but what the councell shall please after the proof of his service. By this meanes the contrie should be rid of that brood of theefs for a tyme.[116]

The popularity of such ideas can partially be explained by the fact that, despite some positive assessments of his performance, Atholl's methods had nurtured some disquiet (ably stoked by Argyll). He was suspected of employing in his watch some of the very thieves he was charged with catching, and it was further rumoured that he was prepared to use them as a private army to protect his Highland interests.[117] Of crucial importance also was the attitude of Tweeddale, who by 1669 had fallen out with both Atholl and Argyll, and used his pivotal position as head of the Privy Council's Highland Committee to bypass them both. In Lawers, a Campbell laird

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[114] BL, Add. Mss. 23127, f.178r; *CSPDC*, vii, p.356.
[115] BL, Add. Mss. 23125, f.102r.
[116] Airy, *Lauderdale Papers*, ii, pp.136-37.
[117] *Ibid.*, pp.136-37; BL, Add. Mss. 23129, f.26r.

considered altogether too independent-minded by Argyll, he found his perfect appointee:[118]

> The highland bussnes succeeds weal in laurs hand [...] the two great men ar not soe weall pleased to see a lowland comittee [and] a highland Laird proceed soo friyly.[119]

By the end of Lawers' first term in 1671, Kincardine shared Tweeddale's enthusiasm, proclaiming that 'I like him most' because 'he hath no dependence but upon the King's favour and the Councells countenancing him, for all the great men of the Highlands hate him, especialy his cheef'.[120] Similar relative obscurity surrounded Grant, and as an ally of the Huntly Gordons he also represented a counter-balance to the Campbell and Murray blocs.[121] The reliance after 1669 on lesser men to act as commissioners (the brief tenure of Lord Macdonnell notwithstanding) can be seen as a conscious effort to circumvent, or at least counter-balance, the hitherto unchallenged authority of the high nobility as the dominant government agents in the Highlands, and in so doing introduce a more directly accountable form of control.

A third way in which the commissions can be seen as an exercise in direct control relates to the growth of a nascent bureaucracy to reinforce the commissioners' power. Initially the infrastructure was basic, limited to the designation of outposts at which thefts could be reported to the commissioners. The number of these reporting stations was variable: there were five under Atholl and Lawers but ten under Grant and seven under the joint commission of Lawers and

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[118] BL, Add. Mss. 23132, f.62r.
[119] NLS, MS.7003, f.188v.
[120] Historical Manuscripts Commission, *Report on the Laing Manuscripts preserved in the University of Edinburgh* (London, 1914), pp.380-81.
[121] Hopkins, *Glencoe*, p.51.

MacDonald. Moreover, after 1669 the network was formalised somewhat through the designation of specific agents charged with manning the stations.[122] As the commissions progressed, the Privy Council found it increasingly necessary to expand the bureaucratic machinery. Often this was a simple matter of expedience. Lawers, for example, had a dedicated messenger appointed for his use in 1670 (at a cost to the Treasury of £120), and by 1677 he was appointing local deputies to share the workload.[123] Equally, both Lawers and Grant were allotted £300 sterling to cover their expenses, slightly more than the £200 sterling allocated to Macdonnell, with a contingency for extra funds – such as the £31 12s granted to cover the cost to Lawers of maintaining 'two highland men Imprisoned in Stirling' – when necessary.[124] In 1677, if not before, the commissioners were also being supplied with arms direct from the royal magazine.[125] Clearly such awards reflected the fact that Lawers, Grant and Macdonnell were all men of fairly modest means, but they also lent an increasing veneer of officialdom to their commissions.

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[122] *Advertisement, Anent Stollen goods in the Hie-lands* (Edinburgh, 1673); *RPCS*, iii, p.136; *Advertisement, Anent Stollen goods in the Hie-lands* (Edinburgh, 1676); *RPCS*, v, p.244. The reporting stations under Atholl were Ruthven, Balachastle, Braemar, Blair Atholl and Glengey. Under Lawers, the stations and agents were Dunblane (Alexander Cheislie, baillie of Dunblane), Perth (John Stewart, merchant of Perth), Strathfillan (Duncan Campbell of Auchtertyre), Braemar (John Mackenzie of Castleton) and Ruthven (Thomas Macpherson in Kyle Huntly). During Grant's tenure, the structure was Glenfalloch (Alexander Campbell of Lochdochart), Drumin (William Given), Blair Atholl (Alexander Stewart), Braemar (Alexander Farquharson of Invercauld or John Farquharson of Inverney or Charles Stewart or Duncan Mackenzie), Balachastle (Mr Alexander Grant), Ruthven (Lieutenant Colonel Patrick Grant or Thomas Macpherson in Kyle Huntly), Strathearn (Donald Macintosh of Kyllachy), Aberfoyle (Thomas Graham), Dores (Alexander Chisholm, sheriff depute of Inverness) and Auchterblair (Robert Grant of Auchterblair). Under the final, joint commission, the stations were Drumin (William Given), Perth (George Lumsden, messenger), Strafillan (Duncan Macnab), Braemar (Duncan Mackenzie, forester), Ruthven (David Cumming), Blair Atholl (Alexander Stewart), Aboyne (James Innes of Drumgask) and Killin (Ronald MacDonald of Invergarry or Duncan Campbell).
[123] *RPCS*, ii, p.90; NRS, E26/11/2, f.129; NRS, Campbell of Belliveolan Papers, GD13/28; NRAS1209, bundle 45.
[124] *RPCS*, ii, p.224; *RPCS* iv, p.154; NRS, E26/11/1, ff.46-47; NRS, E26/11/2, ff.131-36 and at f.146; NRS, E26/11/3, ff.226-31.
[125] NRS, Artillery and Military Stores, 1667-1708, E96/12/1-2.

More telling still was the trend towards developing a judicial infrastructure. The first such innovation was a six-man circuit court, established in March 1668, to try those thieves captured by Atholl. The magistrates were empowered to sit anywhere within the boundaries of the earl's jurisdiction, under the rationale that 'the shiriffes were at greate distances', which ran the risk of rendering Atholl's work 'altogether ineffectuall'.[126] Proposals written in 1669 under the influence of Tweeddale offered a further insight into the commissioners' emerging judicial identity. They affirmed that 'the pairtie Imployed' would be empowered to present thieves to existing magistrates, and that his word should be treated as sufficient evidence of guilt. Moreover, the commissioners were to have a blanket right to initiate criminal proceedings against any alleged thieves, 'which shall be esteemed alss relivant as if the peirtie did it, who sustained the damnage'.[127] Another subtle but important shift in the procedure for trying thieves took place from 1669. Under Atholl's commission, they could equally be tried by the Justice General (Atholl himself), or by local magistrates. But starting with the appointment of Lawers, they were to be imprisoned at Edinburgh and tried there – indeed, by 1674 it was felt that a special commission was needed in order to give sheriffs the jurisdiction they had been assumed to enjoy only seven years previously.[128]

Equally, the earlier tactic of erecting a dedicated court remained an option. In September 1677, commission was granted to Argyll, Aboyne, Moray and Glenorchy to hold courts at Inverlochy in order to try all those apprehended by Lawers and Macdonnell. Efforts were made to do so, particularly by Moray, who was already making preparations for the projected courts in October, but the waning of the independent companies policy in 1678 (see chapter 6) eventually rendered all this

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[126] BL, Add. Mss. 23129, f.25v; *RPCS*, ii, p.422.
[127] NLS, MS.7033, f.144.
[128] *RPCS*, iv, pp.276-78.

moot.[129]   Thomas Gordon, an agent of Huntly's, grasped the implications of this development when he complained to the marquis in 1677 that:

> It seems strange [tha]t since the wholl countrie [of Lochaber] be longs to yo[u]r lo[rdshi]p and yo[u]r vassalls [the]r should be a Comissione granted q[uhai]rin neither yo[u]r Lo[rdshi]p nor anie of yo[u]r freinds are nominat.[130]

That, of course, was the point, and if the commissioners' judicial infrastructure remained embryonic, the common theme of asserting the primacy of public over private jurisdiction ran through all developments after 1668. This added to the sense of bureaucratic expansion, and signalled that ambitions had moved on; the 1667 aim of appointing a glorified policeman had by the 1670s given way to a more integrated policy which sought to transcend existing jurisdictions and provide a direct response to the challenge of banditry.

Nevertheless, the policy of appointing single commissioners did not signal a wholesale abandonment of indirect strategies. For one thing, it was recognised that an effective commissioner would need local knowledge and that, consequently, taking direct rule to the logical extreme of appointing an outsider, lacking any previous involvement with Highland politics, would be unwise.[131] For another, the government was adamant that the commissions in no way superseded the earlier tactic of landlord responsibility. In 1673, for instance, it was declared that:

> All Landlords, Chiefs of Clans, and others, His Majesties Subjects, are to concur with the said Sir James Campbel [of Lawers] in the execution of the

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[129] *RPCS*, v, pp.246-48; NRS, GD248/214/2/6.
[130] WSRO, Goodwood Mss 1166, item 1.
[131] BL, Add. Mss. 23125, ff.102r-103r.

said Commission, which is granted but Prejudice or Derogation, in any sort, from the Bands given for securing the Peace.[132]

Tweeddale's 1669 memorandum set out more fully the role local elites were expected to play. In general terms, 'all who have any power in the highlands or braes' would be required to 'assist any who hath the Comand for supressing of thift', partly through using their heritable jurisdictions to reinforce the drive against theft, and partly by refraining from supporting broken men in any way. More particularly, the memorandum called for 'all cheifes of Clanes and Lanlords' to compile lists of their tenants and dependants, 'to [th]e effect it may be Knowen who they are who Disturbes the peace of the Countrie and to whom they belong'. Finally, and perhaps most centrally, they were expected to act as informers:

> All who have any goodes stollen from tham, be ordained to advertuse the persone imployed within twentie four houres Such as are within threttie mylles and any who are at a greater distance from him within fourtie eight hours Imediatlie after the goodes are stollen.[133]

This particular duty was reiterated each time a new commissioner was appointed, but was perhaps rather easier to command than to achieve. At least one Privy Councillor suspected that many disorders went deliberately unreported because landlords did not wish to see their tenants prosecuted and their own reputation consequently sullied.[134]

In other ways too, there remained a role for local elites. The appointment of Atholl and his successors did not stop the Privy Council from continuing to issue one-off judicial commissions, of which there were nearly 130 during the lifetime of

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[132] *Advertisement* (1673). A similar declaration was made during Major Grant's period of office.
[133] NLS, MS.7033, ff.144r-v.
[134] Airy, *Lauderdale Papers*, ii, pp.136-37.

the policy.[135] Moreover, the period saw the gradual emergence of a new local agent

in the form of Glenorchy. He held no official position in the Highlands, but the

government nevertheless became increasingly receptive to his personal authority and

expertise in a manner reminiscent of its carriage towards Argyll. In April 1669,

Tweeddale openly sought Glenorchy's advice on how best Highland policy should

proceed:

> I intend now a journey for England I intend god willing to returne befor the
> 20 of june if you haue any commands for me lett me know [and] for god sak
> betueen [now] [and] that time informe your self the best yow can [and] be
> ripe in your thoughts for ane opinion what is fitt to be done.[136]

Kincardine similarly maintained correspondence with Glenorchy on Highland issues

at this time, seeking his 'hearty concurrence' with 'the resolutions of councill

concerning the setling of the Highlands', which would 'do your countrie [and] your

self both a very good office'.[137] Indeed, Glenorchy seems during the 1670s to have

developed a *de facto* thief-catching role comparable to the formal jurisdiction of the

commissioners. Certainly, a letter written to him by Sir John Colquhoun of Luss in

January 1672 gives a telling sense of Glenorchy's position:

> I doe acknowledge w[i]t all thankfullnes your noble favour, in getting my
> man Jams, glenns his kye again, and taking the thives, I have secured my own
> man called mc william, of whom yea wrett to me, as for the thives, I
> recomend them to dispose upon them, by yo[u]r selfe [and] lawers as shall be
> thoght best, [tha]t they may be secured, and brought to triall. [138]

This continued engagement with, and reliance on, local elites suggests that indirect

strategies of control coexisted alongside the growing preference for direct

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[135] See appendix 4 on the attached CD.
[136] NRS, GD112/39/115/9.
[137] NRS, GD112/39/115/6.
[138] NRS, GD112/39/118/2.

involvement. If therefore it can be said that the succession of commissions between 1667 and 1678 represented an intensification of immediate governmental involvement with the Highlands, it should also be stressed that this pattern never fully replaced the much older tendency to govern through the cooperation of regional grandees.

Recent historiographic developments have made it clear that the Restoration regime in Scotland was deeply fearful of all forms of disorder, a paranoia informed by the apprehension that disorder could become sedition, and that sedition could lead to a repeat of the disasters that had befallen Charles I in the 1630s and 1640s. Less consensus exists about how Charles II and his ministers sought to preserve order, certainly in reference to the most visible problem of Presbyterian nonconformity, where historians have detected simultaneous and apparently contradictory impulses towards repressing dissent on the one hand, and accommodating it on the other. Highland policy in the 1660s and 1670s was marked by a comparable degree of strategic uncertainty. Opinion was divided over whether Highland lawlessness was best tackled using wholesale delegation to local elites, or by creating some mechanism for establishing a sense of transcendent public authority. The initial policy of bonding, in line with the conservative ethos of the Restoration settlement, clearly represented the early ascendency of indirect thinking, as did the rehabilitation of Argyll as the government's key Highland agent. Nevertheless, the more strategically ambiguous use of judicial commissions indicated that the debate remained ongoing, and the tension became all the more visible with the appointment of independent commissioners after 1667. In short, the Restoration regime proved unable to decide whether the 'Highland problem' was best solved through public or personal power. Instead, it settled upon a compromise

position, and its policies sought to erect a governing framework that accommodated

and exploited both.

CHAPTER 6

Reaction and Realignment, 1679-88

In 1681, the gentlemen of Inverness and its environs begged James duke of
Albany to take some firm course for settling Highland disorder:

> Notwithstanding the Lords of His Majesties Privie Councill hes thir years
> bygone made many laudable Lawes [and] Actts for suppressing the lyke
> insolencies in tyme comeing [...] yet your Royall Heighnes Petitioners have
> suffered more these four or fyve years Bygone, nor they have done those
> many years before.[1]

The Invernessian plea can be seen as a microcosm for wider political developments.
The 'Restoration Crisis' of the late 1670s and early 1680s, manifested through the
'Popish Plot' and Exclusionism in England, the collapse of Lauderdale's religious
policy in Scotland, and heightened anti-Catholic persecution in Ireland, undermined
the Restoration regime as it had functioned since 1660. In its place, a new *status quo*
emerged, a 'second Restoration' which was fundamentally different in tone and
ethos, and which endured until the flight of James VII and II in December 1688. This
chapter seeks to trace the implications of these developments for the Highlands. It
begins with a general historiographical overview of the 'second Restoration' in
Britain. It then proceeds to examine the various re-orientations of Highland policy
during the early 1680s. Finally, it offers a detailed study of the most significant
initiative of the period, the commission for securing the peace of the Highlands.

In almost all accounts of Restoration Britain, the years around 1680 are
treated as a watershed – indeed, Gary De Krey has gone so far as to assert that

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[1] D. Warrand (ed.), *More Culloden Papers*, 5 vols (Inverness, 1923-30), i, p.173.

'modern British politics began in the crisis of 1678-83'.[2] Historians have yet to resolve the question of whether the turmoil surrounding the 'Popish Plot' and the subsequent Exclusion movement was primarily political, religious or ideological in nature (or a mixture of all three), but a greater degree of consensus surrounds its ramifications.[3] In an English context, the most fundamental observation is that society became much more partisan. Tim Harris, for instance, points out that while the division between 'Whigs' and 'Tories' was based upon a range of issues which long pre-dated the fabrications of Titus Oates, the political controversies after 1678 were vital in galvanising this schism into an embryonic party system, both in Parliament and throughout society at large.[4] Mark Goldie has examined the division from an ideological perspective. He has shown that Tory philosophers gradually developed an understanding of the English monarchy as absolute, if limited. This was in fundamental opposition to Whig ideas, which tended to emphasise the importance of popular sovereignty as a counter-balance to monarchy. Moreover, Goldie is adamant that such 'political theorizing' belonged almost entirely to the decade after 1675.[5]

All of this has led historians of England to argue that the 1680s were characterised by a 'Tory reaction'. The situation in central government is well understood, exemplified most clearly by the sidelining of Parliament for the final

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[2] De Krey, *Restoration and Revolution*, p.145. Elsewhere, however, De Krey is careful to argue that the crisis had important antecedents earlier in the Restoration. G.S. De Krey, 'The First Restoration Crisis: Conscience and Coercion in London, 1667-73', *Albion: A Quarterly Journal Concerned with British Studies*, 25:4, 1993, pp.565-80.

[3] For a sample of the differing interpretations, see J.R. Jones, 'Parties and Parliament' in J.R. Jones (ed.), *The Restored Monarchy 1660-1688* (London and Basingstoke, 1979), pp.48-70, at pp.57-70; G.S. De Krey, 'Reformation in the Restoration Crisis, 1679-1682' in D.B. Hamilton and R. Strier (eds.), *Religion, Literature and Politics in Post-Reformation England, 1540-1688* (Cambridge, 1996), pp.231-52, at 231-44; M. Goldie, 'Restoration Political Thought' in L.K.J. Glassey (ed.), *The Reigns of Charles II and James VII and II* (Basingstoke and London, 1997), pp.12-35, at pp.17-35.

[4] T. Harris, *Politics under the Later Stuarts: Party Conflict in a Divided Society 1660-1715* (Harlow, 1993), pp.80-109.

[5] Goldie, 'Restoration Political Thought', pp.17-35.

four years of Charles II's reign, and the loyalist composition of James II's first Parliament in 1685 (ultimately undermined, of course, by the king's pro-Catholic policies).[6] More generally, J.R. Western has advanced a thesis of what he calls the monarchy's 'refurbishment' after 1680. Central to this model is the idea that Charles' exasperation with the Whigs caused him to adopt a considerably more authoritarian understanding of monarchy that he had hitherto displayed. This, in turn, prompted him to oversee systematic purges of municipal corporations, the higher judiciary, and the commissions of the peace, all with a view to excluding Whig sympathisers from office. As a direct consequence, the crown's ability to suppress dissent – either through censorship or summary arrest – was greatly enhanced, all of which reached its zenith in the early part of James VII and II's reign.[7] A perhaps rather more succinct account has been offered by R.A. Beddard:

> [Charles II] had succumbed to the fate which, at the outset of his reign, he had most wished to avoid. He had become the leader of a party – the leader of the intolerant, exclusive, high church Tories.[8]

Importantly, however, historians have been careful to stress the limitations of these developments. This is particularly true for James VII and II's reign. The general understanding is that both the king's Catholicising policies, and his high-handed methods, worked to undermine the Tory consensus (especially its Anglican component) and consequently reverse the previous royalist mood.[9] Equally, recent historiography has questioned the extent to which the 'Tory Reaction' reflected

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[6] B. Coward, *The Stuart Age: England 1603-1714* (London, 2003), p.333 and at pp.336-42.

[7] J.R. Western, *Monarchy and Revolution: The English State in the 1680s* (Basingstoke and London, 1972), pp.46-77.

[8] R.A. Beddard, 'The Restoration Church' in J.R. Jones (ed.), *The Restored Monarchy 1660-1688* (London and Basingstoke, 1979), pp.155-75, pp.174-75.

[9] Western, *Monarchy and Revolution*, pp.194-238; J. Miller, *James II: A Study in Kingship* (London, 1989), pp.135-187; T. Harris, *Revolution: The Great Crisis of the British Monarchy, 1685-1720* (London, 2006), pp.182-236.

thinking in society at large, and Newton Key's investigation into Monmouth suggests that some communities, far from lapsing into a Tory consensus, remained ideologically divided.[10] Yet this does not alter the more fundamental historiographical consensus, namely that the crisis which enveloped England after 1678 led to a period in which government consciously abandoned any hope of consensus, and opted instead to rule from a narrow and authoritarian position.

The nature of the 'Tory reaction' in Ireland is generally held to be rather less clear-cut. Pádraig Lenihan stresses the muted impact of the crisis on Charles' western kingdom, arguing that Ireland was only ever involved in the Exclusion controversy through the Whigs' manipulation of rumours about an Irish Catholic plot to bolster their position against the king. In reality, he claims, the nuances of the crisis remained distant from Irish politics.[11] Harris echoes this line, and as a result detects only a very modest royalist reaction in the 1680s, expressed primarily through a series of 'loyal addresses' to the Crown from many sections of the Protestant elite.[12] This can be fleshed out slightly by considering the work of J.G. Simms, who has shown that, during his second viceroyalty (1677-85), James Butler, 1st duke of Ormond, followed a calculated policy of building up Ireland 'as a source of financial and military strength for the crown'.[13] Insofar as there was a reaction, historians' attention has tended to focus above all on heightened repression of dissent. Sean Connolly notes that the execution in 1681 of Oliver Plunkett, archbishop of Armagh, was simply the most sensational manifestation of a general trend after 1679 towards clamping down more firmly on Catholics. This stringency was supplemented, in the aftermath of the Rye House Plot of 1683 (an abortive

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[10] N.E. Key, ''Divided into Parties': Exclusion Crisis Origins in Monmouth', *English Historical Review*, 115:464, 2000, pp.1159-83, at pp.1182-83.
[11] Lenihan, *Consolidating Conquest*, pp.166-67.
[12] Harris, *Restoration*, pp.386-97.
[13] J.G. Simms, *Jacobite Ireland* (reprinted Dublin, 2000), pp.15-16.

conspiracy to assassinate both Charles and James), by a more robust attitude towards Protestant dissent as well. Importantly, however, Connolly is careful not to overstate any of this. He argues both that the physical extent of the repression was moderate, and that most of it had firm parallels earlier in the Restoration.[14] Historians have therefore reached the superficially surprising consensus that the 'Popish Plot' and its aftermath was of restricted importance to Ireland, and that it had a noticeable but nonetheless limited impact on the conduct of Irish government.

James VII and II's Irish reign has attracted rather different comment. Harris states simply that 'Ireland […] was to become rapidly and dramatically destabilized under James II'.[15] For Harris, the mere fact of James' accession disrupted the *status quo* achieved by his brother, and this was exacerbated by the Catholicising policies followed by his two viceroys, Henry Hyde, 2nd earl of Clarendon (albeit reluctantly) and, in particular, Richard Talbot, 1st earl of Tyrconnell.[16] Miller and Lanihan both lay still greater stress on the role of Tyrconnell, and argue that he gradually succeeded in convincing James that Ireland was best governed by an aggressive policy of transferring power from Protestants to Catholics.[17] It must however be acknowledged that historians are keen not to overstate James' ambitions. Connolly maintains that his policies consciously stopped short of a full-blown catholicizing crusade, and instead aimed simply to augment the position of Catholics in preparation for the accession for what, until 1688, was expected to be a Protestant successor.[18] Simms argues more generally that the king had by 1688 done 'much to

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[14] Connolly, *Divided Kingdom*, pp.152-54.
[15] Harris, *Revolution*, p.102.
[16] *Ibid.*, pp.105-43.
[17] J. Miller, 'The Earl of Tyrconnel and James II's Irish Policy, 1685-8', *Historical Journal*, 20:4, 1977, pp.803-23, at pp.806-16; Lenihan, *Consolidating Conquest*, pp.173-77.
[18] Connolly, *Divided Kingdom*, pp.174-75.

improve the status of Catholics without driving Protestants into open opposition'.[19] Nevertheless, the conventional idea that most Protestants had turned against James by 1688, while most Catholics supported him, remains a significant historiographical theme.

In Scotland, crisis was triggered not by the ramblings of Titus Oates, but rather by the collapse of Lauderdale's religious policy, culminating in the deployment of the Highland Host in 1678, and the Covenanter rebellion of the following year. For many historians, the most important result of these calamities was a thorough changing of the guard in Scottish politics. Kirsty McAlister points out that the basis of this shift was the increasing relegation of Lauderdale to a position of powerlessness and, more significantly, the expanding influence of his replacement as Commissioner to Parliament (and *de facto* ruler of Scotland), Albany. For McAlister, James' influence after 1679 was multi-faceted, and succeeded in injecting a new vigour and unity of purpose into Scottish government.[20] Other historians have traced similar personnel changes lower down the administrative hierarchy, and MacIntosh asserts that the duke's willingness to admit previously shunned noblemen to the Privy Council (Moray and Atholl) showed that its 'recent role as simply a clique of Lauderdale's yes-men was at an end'.[21] Brown is more strident, and claims that, by 1685, Albany had succeeded in staffing the Scottish administration with political and ideological allies such as Queensberry and Aberdeen.[22] There have however been some voices of caution. John Callow downplays Albany's personal impact, arguing that 'there is little evidence to suggest that […] James did anything more than adhere to existing policies', especially during

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[19] Simms, *Jacobite Ireland*, p.42.
[20] McAlister, 'James VII', pp.10-50.
[21] MacIntosh, *Scottish Parliament*, p.184.
[22] Brown, *Kingdom or Province*, p.162.

his first visit. Lee, similarly, contends that the shuffling of office-holders did not signal any real break with the governing system of the Lauderdale years, and that James, by his arrogance, militarism and authoritarianism, essentially ruled in the same way as his predecessor.[23] Nevertheless, neither Callow nor Lee question the notion that the royal duke was at least nominally in charge, and this reinforces the dominant historiographical contention that, as a result of the post-1678 crises, political authority in Scotland moved away from Lauderdale and towards Albany.

Historians have also detected a Scottish version of the 'Tory reaction', particularly in terms of political thought. Brown has made the general observation that Albany's two-year residence in Edinburgh stimulated both a 'minor artistic renaissance' and a pervasive 'royalist mood' which dominated the early- to mid-1680s.[24] More detailed analysis is offered by Jackson. She has shown that the events of 1679 were interpreted by the political establishment as an unprecedented and deliberate challenge to its authority, and that it consequently became more united in its opposition to subversion. The result was a pervasive sense that, to impose order effectively, the government had to be freed from all constraints. For Jackson, then, the crisis produced an intellectual consensus that firm, unfettered monarchical power was a fundamental tool for the preservation of order.[25] The practical implications of all this are exposed both by MacIntosh, who argues that the 1681 session of the Scottish Parliament granted the Crown 'everything that had been demanded' with 'minimal resistance', and more generally by Harris, for whom Scotland by 1685 was 'a loyal and manageable kingdom'.[26] Taken together, all of this represents a

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[23] J. Callow, *The Making of King James II: The Formative Years of a Fallen King* (Stroud, 2000), p.285; Lee, 'Government and Politics', pp.278-81.
[24] Brown, *Kingdom or Province*, p.161.
[25] Jackson, *Restoration Scotland*, pp.133-38.
[26] MacIntosh, *Scottish Parliament*, p.202 and at p.203; Harris, *Revolution*, p.145.

powerful consensus that Scotland after the 'Restoration Crisis' was a nation steeped in royalist and authoritarian ideology.

Again, however, some caution is necessary. For Brown, the trend towards absolutist thinking was in fact a limited one, insofar as the king was to be accorded very wide powers, but still restrained by both the law and Parliament. In any case, he argues that the royalist reaction was a response to the very particular circumstances of the early 1680s – most Scots embraced it not out of genuine ideological fervour, but as a pragmatic means of preserving security.[27] In a similar vein, both Harris and Jackson point out that Scottish submission to the Crown came with a number of 'red lines', boundaries beyond which royal power would not be allowed to pass. The most obvious, of course, concerned Catholicism, and the explicit expectation that Popery should not be allowed to return quickly eroded all thoughts of royal absolutism after 1685.[28] Indeed, Barry Robertson points out that the sheer recklessness of the king's Catholicising policies even succeeded in alienating natural allies such as Huntly.[29] This sense that there were limitations to both the power and policies of the monarchy after 1679 is summed up by McAlister's assessment that 'James VII ultimately lost his Crown' because 'he introduced unpopular religious measures by way of royal prerogative'.[30]

The final theme emphasised by Scottish historians is the Crown's increasingly repressive stance towards Presbyterian nonconformity. Elizabeth Hyman provides a concise summary of this issue:

> Within a short time, coercion to enforce uniformity and extirpate Presbyterianism was renewed and became unremitting […] The official

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[27] Brown, *Kingdom or Province*, p.66 and at p.164.
[28] Jackson, *Restoration Scotland*, pp.157-62; Harris, *Revolution*, pp.148-53.
[29] Robertson, 'Continuity and Change', pp.177-78.
[30] McAlister, 'James VII', p.321.

campaign to end nonconformity once and for all was marked by more and more indiscriminate repression and culminated in the well-known killing times of 1684 and 1685.[31]

For Buckroyd, this development had little to do with dissent itself – which she argues was muted after 1679 – but rather reflected Albany's wider political concerns, in particular his desire to damage his great rival (and nephew) James Scott, 1st duke of Monmouth by undermining the indulgent policies the latter had pursued in the wake of the 1679 rebellion.[32] Cowan similarly focuses on the role of Albany, and he emphasises two further stimuli. The first is the duke's Catholic faith, which, for Cowan, made him instinctively less tolerant of Presbyterianism than had been Lauderdale. The second was his drive from 1681 to ensure his future position by enforcing obedience to the Succession and Test Acts.[33] McAlister's work has however challenged this assessment. She does not question the existence of repressive policies, instead acknowledging that the government 'was guilty of monstrous humanitarian crimes', but she does contend that Albany's attitude to dissent was more nuanced than either Buckroyd or Cowan allow. He was, McAlister claims, willing to treat low-level nonconformity with leniency, while being determined to stamp out any activity that was genuinely seditious. Indeed, she goes so far as to suggest that it was only the absence of the royal duke after 1682 that allowed unfettered repression to gain momentum.[34] While then there is a degree of uncertainty as to where the impulse towards severity originated, the basic idea that the 1680s witnessed more intense repression of dissenters has largely gone unchallenged.

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[31] E.H. Hyman, 'A Church Militant: Scotland, 1661-1690', *Sixteenth Century Journal*, 26:1, 1995, pp.49-74, at p.69.
[32] Buckroyd, *Church and State*, pp.134-35.
[33] Cowan, *Scottish Covenanters*, p.104 and at pp.108-9.
[34] McAlister, 'James VII', p.169 and at pp.153-61.

This is the background against which Highland policy after 1678 must be viewed. As affairs farther south became increasingly unsettled, culminating in the outbreak of the Covenanter rebellion in May 1679, the government's unease over Highland disorder grew correspondingly more acute. Its knee-jerk reaction was to heighten its reliance on Clan Campbell: in October 1678 Lauderdale begged Argyll and Glenorchy to go 'hand in hand' in the work of 'Settling the Highlands' – and within this context, the ongoing resistance of the Macleans to Argyll's expansionist campaign in Mull began to look wholly unacceptable.[35] As Sir James Campbell of Lawers observed:

> The killing of My L[or]d St Andrews w[hi]ch was acted on Saterday last [...] will prove trublesome, and will occasione that the E[arl] A[rgyll] will get asistance of the kings forces and of the militia.[36]

The policy of deploying independent companies had already in September 1678 been overhauled in a manner which strengthened its association with Clan Campbell. In place of the open-ended commissions granted since 1667, Lawers and Colonel James Menzies were each ordered to muster a force of 150 men.[37] In theory these companies, reinforced by a regiment of guards under George Livingston, 3rd earl of Linlithgow, were supposed to form a garrison at Inverlochy. In reality, both Menzies and Lawers (the latter soon to be replaced by Glenorchy) were firmly controlled by Argyll, and were soon being deployed in Mull.[38] Throughout this period, Argyll continued to enjoy the vocal backing of the government.[39] In August 1679, the Privy

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[35] NRS, GD112/39/124/26.

[36] NRS, GD112.39/127/6.

[37] *RPCS*, vi, pp.1-2; NRS, GD112/43/13/20; Lauder, *Notices*, i, pp.204-5.

[38] NRS, GD112/39/124/32, GD112/39/125/3; Historical Manuscripts Commission, *Sixth Report of the Royal Commission on Historical Manuscripts* (London, 1877), p.619.

[39] *RPCS*, vi, p.319; Wodrow, *History of the Sufferings*, iii, pp.144-45. BL, Lauderdale Papers, 1679, Add. Mss. 23243, f.40r.

Council's Highland Committee recommended that a process of forfeiture be initiated against the Macleans and their MacDonald allies.[40] In October, a judicial commission was awarded to Argyll, Lawers, Glenorchy and Menzies, alongside Moray and Lachlan Macintosh of Torcastle, aiming to try 'such thieves, robbers and malefactours who shall happen to be apprehended' by the independent companies.[41] The Popish Plot hysteria was a further boon, since Argyll was able to convince the government that his enemies were Papists. In November the judicial commission was expanded to include the apprehension of Catholics, while the following April a further commission was granted empowering Argyll to disarm the Macleans and MacDonalds.[42] The crisis of 1678-79, in other words, allowed Argyll's dominance as the Restoration regime's key Highland agent to reach its zenith. Well might be boast that 'endeed I sieke peace by all meanes and I resolue to failie in nothing'.[43]

Other members of Clan Campbell, however, were growing uneasy about the wider ramifications of Argyll's stranglehold over Highland policy. Sir Hugh Campbell of Cawdor declared in April 1679 that 'wee wer in this country so alarmed with the Highland armies that I minded nothing else […] the truth is I wes not without some anxiety quhen I considered all things'.[44] Cawdor's concern was shared by both Lawers and Glenorchy, who feared that the earl's intensive focus upon his affairs in Mull ran the risk of destabilising the Highlands more generally, and of ruining his (and his family's) pre-eminence in Highland affairs.[45] Certainly, Albany's attitude, upon his arrival in December 1679, was distinctly cooler, something of which Archibald Campbell, lord Lorne was circumspectly but unmistakably aware:

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[40] *RPCS*, vi, p.312.
[41] *Ibid.*, pp.34-35 and at pp.58-59.
[42] *Ibid.*, pp.169-72.
[43] NRAS217, box 6, item 47.
[44] Innes, *Cawdor*, p.342.
[45] NRS, GD112/39/125/6, GD112/39/127/6, 11, 14; NRAS1209, bundle 46 and at bundle 101

> My Father […] has laid over all his highlands affairs to the Dukes
> Determination [and] ther is no doubt but he will have justice but ther are
> severall reasons why he might have taken another method.[46]

Albany's aim was not to oversee an outright Campbell victory in Mull, but rather to

facilitate reconciliation between Argyll and his enemies.[47] To this end, orders were

issued on 29 December to the most prominent individuals on both sides of the

dispute – including the chiefs of the Macleans, Camerons and MacDonalds of

Glengarry, alongside numerous Campbell gentry – to 'come to Edinburgh and attend

his Royall Highnes and the Councill' in order that 'present course be taken for the

peace and quyet' of the Highlands by settling all disputes 'in the most faire and

equitable way'.[48] This was not in fact the first time the government had attempted to

broker an amicable settlement. The idea of paying the Macleans off with one-quarter

of the rents from Mull had been tabled earlier in 1679, but had been rejected as

derisory by the family.[49] Albany's policy similarly foundered after his return to

England in February 1680, although he continued to push for a settlement into the

summer and autumn – his suggestion was that the Macleans be invested with estates

in Tiree to the value £500 sterling, with Argyll and the king sharing superiority.[50]

Instead, Charles reiterated his full support for Argyll in March.[51] By April, studious

lobbying from Glenorchy and Lauderdale was beginning to convince the king of the

Macleans' inveterate perfidy, and in July, sure now that it was unsafe to leave affairs

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[46] NRS, GD112/39/130/1.

[47] J.S.Clark (ed.), *The Life of James the Second, King of England, Collected out of Memoirs Writ in his own Hand. Together with the King's Advice to his Son, and His Majesty's Will*, 2 vols (London, 1816), i, p.706.

[48] *RPCS*, vi, pp.371-72.

[49] BL, Lauderdale Papers, 1679, Add. Mss. 23244, f.55r.

[50] *CSPDC*, xxi, p.487 and at p.544; BL, Lauderdale Papers, 1680, Add. Mss. 23246, f.49r; NRAS217, box 7, item 802; NRAS1209, bundle 54.

[51] *CSPDC*, xxi, p.108.

in Mull or Caithness unresolved, Charles ordered that the Highland companies remain in existence until both areas were quiet. In fact, the Campbell companies remained extant until April 1681.[52] Indeed, by July, when Parliament confirmed his possession of the barony of Duart, Argyll seemed finally to have secured his position in the west.[53]

The victory soon proved illusionary. Argyll had remained heavily associated with Lauderdale long after the effective end of the latter's hegemony (despite his notoriously uneasy relationship with the duchess of Lauderdale), and this gave his enemies room for manoeuvre.[54] At exactly the same time as the Duart ratification, two of the earl's creditors, Heriot's hospital (represented by the earls of Erroll, Marischal and Strathmore), and Hutcheson's hospital (represented by the burgh of Glasgow) launched claims against him. Despite robust defences on behalf of Argyll, the Lords of the Articles appeared sympathetic, and went so far as to suggest the creation of a committee with power to enforce repayment of the debts.[55] Another petition, this time in the name of the Lord Advocate, Rosehaugh, contained a much more wide-ranging assault. Firstly, Rosehaugh complained that the earl's huge jurisdictional authority meant that 'a fourt part of the Kingdome of Scotland [is] taken off the King'. Secondly, it was objected that Argyll enjoyed illegal access to half of all casualties falling to the crown within his jurisdictions. Thirdly, it was claimed that albeit 'very many […] persons of great qualitie' had become direct vassals of the Crown as a consequence of the marquis of Argyll's forfeiture, the earl had contrived illegally to intrude himself 'as superior betuixt his Ma[jes]tie and them and therby taking off the immediat dependence of very many and great vassalls

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[52] NRAS1209, bundle 50; NRAS217, box 7, item 584; *CSPDC,* xxi, p.108; NRS, GD176/591; NRS, GD112/39/133/1; BL, Add. Mss. 23246, f.55r and at f.60r; *RPCS*, vii, p.89.
[53] *RPS*, 1681/7/91.
[54] NRS, GD112/39/131/1; NRAS217, box 7, item 359.
[55] *RPS*, C1681/7/31; NLS, MS.7195, ff.1-2.

from the croune'. Finally, it was noted that, thanks to some sharp practice, the earl's income had ballooned to more than double the £15,000 in yearly rent which he had been allocated at his restoration in 1663. Essentially, these objections boiled down to two broad points. On the one had, Argyll was simply too rich and too powerful. On the other, he had systematically flouted both the spirit and the letter of his family's restoration.[56] Again, the Articles appeared receptive, and suggested another committee be created, this time with authority to investigate Argyll's heritable jurisdictions.[57] These attacks were ultimately torpedoed by Albany, who was unwilling to allow Parliament the freedom either to question royal gifts, or to censure royal servants.[58] But although Argyll survived on this occasion, the parliamentary attack had served to illustrate how vulnerable he had been left by the fall of Lauderdale.

Yet the 1681 Parliament did in fact sow the seeds of Argyll's destruction. On 31 August, Albany accorded royal assent to the Test Act. Argyll, in his capacity both as Privy Councillor and Commissioner of the Treasury, took the Test the following November, but only after issuing a brief explanation that he did so only insofar as it was consistent with itself and the Protestant religion. Although not initially generating any adverse reaction, this speech was soon seized upon as evidence of treason and leasing-making, and Argyll was indicted in December. Convicted unanimously (although with no sentence passed until Charles' pleasure was known), he broke out of his Edinburgh prison, and fled to Holland.[59] Contemporary opinion

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[56] NRS, PA7/11/21.

[57] *RPS*, C1691/7/31.

[58] Airy, *Lauderdale Papers*, iii, p.225; Lauder, *Notices*, i, p.313. J. Stewart, *The Case of the Earl of Argyle, or, An Exact and full account of his trial, escape and sentence* (Edinburgh, 1683), pp.3-5.

[59] There are numerous contemporary and modern narratives of the proceedings against Argyll. Of the former, the most detailed is probably Stewart, *Case of the Earl of Argyle*, pp.6-12. For a different perspective, see Mackenzie, *vindication of His Majesties government*. The most useful modern account is McAlister, 'James VII', pp.113-28.

was almost universally horrified by these developments, which were taken (particularly by English Whigs) as proof of the inherent arbitrariness of both Scottish government, and the Stuart dynasty.[60] It escaped nobody's notice that Argyll was hardly alone in baulking at the Test – William Douglas, 3rd duke of Hamilton had initially refused, and qualifications had been entered by Queensberry, the clergy of Perth and Aberdeen, and even the Privy Council itself.[61] Hypocrisy aside, the charges (in a no doubt uncomfortable echo of both the marquis' trial in 1661 and Argyll's own in 1662) seemed vastly over-blown.   One group of English commentators, upon receiving a copy of Argyll's explanation, professed themselves puzzled:

> We all stood looking upon one another as Josephs Brethren in their grand surprize, not knowing, nor able for to Divine wherein the venom and poyson of this pestilent Treason should lurk: some thought that as he who would needs sell a witty story, had lost all the wit out of it, so the Printer has expunged all the Treason out of his Paper.[62]

Indeed, so extensive was the outcry that the government's literary attack-dog, Rosehaugh, felt compelled to issue a trenchant apology, in which he not only affirmed the justness of the proceedings and verdict, but also maintained that all those who objected were merely ill-informed about the complexities of Scots law.[63]

Despite Rosehaugh's objections, the obvious dichotomy between the relative triviality of Argyll's offence and the stringency of the punishment roused suspicions

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[60] Jackson, *Restoration Scotland*, p.151.

[61] NRAS234; box 29/I/3, item 76; *RPCS*, vii, p.239; Wodrow, *History of the Sufferings*, iii, p.300; Stewart, *Case of the Earl of Argyle*, pp.26-27, p.38 and at p.49.

[62] Anonymous, *The Scotch-Mist Cleared Up, To prevent Englishmen from being wet to the skin. Being a true Account of the Proceedings against Archibald Earl of Argyle, for High-Treason* (London, 1681), p.14. This was, in essence, the defence offered by Argyll's lawyers, headed by Sir George Lockhart of Carnwath. It succeeded only in angering the Privy Council, which felt it implied 'scandal against the government'. Wodrow, *History of the Sufferings*, iii, p.321.

[63] Mackenzie, *vindication of His Majesties government*, pp.18-52. Mackenzie also argued that the outcry against Argyll's trial demonstrated the need for firmer press censorship.

that there were other factors working towards the earl's ruin. Albany's influence was held to be crucial.[64] Argyll was said to have offended James during the drafting of the Test Act by suggesting, against his wishes, that the royal family should be bound to take it, with the sole exception of James himself.[65] Some believed that Albany's resentment had deeper roots, stretching back to a dispute in 1677 over ownership of a gold-laden Spanish wreck lying in the seas off the west coast. Albany, as High Admiral, claimed right to all wrecks. Argyll, however, claimed that the wreck had been granted to him by a previous admiral, and he was backed by the Court of Session. Sir Richard Maitland, for one, believed that this defeat still rankled in the 1680s, and advised Argyll to 'lett alone the King of Spains gold and come and gett some of the King of Britains silver'.[66] Personal animosity aside, Burnet claimed that the royal duke had long before 1681 decided that Argyll's power in Scotland, and the Highlands in particular, was such that 'it was necessary for him either to gain him or ruin him'.[67] In this James was reputedly influenced by allies, particularly Tarbat and Haddo, who hoped to secure some of Argyll's lands and offices for themselves.[68] In the event, it was widely suspected that the treason process was simply intended as a means of breaking up Argyll's extensive jurisdictional authority, and that only his hasty flight oversees forced the king to pass a death sentence against him.[69]

On the other hand, it is important not to overstate Albany's animosity. In December 1679, Argyll found Albany 'very Iust to me and willing to doe me reasone

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[64] Paterson, *No Tragic Story*, p.50; Hopkins, *Glencoe*, pp.84-85; Stevenson, *Highland Warrior*, pp.288-89.

[65] Wodrow, *History of the Sufferings*, iii, pp.298-99; Burnet, *History*, ii, p.314; Stewart, *Case of the Earl of Argyle*, p.3.

[66] Lauder, *Notices*, i, pp.169-72; NRAS217, box 7, item 660.

[67] Burnet, *History*, ii, p.308.

[68] Lauder, *Notices*, i, p.350.

[69] Clark, *Life*, i, pp.709-10; Burnet, *History*, ii, p.323; Lauder, *Notices*, i, p.342; Stewart, *Case of the Earl of Argyle*, p.119.

euen so farre that I found it fitte for me', while the Duchess of Lauderdale, writing in February 1680, declared that the duke had for Argyll 'a most particular affection'. By February 1681, the relationship between the two was apparently convivial enough for Albany to spend two nights as a guest at Argyll's lodgings in Stirling.[70] Indeed, James revealed a fairly sympathetic stance as late as autumn 1681, when he was presented with a proposal to set up a commission for investigating Argyll's heritable rights. He blocked this scheme (just as he had during the parliamentary attack a few months earlier) after being reminded that the earl had used his authority 'in keeping the Countrey in peace, from Thieves and Robbers'.[71] If then Albany really did sponsor the attacks on Argyll, it seems likely that he did so with the limited aims of curbing his power, and securing Albany's own ascendancy. The earl's forfeiture was, in other words, probably unintended.

At the same time, Albany was hardly Argyll's only predator. The fevered scramble to divide up his estates after 1681 revealed the continuing bullishness of his creditors.[72] Charles, although prepared to 'restore the family in blood', ruled out a full restoration of lands and titles.[73] As Perth reported, the king was 'sensible he [had] not been well informed when he raised Argyl so high last time he was in this condition', and had no wish to repeat the mistake of 1663.[74] Instead, all of Argyll's offices, and much of his estate, were set aside for annexation to the Crown – it was hoped this would yield £96,000 per year.[75] Lord Lorne was to receive an endowment worth £15,000 annually (although this was later reworked so that the Crown would

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[70] NRS, GD112/39/129/11; NRAS217, box 7, items 391 and 640; SCA, BL1/73/14.
[71] Stewart, *Case of the Earl of Argyle*, p.5.
[72] John Lauder, *Historical Observes of Memorable Occurrents in Church and State* ed. D. Laing (Edinburgh, 1840), p.54.
[73] NRAS234, box 21/I/3, item 83.
[74] J. Dunn, *Letters Illustrative of Public Affairs in Scotland, Addressed by Contemporary Statesmen to George, Earl of Aberdeen* (Aberdeen, 185), p.4.
[75] NRS, GD112/39/135/2; HMC, *Buccleuch*, i, p.127, p.128 and at p.143.

simply wadset these lands to him), while Argyll's younger children (three sons and two daughters) were to be given monitory settlements totalling £8,400.[76] By March 1682, a judicial commission had been set up with power to rank Argyll's creditors in order of precedence.[77] Despite genuine efforts – including the examination of Argyll's estate papers – this process soon became bogged down, unable to balance the claims of the greater and lesser creditors.[78] In the meantime, on the advice of the Privy Council, the Crown retained stewardship of the estates, and appointed chamberlains to uplift their revenues.[79] Claims also flooded in from parties wishing to secure control over parcels of land. Donald MacDonald of Moidart, invoking memories of his family's royalism during the 1640s and 1650s, petitioned that his lands, hitherto held from Argyll, should in future be 'holden of his Ma[jes]tie' in order to ensure that he was never 'made slave by any man for serving his Ma[jes]tie'.[80] Both the Macleans and the MacNaughtons secured the re-granting of estates previously lost to Argyll. Atholl entered a claim on Argyll's fishing rights in the Isles, ultimately unsuccessfully, while Lochiel and Gordon both claimed ownership of the estate of Mamore in Lochaber, a dispute which was still unresolved in 1688.[81] Argyll's fall thus created major financial opportunities for a wide range of individuals and interests.

The sudden and quite possibly unintended disappearance of Argyll left the government with another major headache in terms of security, and for the rest of the

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[76] NRAS234, box 29/I/12, item 26; Dunn, *Letters Illustrative of Public Affairs*, pp.6-7 and at p.9; HMC, *Buccleuch*, ii, pp.139-40.

[77] Lauder, *Notices*, p.350; HMC, *Buccleuch*, ii, pp.139-40. The earl's total debts were eventually calculated to stand at nearly £300,000. NLS, MS.7195, ff.3-8.

[78] Dunn, *Letters Illustrative of Public Affairs*, p.15; *RPCS*, viii, p.256; Lauder, *Notices*, ii, p.501 and at p.524.

[79] *RPCS*, vii, pp.324-25; Dunn, *Letters Illustrative of Public Affairs*, p.76; NRS, GD202/18/63.

[80] NRAS234, box 29/I/3, item 77.

[81] *RPCS*, vii, p.16 and at p.421; Lauder, *Notices*, ii, p.350, p.787, pp.840-41 and at p.852. NLS, MacGregor of Balhaldie Papers, MS.3186, f.20r; NRAS217, box 7, item 298.

decade it wallowed in a state of near paranoia over the potential rebelliousness of the

south-western Highlands. Argyll himself was repeatedly implicated in plots against

the king.[82] William Campbell, a Glaswegian skipper, declared in August 1682 that

his ship had been commandeered by Argyll's men to smuggle arms into the western

Highlands, while six separate testimonies – of Alexander Gordon of Earlston, Major

Abraham Holmes, Robert Baillie of Jerviswood, Zachariah Bourn, Thomas Shepherd,

Robert West and William Carstares – confirmed that the earl had been in consort

with radical English Whigs throughout 1683, in an unsuccessful attempt to raise

£30,000 sterling to fund a Scottish insurrection.[83] He was even accused, rather

hysterically, of direct complicity in the Rye House Plot.[84] These details had become

public from the end of 1683, after a series of encrypted letters from Argyll to his

agents and co-conspirators was intercepted. They had been partly decoded in

England, but remained opaque. The countess of Argyll was swiftly dragged before

the Privy Council and ordered to provide the cipher, but when she proved of limited

assistance, attention turned to William Spence, one of Argyll's servants and

reputedly his chief encoder. Spence only provided the cipher after three rounds of

judicial torture, and with this information the government was able to uncover the

extent of Argyll's plotting.[85] What made all of this so worrying was the possibility

that, if the erstwhile earl rose, he could carry Argyllshire with him. Rosehaugh, not

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[82] Paterson, *No Tragic Story*, pp.67-80; McAlister, 'James VII', pp.200-1; M.S. Zook, *Radical Whigs and Conspiratorial Politics in Late Stuart England* (Pennsylvania, 1999), pp.128-29. Wodrow, anxious to portray Argyll as a pious martyr, asserts unconvincingly that he had had nothing to do with Whig conspiracies during the lifetime of Charles II. Wodrow, *History of the Sufferings*, iv, p.283.

[83] George Mackenzie, *A true and plain account of the discoveries made in Scotland, of the late conspiracies against His Majesty and the government* (London, 1685), pp.5-7 and at 9-10; Anonymous, *A Full Discovery of the Late Fanatical Plot in Scotland* (London, 1685), *passim*; Anonymous, *An Historical Review of the Later Horrid Phantical Plot, in the Rise, Progress, and Discovery of the Same* (London, 1684), p.13.

[84] Lauder, *Observes*, p.100; *RPCS*, viii, p.509.

[85] *CSPDC*, xxiv, pp.325-27 and at pp.370-71; *RPCS*, ix, pp.68-69, p.73, p.94, pp.97-98, pp.103-4 and at 117-20; Lauder, *Notices*, ii, pp.455-56, 471-72 and at pp.552-53; Mackenzie, *true and plain account*, pp.10-27.

without a degree of hindsight, claimed that, even before his fall, Argyll had 'fix'd the Clergy and Laity' of the shire in 'seditious Sentiments', ready to support him against the king.[86] Equally, it was reported that, by the end of 1682, subscriptions totalling £50 sterling had been collected from the Campbell gentry of Kintyre and Islay.[87] Tarbat summed up the feeling when he declared that a Scottish rebellion was 'none so probable […] as in that shyre'.[88] By 1684, therefore, the threat posed by Argyll was at the very forefront of the regime's mind.

In response to these threats, real or perceived, the government throughout the 1680s introduced a succession of policies for settling Argyllshire. The initial tactic had simply been to appoint James Graham, 3rd marquis of Montrose as sheriff of Argyll in March 1683 (the office seems to have been dormant throughout the previous year), but his death thirteen months later necessitated a fresh strategy.[89] The advocate and sheriff-depute Robert Stewart was raised to the sheriffship on an interim basis while new ideas were explored.[90] The first proposal, in the spring, was to split the shire into seven lieutenancies, centred on Cowal, Inveraray, Bute, Kintyre, Craigness, Dunstaffnage and Tarbert. This policy, however, does not seem to have been implemented, with Perth and Charles Erskine, 6th earl of Mar being the only candidates ever advanced.[91] Instead, Atholl was in June appointed as lieutenant and sheriff of all Argyll and Tarbert. As the most senior nobleman in the southern Highlands Atholl was a fairly logical choice, and his appointment had the added bonus of compensating him for losing out on the chancellorship for the second time

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[86] *Ibid.*, p.5.
[87] Fraser, *Earls of Cromartie*, i, pp.36-37.
[88] Dunn, *Letters Illustrative of Public Affairs*, p.84.
[89] *RPCS*, viii, p.88.
[90] NRS, SC54/10/1/7.
[91] *RPCS*, viii, pp.508-9; Dunn, *Letters Illustrative of Public Affairs*, p.164.

in two years (Perth had been appointed after the fall of Aberdeen).[92] He took up the commission in August and promptly marched into Argyll with a force of 1,000 Highlanders. When he left two months later, he reported that he had arrested a number of senior Campbells (and extracted cautions from many others), disarmed the shire, settled a garrison at Inveraray and forbidden all indulged ministers from preaching. The Privy Council declared itself 'very well satisfied'. Atholl also spent time investigating the extent of the deposed earl's plotting, and it was in no small part thanks to his endeavours (especially the confiscation of Argyll's papers) that Tarbat could claim in September that the 'plott for riseing in Scotland is now fully discovered'.[93] The invasion went ahead regardless in May 1685, but it turned out to be something of an anti-climax; Argyll was never able to raise a substantial force, and government troops, led again by Atholl, defeated him with relative ease. The earl was captured in June, and executed shortly thereafter.[94]

Atholl's lieutenancy was formally renewed just before the rebellion, and immediately afterwards it was reinforced by a commission to protect Argyllshire from robbers.[95] The robustness with which his forces went about suppressing the rebellion became notorious. The 'Atholl raids' (often conducted less by the marquis than by the various clan levies under his nominal command) were reckoned to have caused £64,000 of damage to the estates of Ardkinglass alone, and there were numerous smaller claims; Duncan Smith of Inveraray suffered the theft of nearly £800 of goods and animals to 'Lochaber men' in the summer of 1685, while Colin Campbell of Gleman lost a wide range of foodstuffs and weaponry both to Atholl's

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[92] *CSPDC*, xxvii, p.104; *RPCS*, ix, pp.81-83; Lauder, *Notices*, ii, p.547.
[93] *CSPDC*, xxvii, pp.104-5; HMC, *Athole*, pp.12-13; Fraser, *Earls of Cromartie*, i, p.34 and at p.36; Paterson, *No Tragic Story*, pp.82-84; Hopkins, *Glencoe*, p.95.
[94] Numerous detailed modern narratives of Argyll's rebellion are available. See Hopkins, *Glencoe*, pp.95-102; Paterson, *No Tragic Story*, pp.97-138; McAlister, 'James VII', pp.200-18.
[95] *RPCS*, xi, pp.31-32 and at p.101.

forces and to his various Maclean, Cameron and MacDonald allies.[96] Such stringency

greatly pleased Iain Lom, who viewed it as glorious revenge for Argyll's dominance

of the Highlands since 1663:

> *Buail an teud sin gu sealbhail*
> *'S na dean searbh port na binneas,*
> *Na cum t'aghaidh neo-shealbhaidh*
> *Ri neach nach earb thu do shlinnein;*
> *O thug an Rìgh an t-slat sgiùrsaidh*
> *An glaic do dhùirn 's nach tu shir i,*
> *Uair mu seach air an tùirneal*
> *Mar bhuaileas ùird air an inneain.*

(Pluck that string harmoniously and do not cause the melodious strain to jar, do not unpropitiously keep your face turned to one to whom you could not entrust you back. Since the King has placed in the grasp of your hand the scourging rod, and it was not of your asking, let it be time about with the blow, as hammers strike on the anvil).[97]

In the months after Argyll's defeat, however, Atholl's activities were rather more

measured, despite extremely stringent orders from the government that he should

execute all guilty heritors, and select 'a hundred of the chief ringleaders of the

tennents and commons and execute them to death'.[98] In June the marquis issued an

indemnity to all 'commons of those tua Shyrs of Argyll [and] Tarbert' who had been

'forced and prest by the rebells to Joyne with them', provided they submitted

themselves to him.[99] The following month, he ordered the local ministers to compile

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[96] Anon., *An Account of the Depredations Committed on the Clan Campbell, and their Followers, During the Years 1685 and 1686* ed. Kincaid, A. (Edinburgh, 1816), p.10 and at pp.42-43; NRS, SC54/17/4/16/5.

[97] John MacDonald, 'Oran do Mharcus Atholl' [A Song to the Marquess of Atholl] in *Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch* ed. A.M. Mackenzie (Edinburgh, 1964), pp.166-78, at pp172-75.

[98] Murray, *Atholl and Tullibardine*, i, pp.246-47.

[99] NRS, SC54/17/4/11/1. He ordered a total of twenty-nine copies of this indemnity to be circulated around the region.

lists of all their parishioners, and to name all the men who had fought for the earl.[100]

A lieutenancy court, sitting at Lochhead (Campbeltown) in August and September, and presided over by Atholl's deputies, John Boyle of Kelburn and John McNaughton, fined some seventy-five individuals for adherence to the rebellion – although interestingly the major transgression with which they were all charged was not raising arms against the Crown, but attending two seditious sermons given by 'vagrant preatchers' accompanying Argyll.[101] Further punishments were eventually meted out, but by other authorities. Around twenty individuals, including Argyll himself, were sentenced to execution by the Justiciary Court in Edinburgh; the Privy Council banished or transported a further sixty or so (although Wodrow put the figure at 100-200); and Inveraray Sheriff Court eventually prosecuted over 240 for offences connected to the rebellion (mainly theft), some 90 per cent of whom were convicted, most receiving financial penalties.[102]

These relatively restrained reprisals did not however do anything to soften the brutal reputation Atholl had already acquired, and by the autumn his lieutenancy had been allowed to lapse in favour of renewing the Highland commission (see below).[103] Lochiel, who had allegedly acted as a double-agent within Atholl's camp throughout the rebellion, did not help matters by claiming (no doubt in an attempt to deflect attention away from himself) that the marquis had botched his commission, and missed several attempts to destroy Argyll (a gratifying accusation for Atholl's rivals in Edinburgh, who had long been hoping to exploit, as

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[100] NRS, SC54/17/4/11/2.

[101] NRS, SC54/17/4/2/3.

[102] NRS, JC6/12, ff.10-12, ff.35-38, ff.83-85, ff.100-6 and at f.240; *RPCS*, xi, pp.129-30; NRS, SC54/17/2/12-3; Wodrow, *History of the Sufferings*, iv, p.310.

[103] NRS, GD112/39/139/5. The last recorded sitting of a Lieutenancy Court during Atholl's tenure was in Mull on 18 November 1685. NRS, SC54/17/4/2/5.

Tarbat put it '[th]e least mischance').[104] In any case, although John Drummond, 1st earl of Melfort assured the marquis that his conduct was officially considered above reproach, the government, when it chose in September 1686 to resurrect the lieutenancy, awarded it not to Atholl, but to Lieutenant General William Drummond of Cromlix, newly ennobled as Viscount Strathallan.[105] His appointment was accompanied by a general indemnity to those involved in the rebellion, and part of his responsibility was to decide who should receive this pardon, and who should not. The remainder of the twenty-six instructions with which he was encumbered focused on sorting out the disruption (administrative, financial and proprietary) caused by the rebellion, but he was also to affect the settlement of the late earl's forfeited estates. More generally, he was empowered to 'doe everything proper and necessary for the peace and quiet' of Argyllshire. Strathallan was clearly very diligent – he reportedly 'without suspensions or stop, descerned restitution of all that was robb'd and stollen', and he certainly presided over at least one meeting of the commissioners of supply in Argyllshire – but his claim to have reduced the area to 'a full quiet and peace' by the end of the year was probably a little overdone.[106]

If the fall of Argyll naturally dominated Highland affairs in the early- to mid-1680s, he was not the only prominent individual to face difficulties. Glenorchy was similarly straitened on account of his possession since 1672 of the estates pertaining to the earldom of Caithness and, from 1677, the title of earl itself. Repeated attempts to secure his rights had been doggedly supported by the government, and this continued into 1680.[107] In June that year, Charles made plain his resolve 'to maintaine and secure the said Earle in the just possession of his said estate'. The

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[104] Murray, *Atholl and Tullibardine*, i, pp.260-61; NRAS234, box 29/I/4, item 58.
[105] *RPCS*, xii, pp.401-2; HMC, *Athole*, p.35; Wodrow, *History of the Sufferings*, iv, p.310.
[106] Lauder, *Notices*, ii, p.752; NRS, SC54/20/3/2/31; *RPCS*, xii, pp.461-64 and at p.525.
[107] NRS, GD112/39/132/6.

Privy Council responded by ordering one of the Highland companies, still ensconced in Mull, to travel to Caithness in support of Glenorchy. It also instructed all the gentlemen of Caithness to support him.[108] Later that year, however, the situation began to change. In September, after George Sinclair (his rival for the title of earl) complained that he had 'committed several acts of oppression and killed many of his Majesty's good subjects', Glenorchy was summoned before the Privy Council to explain himself. Two months later, a committee was established in order to examine the complaint. Although it initially appeared sympathetic towards Glenorchy, orders were issued in January 1681 authorising treason processes to be initiated.[109] These never progressed, largely because Rosehaugh sabotaged them, but the Sinclairs were already pursuing a new strategy. George Sinclair petitioned in July that he be allowed to assume the style 'earl of Caithness'. This was granted in August, with Glenorchy being given the new earldom of Breadalbane by way of compensation. Parliament then heard a request for the new 7th earl of Caithness to be restored to his family lands of Keiss, Tister and Northfield and, after being referred to the Privy Council, this request too was granted.[110] Breadalbane, however, retained those portions of the Caithness estate which he had acquired in settlement of the debts owed to him by the late 6th earl.

But the Sinclairs – or at least the more militant members of the kin, such as James Sinclair of Murkle, John Sinclair of Ratter and Caithness himself – remained determined to regain control of the entire region. By March 1683 they had succeeded in compiling a libel for treason against Breadalbane, in which he was accused of illegally invading Caithness (thereby causing extensive damage and loss of life),

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[108] *RPCS*, vi, pp.467-69.

[109] *Ibid.*, p.547 and at pp.572-73; *RPCS*, vii, pp.6-7, pp.10-13.

[110] *RPS*, 1681/7/83; NRS, PA7/11/80/1-3; *RPCS*¸ vii, p.160, pp.184-85 and at pp.200-1; Airy, *Lauderdale Papers*, iii, p.195 and at p.218; Hopkins, *Glencoe*, p.84.

garrisoning Castle Sinclair, raising illegitimate taxes, gathering bonds of manrent from the local heritors, and even harbouring a necromancer and warlock named John Auriray.[111] Breadalbane himself was dismissive of the charges, and initially it was thought by his supporters that 'this process will not in the Least bring any danger to my Lords person Honour or estate'.[112] Such complacency was quickly shattered, and within days Breadalbane was told by his agent in Edinburgh, Colin Campbell of Carwhin, that Atholl (Breadalbane's staunchest ally in Edinburgh) sensed very real danger:

> He finds [the]r is a solid resolutione sett downe to forfault yow as to Caithnes if it be posible and [tha]t nothing cane hinder but yo[u]r absenting yo[u]rself; He sayes he thinks yo[u]r lo[rdship] will be forced to poyt Caithnes to [the]m at q[uha]tt raite they please or tak yo[u]r hazard.[113]

As with the attacks on Argyll, there were suspicions that Albany secretly sponsored the campaign against Breadalbane as a means of rendering the earl dependent upon him. This was the conclusion reached at the time by Rosehaugh:

> [The]r was no way to saive yow but to com in heir and sie [th]e D[uke] befor he went away seing he knows yow are at hom And [tha]t yo[u]r own presence u[i]t q[uhi]lk assurance ye could give the D[uke] of yo[u]r standing be him might doe much to putt a stope to [the]r Career […] For [tha]t he knew yo[u]r lo[rdship] to [be] a person [who] could mak a great interest to [th]e D[uke] in the highlands (at which he wes now dryveing) and he himself hes bein all this tym giveing the best characters off yow to [th]e D[uke] he could.[114]

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111 NRS, Campbell of Barcaldine Papers, GD170/629/2.
112 NRS, GD112/1/680, GD112/39/135/3.
113 NRS, GD112/39/135/5.
114 NRS, GD112/39/134/1.

Certainly, Glenorchy's stock had experienced the same temporary dip as Argyll's during Albany's drive for negotiated settlements in the winter of 1679-80, before Charles reiterated his attachment to the Highland companies the following summer. It is equally telling that when in July 1683 Breadalbane eventually did make a personal submission to Albany (after repeated appeals by letter), James contrived to have all legal processes against him dropped. By August, Breadalbane had received a full remission for his actions in Caithness, much to the embarrassment of Perth, who had been studiously buying up Breadalbane's debts with a view to securing control of his estates once they were forfeited.[115] By October Breadalbane felt confident enough to petition for a government pension. 'He has got pretty fair by this business' grumbled John Drummond of Lundin (later Earl of Melfort) 'and therfor may the better rest satisfied, for if others had got their uills of him, he had bein peiled to the skin'.[116]

The campaigns against Argyll and Breadalbane have tended to be seen as quintessentially reactionary in origin, predicated upon Albany's need to undermine the basis of Lauderdale's regime. This was certainly the case, but it is important not to assume that it represented a general anti-Campbell bias. James' concern was limited to cementing his own position as Lauderdale's successor, and his aim was largely to force the two Campbell earls into dependence upon him. Recognising their importance as agents of order in the locality, he wanted submission, not destruction. Breadalbane understood this, and so survived. Argyll did not, and so fell – thereby creating for the government an ongoing headache in the south-western Highlands which it had almost certainly not anticipated.

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[115] NRS, GD112/39/135/14; NRAS234, box 29/I/3a, item 8.
[116] NRS, GD112/39/13, GD112/39/135/7; Dunn, *Letters Illustrative of Public Affairs*, p.144; Lauder, *Notices*, ii, p.447; HMC, *Buccleuch*, ii, p.155.

James' campaign for bringing Clan Campbell to heel coincided with his first attempt to establish a fresh Highland policy. In January 1680, he reported to the Privy Council his intense personal interest in settling the Highlands, a position which he reiterated about a fortnight later with the observation that 'the King is not entirely King of the whole kingdome' so long as the region remained unsettled.[117] In February, he introduced his solution. Noting that previous Highland policies had not been as successful as hoped because 'the persons entrusted with the execution thereof had not that command and interest suteable to so great ane undertaking', Albany suggested instead that the Highland be split into five divisions. Within each of these, a regional magnate would be given authority to apprehend and try all thieves. The nobles in question were Argyll, Atholl, Kenneth Mackenzie, 4th earl of Seaforth, Huntly and Moray. Argyll's jurisdiction would be Stirlingshire, Dumbartonshire, Argyll, Breadalbane and western Inverness-shire as far north as Kintail; Atholl's Perthshire (Breadalbane excepted), Clackmannshire and Forfar; Moray's eastern Inverness-shire, Nairnshire and Moray; Huntly's the Mearns, Aberdeenshire, Banffshire and his own estates in Badenoch and Lochaber; and Seaforth's Caithness, Sutherland, Ross, Cromarty, northern Inverness-shire, and the isles of Skye and Lewis.[118] This was in fact a slight reworking of Albany's original plan, which had envisaged merely four 'high [and] mighty Theif catchers', as Lauderdale termed them, and had accorded to Huntly everything from Lochaber to Aberdeen. But the king vetoed this after representations from Lauderdale, ostensibly because the projected jurisdiction was 'too large for one person to oversee', but also

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[117] *RPCS*, vi, p.382 and at p.393.
[118] *Ibid.*, pp.393-98.

to avoid alienating Moray and, no doubt, because 'it seemd tooe bearr faced to intrust [...] a pappist uith men and munitions the pappist plott nott yett crushed'.[119]

As a policy this had its critics. Argyll resented sharing authority in the Highlands, while Mar, petitioning unsuccessfully that he should be accorded jurisdiction over Aberdeen and Banff, declared that 'my interest in the Highlands is intirely broken, and my men a prey to nighbours, that uould be glade too see it'.[120] Nevertheless, the Privy Council went through the motions of confirming the new commission. In March 1680 its start-date was fixed for 1 May, and each of the commissioners was allocated £200 sterling for their expenses. The Council also ordered that each of them find caution for the prosecution of their tasks, and all but Argyll did so.[121] Moreover, it appears that the scheme did gain a degree of acceptance; on 29 April 1680, Argyll received a petition from the heritors of Lennox, asking that he use his new jurisdiction to hunt down a large gang of robbers who were terrorising the area.[122] Ultimately, however, the scheme had been a natural corollary to Albany's attempted loosening of Campbell dominance over Highland policy (indeed, the expenses currently paid to the Highland companies under Glenorchy and Menzies were specifically earmarked for the new commissioners), and Lauderdale's success in convincing Charles to retain the companies necessarily put the five-divisions scheme on hold. By the time the companies finally disbanded in April 1681, the imminent fall of Argyll effectively ensured that the prorogation became permanent. Nevertheless the scheme, by seeking to exploit personal authority in the locality while avoiding the pitfalls of a dominant viceroy, revealed the shape of Albany's thinking. This would have major implications for the most

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[119] *Ibid.*, p.428; *CSPDC*, xxi, p.411; Lauder, *Notices*, i, p.261; NRAS217, box 7, item 461; WSRO, Goodwood Mss 1428, f.1.
[120] Airy, *Lauderdale Papers*, iii, p.195; BL, Add. Mss. 23246, f.9r-10r.
[121] *RPCS*, vi, p.429 and at p.446. BL, Add. Mss. 23246, f.53r; NLS, MS.3138, f.31r.
[122] NRAS1209, bundle 111, item 48.

significant development in Highland affairs during his tenure, the commission for securing the peace (see below).

In the meantime, policy entered something of a holding pattern. In March 1681 a proclamation was issued with the familiar aim of re-imposing all existing Highland legislation. In particular, the practices of bonding and annual accountability were again reaffirmed, using a fresh list and bond.[123] At the same time, the destabilisation of the Campbells provided a window for the government's other traditional agents in the Highlands, the Mackenzies and the Gordons, to reassert themselves. In 1680, Seaforth allied himself with the Sinclairs' attempts to eject Glenorchy from Caithness.[124] Just under two years later, after the fall of Argyll, Tarbat seized the opportunity to advertise Seaforth's credentials as a potential Highland agent. 'Remember his influence in the Highlands', he told the new Chancellor, Haddo, 'Argyl being forfeited, Huntly being incapacitated, and Athole not well pleased'.[125] In addition, Tarbat argued (somewhat unconvincingly) that the Mackenzies record as royal adherents in the 1640s and 1650s was so constant as to merit public trust. Although Tarbat's ambitions went unfulfilled, Seaforth did secure a pension of £2,400, as did David Ross of Balnagown.[126]

The Gordon interest was more aggressive, despite the fact that Huntly himself proved singularly unable to exert much influence in public life until the reign of James VII.[127] Instead it was Haddo, the upstart Chancellor (and earl of Aberdeen

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[123] *RPCS*, vii, pp.74-84.

[124] NRS, GD112/39/132/6.

[125] Dunn, *Letters Illustrative of Public Affairs*, p.54. Huntly's incapacitation was presumably on account of his Catholicism, while Atholl's sulkiness can be attributed to his failure to secure the chancellorship.

[126] Dunn, *Letters Illustrative of Public Affairs*, p.56; NRS, Audited Treasury Accounts, 1682-1684, E26/12/1, f.45, ff.48-49, ff.51-52 and at ff.54-55; NRS, Audited Treasury Accounts, 1684-1686, E26/12/2, ff.120-22, ff.124-26 and at ff.128-30; NRS, Audited Treasury Accounts, 1686-1688, E26/12/3, f.173.

[127] Robertson, 'Continuity and Change', pp.175-77.

from 1682) determined to secure for himself a regional power-base, who led an attempted Gordon revival in the Highlands. He had already had himself added to the Highland Committee in 1680.[128] In 1683 he tried to win the keepership of Stirling Castle, hitherto possessed heritably by Mar, as a means of controlling what was still the major pass into the Highlands. Similarly, he sought to secure for Huntly Mar's lands in Braemar.[129] Alongside trying to augment his own position, Aberdeen was a guiding influence in the attacks on Breadalbane, as Atholl reported to the earl in August 1683:

> You know of a letter the Chanclor writ against you to [th]e Duke with all the reflexions [tha]t his malice [and] envie could suggest […] I heare you have made some proposals concerning Argile-shire [and] [th]e Highlands pray take care it be for his Ma[jes]ties service [and] y[ou]r own interest [and] y[ou]r friends for the Chancelor is turning it in redicule.[130]

As well as attempting to undermine Breadalbane's credentials as a Highland agent, Aberdeen played a key role in the treason processes of 1683. The libel itself was the work of the Sinclairs, and had been in preparation for at least a year. It had however failed to gain any traction until Aberdeen threw his weight behind it, and pushed it through in the face of trenchant opposition from fellow Privy Councillors, such as Rosehaugh, Lundin, Perth and Atholl.[131] The Sinclairs grew suspicious, and began to fear that Aberdeen had his own designs on Caithness. The Chancellor denied this, and stated merely that he wished the processes to run because 'the law wes patent,

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[128] BL, Add. Mss. 23246, f.55r.
[129] Lauder, *Notices*, i, pp.440-41.
[130] NRS, GD112/39/135/18.
[131] NRS, GD112/39/135/4. There were whispers that Aberdeen had doctored the libel by adding in extra charges without the consent of those involved. NRS, GD112/39/135/16, GD112/43/15/8-9.

and no subject could be denied the benefite of it'.[132]   In private, however, he genuinely was locked in intense negotiations to buy the Caithness estates (at a knock-down price, according to Breadalbane), while Huntly was simultaneously in talks with the countess of Breadalbane for the same purpose.[133]   In all his machinations the Chancellor was ultimately unsuccessful, but they represented a concerted effort to exploit the temporary destabilisation of Campbell hegemony in the Highlands. They were also by far the Gordons' most assertive interference in Highland affairs since the Restoration.

By 1682, Albany had repeatedly signalled his intention to broaden out the government's pool of agents in the Highlands. The next governmental scheme, the commission for securing the peace, announced on 5 August, continued this trend, although it is not clear if the scheme was devised by Albany himself. It split the region into four divisions: the northern encompassed Caithness and Sutherland; the central covered the shires of Ross, Cromarty, Inverness, Nairn and Moray; the eastern involved Banff, Aberdeen, Kincardine and Forfar; and the southern incorporated Perth, Stirling, Dumbarton and Argyll (see map 5). Within each of these areas, a group of named commissioners (sixty-seven in all) was empowered to apprehend all thieves, and try them in justice courts to be held at least twice yearly.[134] The Highland commission remained active for the remainder of the reign, and was renewed by James VII five months after his accession.[135] Historians have tended to view it in a positive light. For Harris, it was simply more successful at

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[132] NRS, GD112/39/135/5, 11.

[133] NRS, GD112/39/135/8, 9, 10, 14.

[134] *RPCS*, vii, pp.507-15. The breakdown by division was as follows: six for the northern, fourteen for the central, twenty-two for the central, and twenty-five (later twenty-six) for the southern.

[135] *RPCS*, xi, pp.103-4.

curbing disorders than any previous initiative.[136]   Hopkins agrees, calling the commission 'probably the Restoration regime's most effective and honest attempt to check highland robberies'.[137]   Not all commentators have been quite so effusive, however. Stevenson, for one, is ambivalent, admitting that the commissioners 'did have greater success in suppressing raids and violence in the Highlands than any other body since the Restoration', but maintaining also that its effectiveness was confined largely to the south-east and has, in any case, been greatly exaggerated.[138] John Callow is still less impressed, and he states bluntly that the government's authority in the Highlands remained 'directly proportional to the strength of [its] troops on the ground'. The commission, in this reading, was an exercise in futility.[139]

The impact of the commission was certainly curtailed by the enormously varying industriousness of its four divisions. The southern division – the only one to leave systematic records – was much the most active. It first convened at Comrie, west of Crieff, on 6 October 1682, and its minutes show that it met on at least twenty-five further occasions before January 1687, circulating between sites such as Crieff, Killin, Balquhidder, Kenaclacher and Achallader. Moreover, although the minutes cease at this point, it was clearly still meeting in the autumn of 1688, when the Chancellor, Perth, attended personally and praised the 'great good which the Com[issione]rs of Iusticiary for the highlands have done towards the keeping of the peace of the Countery and redressing of injuries comitted by theives and Robers'.[140] Even so, problems were encountered in getting commissioners to attend meetings. Indeed, by 1684 there were fears that some of its courts could collapse through want

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[136] Harris, *Restoration*, p.358.
[137] Hopkins, *Glencoe*, p.92.
[138] Stevenson, *Highland Warrior*, p.291.
[139] Callow, *Making of King James II*, p.289.
[140] NRAS234, box 42/I, item 53; NRS, PC8/7, f.2, f.3, f.4, f.5, f.6, f.7, f.9, f.11, f.12, f.13, f.17, f.19, f.21, f.22, f.23, f.24 and at f.25; NRS, GD112/39/144/10.

of a quorum.[141]   There was in fact a 'hard core' of individuals who attended regularly, such as Lawers, John Drummond of Pitkelloney and Alexander Robertson of Struan, but many others turned up on a mere handful of occasions. Equally, numbers swung wildly. One court, in September 1682, boasted only three commissioners, while the very next meeting three months later was graced by fourteen.[142]

The activities of this southern division were further complicated after 1684, when the establishment of Atholl's Argyllshire lieutenancy introduced an obvious jurisdictional overlap. Both had the same powers to hold courts, issue decrees and extract bonds of caution, and many of the marquis' officers, such as Struan, the tutor of Appin, and Andrew Spalding of Ashintully, were also commissioners.[143] In fact, the southern division ceased meeting in November 1684, and remained dormant for eleven months. In the meantime, a commission for preserving Perthshire from thieves (similar to that granted to Atholl for Argyll) was in May 1685 granted to James Drummond of Drumendernoch, Patrick Murray of Keilor, John Mitchell, Thomas Crichton, Alexander Stewart of Annanto, Sir Robert Moray of Abercairnie, and Lawers.[144] The same pattern of temporary abeyance, seemingly lasting around ten months, accompanied Strathallan's lieutenancy in late 1686. All of this would suggest, as Atholl himself suspected, that the government viewed the powerful lieutenancies as appropriate emergency measures in times of particular disorder, but was more comfortable in normal circumstances with diffusing authority widely amongst the commissioners.[145]

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[141] NRS, GD112/39/136/6.

[142] NRS, PC8/7, f.2v and at f.4v.

[143] *RPCS*, xi, p.390; *CSPDC*, xxvii, pp.104-5; *Account of the Depredations*, p.2 and at p.18; NRS, GD112/39/136/6, 7.

[144] *RPCS¸* xi, pp.57-58.

[145] NRS, GD112/39/139/5; *RPCS*, xi, pp.103-4.

The central division was obviously active in 1682, when it issued orders for the apprehension of all suspected robbers within its bounds, and in June 1684 it reported that twenty courts had been held in total, albeit that 'very few of the number of the com[missione]rs appoynted for that Iurisdictione did attend [the]r meittings or Imploy ther neccessarie diligence for executeing [the]r comissione And some of them did not accept [the]rof'.[146] More oblique evidence that the central division was functioning can be found in the Court Books of the burgh of Inverness, which record fifty-nine licences issued to cattle traders between 1683 and 1686. These passes included a testimony from the traders' landlords as to how many cattle they had permission to sell, as well as a record of who had bought their animals, and for how much.[147] A call for such testimonies had been one of the subsidiary terms of the Highland commission, and the fact Inverness was so scrupulous in recording them (not to mention that no such passes are extant from the years before 1683) suggests that the commissioners were having an impact.[148] The eastern commissioners too were meeting by March 1683, but fifteen months later it was noted that the they had 'not unanimusly concurrd for wseing [the]r outmost cair and diligence In execu[ti]one of the kings commission'.[149] Unfortunately, no minutes seem to have survived from any meetings in either of these jurisdictions. As for the northern division, it seems never to have met at all, and by 1686 had been dropped from official consciousness.[150] If therefore success is to be measured in terms of

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[146] MacGill, *Old Ross*, i, p.87; NRS, PC8/7, f.20v.

[147] HARC, BI/1/7/2, Inverness Burgh Court Book, 1654-1717, f.62, f.68, f.69, f.90, f.99, f.106, f.114, f.122, f.134, f.136, f.140, f.142, f.144, f.148, f.190, f.200, f.210, f.233, f.346, f.387, f.404, f.873, f.878, f.888, f.887 and at f.898. The burgh of Stirling, in the southern division, instituted a similar drive for testimonies from 1682, in direct obedience to the Commission. R. Renwick (ed.), *Extracts from the Records of the Royal Burgh of Stirling*, 2 vols (Glasgow, 1887-9), ii, pp.37-38.

[148] *RPCS*, vii, p.512.

[149] *RPCS*, viii, p.102. NRS, PC8/7, f.20v.

[150] NRS, PC8/7, f.20r; *A Proclamation anent the Peace of the Highlands* (1686). The reasons for the still-birth of the northern commission are unclear. It may be that the local elites simply

commissioners' diligence in convening the required courts, then the record of the Highland commission was patchy at best.

Nevertheless, the minutes of the southern division reveal a broad and multi-faceted approach to controlling the Highlands. Its activities fell into three broad classes. Firstly, in response to its remit to interrupt the illegal transportation of livestock to and from the Highlands, it attempted to seal off waterways. One of its first actions, in October 1682, was to order a survey of all the 'ferry boats of Loch Lowmons [Lomond] and Loch kathrein [Katrine] And other passages by water', through which thieves moved their goods, whereby 'there is ane constant trade of thift keep'd up and maintained'. All public boats were to be stored each night in 'ane sufficient staine dyck […] and Loched w[i]t ane Irone chayne and a sufficient Lock'. All private boats, meanwhile, were to be confiscated until their owners found caution that they would never be used by thieves.[151] By December, this policy had been extended to include Lochs Tay, Awe, Etive, Lyon and Rannoch, Rivers Tay and Tummel, and the various waterways of Appin. In 1684 it was widened still further with the inclusion of Atholl, from where five bonds were gathered.[152] While it seems unlikely that this rather grandiose scheme met with any great success, it does at least reveal an honest attempt on the part of the commissioners to understand and rectify Highland lawlessness.

The second tactic was punishment of offenders. The commissioners were conscious that well-targeted, public executions (or at least the threat thereof) would act as 'monuments of Iustice', and in total sixteen individuals were hanged between

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ignored it, although this would not explain its disappearance from the government's agenda. More likely, the increasingly heavy association of lawlessness with Lochaber and Argyll-shire meant that Sutherland and Caithness ceased to be priorities.

[151] NRS, Leith-Buchanan of Ross and Drummakil Papers, GD47/351.

[152] NRS, PC8/7, f.8v, f.18r and at f.147r.

1682 and 1684.[153]   But lesser punishments were also imposed where deemed appropriate. Patrick Macfarlane, for instance, was imprisoned in June 1683, rather than being tried for the capital offence of animal theft, because of his young age.[154] Others suffered banishment, including Thomas Anderson, exiled from the shires of Argyll, Perth, Stirling and Dumbarton in October 1682, or transportation, as in the case of Donald Mackintosh, Malcolm McVorish and Donald MacGregor, all of whom were sent to New Jersey in 1684, 'wher they will be serviceable'.[155]   The commissioners also attempted to punish those who flouted their authority. In June 1683, fines of £100 were levied upon all individuals who failed to answer summonses to court, and at the same meeting, the most persistent and notorious repeat offenders were summarily outlawed.[156]

Perhaps more striking was the commissioners' use of amnesties. At the end of 1682, they suggested to the Privy Council that, instead of outlawing thieves, protections might be issued for them to 'come in and inact themselves' to 'banish themselves forever out of the kingdome', an idea to which the Council acquiesced.[157] By the summer of 1684, a broader policy had taken shape. The commissioners wished to isolate the most incorrigibly lawless elements by bringing more peaceable individuals back into the fold. To this end, two policies were mooted. Firstly, they suggested that a general indemnity be offered for all past crimes, provided that guilty individuals agreed to pay restitution. In addition, they asked:

> That power be granted to the Com[missione]rs to receive in fugitives and
> p[er]sones Intercomuned be [the]m, upon sufficient security And other good
> considera[ti]ones for preventing the conjunctione of such desperat

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[153] NRS, PC8/7, f.15v and at f.172r-v.
[154] NRS, PC8/7, f.24r.
[155] NRS, PC8/7, f.7v-8r; *RPCS*, viii, pp.514-15.
[156] NRS, PC8/7, f.10r.
[157] NRS, PC8/7, ff.9r-v and at ff.93r-v.

wagabounds who will out of necessity Committ Insolencies upon the poor country people.[158]

This tactic of differentiating between classes of lawbreaker was considerably subtler than previous policies, which had tended to treat them as a homogenous mass, and its potential was revealed by the case of the MacGregors. That family had consistently failed to give bonds, but in November 1684, 'eight or nyne persones of the said clanne who were understood to be honest responsa[bi]ll and Law bidding men' asked that they be allowed to give 'ane particuler band for securing of the peace', because they did not feel able to become bound for some of their more incorrigible kinsmen. Although the commissioners refused to accept this proposal 'Least it showld prove prejudiciall to the s[ai]d g[e]n[erall] band', it did illustrate the potential of a conciliatory attitude for encouraging rapprochement.[159]

The third class of activity was arbitration. Starting at Kenaclacher in June 1683, the commissioners heard individual complaints about stolen goods, rendered judgement as to who was to blame and, in some cases, ordered compensation to be provided. The prospect of being dragged before the commissioners' court and forced to pay damages was, they believed, 'ane greater awe band then hanging, The terror q[uhai]rof will bring the highlanders To ane greater conformity for the tyme to come'.[160] By March 1686, at least 200 judgements had been rendered, and one, of June 1683, illustrated the kind of claims involved.[161] Donald MacDonald of Moidart asserted that in 1681 Duncan Macgillesbeg had been responsible for the theft of seven of his cows, then *en route* to market in Edinburgh. He had then approached one of Moidart's agents with a devious offer:

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[158] NRS, PC8/7, f.16r.
[159] NRS, PC8/7, f.24r.
[160] NRS, PC8/7, f.10 and at 16r.
[161] NRS, PC8/7, ff.149r-157r.

> [He] said to him that he was at much Heedless paynes and expenss in searching for the s[ai]d seven kowes, And that if he would agree with him for ane certaine sowme of taskell mo[n]ey He would gett him back the s[ai]d seven kowes.[162]

The commissioners imposed a fine of 500 merks upon Macgillesbeg, alongside a charge of twenty-five merks per animal stolen. The sheer number of cases brought before the commissioners, as well as the diversity of the claimants – both Highland clans such as the Campbells, Camerons, MacGregors, MacDonalds, Mackenzies and Macnabs, and Lowland families like the Menzies and Drummonds, made use of the service – illustrates the receptiveness of the locality to the kind of immediate access to justice offered by the commissioners' arbitration panels.[163]

The southern commissioners themselves were delighted with the success these varied methods seemed to bring. They had been unable to penetrate beyond the Highland fringe until 1683, but within a year thereafter they felt secure enough to boast that 'The countreyes adjacent to the highlands have not bein in such quyet and security for above 20 yeirs', and they concluded that 'the Task to banish away theefing and Robeing is not soe dificult as we supposed'.[164] They were particularly pleased with the apparent eagerness of local elites, particularly in Argyll, to cooperate with them. Allowances must of course be made for exaggeration, but there was a palpable sense by 1684 that the commission was making real progress in settling the Highlands.[165] Such confidence, however, was severely shaken by the widespread disruption caused by Argyll's rebellion, and in March 1686 the commissioners complained that:

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162 NRS, GD201/1/139.
163 Hopkins, *Glencoe*, p.94; Macinnes, *Clanship*, p.140.
164 NRS, PC8/7, ff.7v-8r and at f.15v.
165 NRS, PC8/7, ff.8v-9r, f.10v, f.11r and at f.12r.

> Wee find the highlands by reasone of the Late trowbles [the]rin and the
> Libertie q[uhi]ch the highlanders did then take to themselves Have theirby
> casten off much of [th]e obedience to q[uhi]ch they were formerly reduced.[166]

Perhaps the southern division really could have lived up to its boast and facilitated
lasting peace in the Highlands. But its manifest loss of vigour after 1684 – two
recorded meetings in 1685-86, compared with twenty-three in 1682-84 – rendered the
point academic.

However, historiographical attention has tended to be caught less by the
Highland commission's methods than by its general ethos. Macinnes concludes that
it was 'the only phase of conciliation in the Highlands during the Restoration era', a
reading which is based upon the argument that the commission thrived on a greater
degree of cooperation with regional elites than had hitherto been practised.[167]
McAlister is in broad agreement, and describes the commission as 'progressive'.[168]
This basic idea of cooperation has been expanded by Hopkins and Roberts, both of
whom argue that the commissioners' willingness to look beyond the highest reaches
of the Highland elite, and engage directly with lower-level heritors, was central to its
success.[169] Such assessments are however problematic, not least because the idea of
working with the local community had in fact been a key tenet of Highland policy
throughout the 1660s and 1670s – cooperation was not suddenly invented in 1682. It
would in fact be more meaningful to view the commission as the Restoration's most
effective marriage between the intellectual constructs of direct and indirect control.

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[166] NRS, PC8/7, f.25v.
[167] Macinnes, *Clanship*, p.139.
[168] McAlister, 'James VII', p.151.
[169] Hopkins, *Glencoe*, p.93; Roberts, *Clan, King and Covenant*, p.162.

There can be little doubt that the commission was intended, in part at least, to ensure that law and order policy bypassed local power networks. Its terms implied strongly that its courts were to be considered superior to all existing local jurisdictions. Thus, 'all sheriffs, stewarts, baillies of royalties, regalities and barronies' were ordered to be 'aiding and assisting […] as they shall be required'.[170] Moreover, the Privy Council's interaction with the commissioners made it clear that they were viewed emphatically as agents of central government, rather than as local lieutenants with a free rein. Regular reports were demanded (the southern division submitted accounts of its activities in December 1682, June 1684, August 1684 and March 1686), and a close eye was kept on the commissioners' proceedings. As early as October 1682, for instance, the Council demanded a list of all those commissioners who had so far not attended meetings.[171] More striking still, Perth, as Justice General, personally attended meetings of the southern commission on at least three occasions in 1683 and again in 1688.[172]

Conciliar supervision was also maintained through designated agents, at least amongst the southern division's commissioners. Cromlix was the first of these. In December 1682, he was appointed as a standing interval convener, and served as *praeces* for all the division's meetings at which he was present until June 1684. He was further charged 'to keip correspondence with the com[missione]rs of the other Iurisdictiones', and it was Cromlix also who transmitted reports from the commissioners to the Council, and orders in the other direction.[173] In 1684, however, Breadalbane was added to the commission (the only nobleman appointed), and he soon replaced Cromlix as the key figure. That autumn he began presiding over

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[170] *RPCS*, vii, p.511.
[171] *Ibid.*, p.559.
[172] NRS, PC8/7, ff.7r-v, 14v-16v, 19v-21v and at 25v.
[173] NRS, PC8/7, ff.8r-v.

meetings, and issuing arrest warrants in his own name.[174] By late 1688 Perth, now

Chancellor, writing to Breadalbane with instructions for the commissioners, had

seemingly accepted that the latter was their *de facto* leader:

> I desire that yo[u]r Lo[rdshi]p would be pleased to advertise Vrckle or
> Pittkilanie and the rest of the Commissioners to keep the diet punctualy
> which you appointed at yo[u]r last sitting at Creiff And that you vigorously
> putt in execution all instructiones which have been formerly given to you.[175]

Cromlix and Breadalbane therefore served as bridges linking the commissioners with

the Privy Council, allowing both bodies to communicate with each other. In this way

they furthered the design of fashioning the Highland commission into an instrument

for transmitting government authority directly into the locality.

Efforts were also made to ensure that the bureaucracy of the commission ran

as smoothly and professionally as possible. Court officials, including clerks,

messengers and notaries, were appointed; the Privy Council in October 1682

confirmed that the commissioners, in common with ordinary commissioners of

justiciary, were to have full power to grant protections to those whom they cited; the

Council further ordered that citations were to be made within the jurisdiction in

which a crime was committed, rather than the one in which an offender lived; and in

1686 it was declared that 'all executiones given in aga[ins]t any pairtie wher they are

not personally apprehendit' would be considered void unless properly worded and

witnessed.[176] Such procedural precision speaks of a genuine desire to create a stable

and formal infrastructure, as does the recurrent desire to maintain communication

between the four divisions. At the end of 1682, the commissioners of the southern

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[174] NRS, PC8/7, f.22v; NRS, GD112/39/136/8.
[175] NRS, GD112/39/144/10.
[176] NRS, PC8/7, ff.4v-5r, f.6v, f.25r and at f.92r; *RPCS*, viii, p.60.

division expressed their opinion that the notorious trouble-spot of Lochaber would best be served through co-ordinated meetings of the southern and central courts. The Privy Council endorsed this idea, and also instructed that representatives from each division should liaise regularly 'so as persones proceided against in ane district may not be receaved nor intertained in another'.[177] Such concepts soon developed, and by 1683 the southern commissioners advocated something much more wide-ranging:

> The Com[missione]rs of the se[ver]all districts [should] be Comanded be order off Counsell To send 3 or 4 of their number once a yeir To meit the Lord Iustice generall at ane convenient place and on ane certain day To give ane accompt of their diligence and of the conditiones of the shyres within their re[s]p[ecti]ue Iurisdictiones That all necess[a]r resolutions may be taken for the generall peace and quyet of the countrey.[178]

This proposal would have seen the Highland commission develop into a formal federation of justice courts, but also suggested ambitions towards the wholesale devolution of Highland policy to it. Some movement in this direction was made; the southern and central divisions held a week-long joint court at Inverlochy in August 1683, and a year later a general meeting of representatives from the southern, central and eastern divisions was held. By 1686, however, the southern commissioners had manifestly lost patience with the sluggish response all their overtures received, and they informed the central division that, in order to crack down on disorders in Lochaber, they themselves intended to hold courts within the latter's jurisdiction, at Rannoch, Inverlochy and Keppoch. Their colleagues in the central region were

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[177] NRS, PC8/7., f.9r, f.92v and at ff.93r-v.
[178] NRS, PC8/7, f.16v and at ff.94r-v.

invited to assist them, but it was clear that the heady aspirations for a Highland-wide federation were very much on the wane.[179]

In other ways too, the drive towards efficiency and professionalisation should not be overstated. Not least, the commissioners' pleas that they be given allowances for expenses were studiously ignored, although they were permitted to offset some of their costs using revenue from fines.[180] More generally, it was assumed that 'seing thes commissioners are granted for public conveniency and preserveing the peace of the Highlands' their 'procedore is not to be quarrelled upon the niceties and formalities of law'.[181] The sense that the commissioners should be allowed a certain flexibility of approach was graphically illustrated by the case of Alasdair roy MacGregor, 'ane notorious hectoring thieff hounder out and resaiter of thift'. He had been summoned to a court at Crieff in June 1684, but failed to attend. He did, however, descend upon the streets of the town during the night, whereupon 'ordor was Immediatlie given to ane sergant with a small pairtie of his ma[jes]ties forces that were attending the court To endeavour to aprehend him'. In the ensuing struggle, 'on of the p[air]tie with his ballgoneit in the muzell killd him dead'. The Privy Council saw absolutely nothing wrong with this kind of rough justice, instead declaring their approval of the commissioners' actions.[182] Despite the obvious intention that the commission should offer a firm and professional framework for justice, there remained a lingering assumption that, where unruly Highlanders were concerned, more questionable tactics were still occasionally acceptable.

If professionalisation and conciliar supervision highlighted the influence of direct theories of control, there was a limit to how far this centralising agenda could

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[179] NRS, PC8/7, f.15r, f.20r, ff.25v-26r and at f.26v.
[180] NRS, PC8/7, f.16r, 20v-21r and at f.26r; *RPCS*, vii, pp.559-60.
[181] *RPCS*, xi, pp.390-91.
[182] NRS, PC8/7, f.19r; *RPCS*, xi, pp.70-71.

be pressed. Local magnates were, as always, keen to protect their vested interests. In October 1682, David Murray, 5th viscount of Stormont wrote to Breadalbane on behalf of the southern division (barely a week into its existence), defending its right to summon any of the earl's vassals suspected of theft, and complaining that 'the sojers who wer at Achallader complained of ill useage by your people ther'. Stormont went on to plea that Breadlabane should throw his weight behind the commissioners:

> The Com[m]issioners […] ar hoopfull your lo[rdship] wil cause them be civilly used and provyded for their money at reasonable rats. I know the Com[m]issioners lookes for yowr self to come hither and not only contwnance their Meeting but also give them your best advyse for the good of the kings service and if your lo[rdship] come not it wilbe ill represented.[183]

The seriousness of this tension was illustrated by a list of ten demands drawn up around 1684, aimed at curtailing the commissioners' influence. Although its authorship is unclear, this document plainly demonstrated the anxiety of regional elites that the commission was eroding their authority. It demanded that 'in All the districts, uhere the Marquis of Atholl […] The duke of Gordon, The Earles of Mar and Airly has interest some Gentlemen may be added to the Highland commission uhom they shall name'. It also asked that the procedures of the commissioners' courts be tightened up, so as to curtail their powers, and, crucially, that they respect the jurisdictions and judgements of all 'Courts of Regality, Barron and Baylivry'.[184] That such anxieties existed at all perhaps reflected the relative success of the

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[183] NRS, GD112/39/134/7. The very fact that Stormont, who was never named as a commissioner, was speaking for them in this way does in itself hint that the 'soft power' of regional elites remained very much in evidence.
[184] NRS, Erskine of Kellie and Marr Papers, GD124/6/124.

commission as a centralising agency, but they are also a reminder that local power networks were too robust to be ignored completely.

As a result, the Highland commission also drew upon indirect thinking. Around half of the men appointed in 1682 belonged to major Highland families (including some traditionally trouble-making groups such as the Camerons, Macleans and MacDonalds), with seven of them - Ewan Cameron of Lochiel, Randal MacDonald of Glengarry, Ludovick Grant of Freuchie, Lachlan Mackintosh of Torcastle, Alexander MacNaughton of Dunderawe, Alexander Robertson of Struan, and David Ross of Balnagown – actually being clan chiefs. Moreover, practically all of the commissioners were resident either in the Highlands, or on the Highland fringe.[185] Such patterns show the continuing importance of local power defined more widely than simply the peerage, and indeed the government was fully aware that the commissioners' success would ultimately rest upon the cooperation of the locality. In adding Breadalbane to the commission in 1684, the Council observed that 'the considerable interest which he has in severalls of those shires' would make him 'very instrumentall to prevent such disorders in those parts in the future'.[186] The commissioners, in their report to the Council of June 1683, were equally sensible of the importance of local goodwill:

> [The] comissioners of Iusticiary desyred [to] acquaint the Lords of his ma[jes]ties privie counsell That they mett with a more frequent number of heretors and all sorts of other people then they reasonabllie could have expected And found a greater Incina[ti]one in them to comply and concurr with any means that could be proposed for suppressing of thift and robrie Then they could have conceaved Wherby they have hopes that if courts of Iusticiarie of this nature be Incouradged and frequently keiped, That

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[185] See appendix 5 on the attached CD for a full list of commissioners.
[186] *RPCS*, viii, p.284.

> barbarous countrie may be reduced to greater Civilitie then hes bein knowne Amongst them in many years.[187]

Accordingly, it is hardly surprising that the thief-catching activities of the Highland commission routinely relied upon local collusion, both in terms of requiring heritors to report thefts and, on occasion, asking them physically to apprehend bandits and present them to the justice courts. In 1684, for instance, 'the Laird of mcgrigor and ten or tuelve mor of his name' were ordered to catch a group of fugitive MacIlphatriks, while two years later the commissioners issued a general order to all landlords, requesting them to apprehend a group of 'several hielanders in armes' who were ranging across the country under pretence of begging, but in actuality committing thefts.[188]

The most obvious manifestation of the Highland commission's continuing attachment to indirect rule was its use of bonding. It advertised its determination to begin collecting sureties as early as December 1682, and the Privy Council rubber-stamped this two months later by delegating all responsibility for collecting bonds, save only that noblemen would still be required to report to Edinburgh. There was more to this than merely changing the organisation responsibly for collecting bonds. The groundwork for a thoroughly overhauled policy had already been laid in October 1682, after the commissioners discovered that invoking existing sureties – that is, those gathered in the 1660s and 1670s – simply resulted in 'divers heretors and heads of clanes endeavouring to disclaime persones given up to the com[missione]rs'. They therefore demanded that 'the lands lords [and] heritors of the heighlands give in ane sub[scribi]t list to them wpone oathe of all p[er]sones reseiding within thair bounds', along with inventories of all their weapons. This call

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[187] NRS, PC8/7, f.10v.
[188] NRS, PC8/7, ff.22v-23r, ff.23v-24r and at f.25r.

reflected the commissioners' decision to cast their net much wider than had the Privy Council; alongside senior chiefs and landlords, they were also determined to take bonds from heritors, life-renters and wadsetters, and to do so on a systematic, parish-by-parish basis. [189] Collection of these bonds took place in 1683 and 1684. Perthshire yielded 178 from twenty-one parishes; Argyllshire 208 from twenty-six; Stirlingshire and Dumbartonshire twenty-three between them; and seven were taken from individuals of uncertain residence. On top of this, there were three special cases. The leading men of the landless clan Gregor in June 1683 gave general security for their subordinates 'q[uhai]rsoeever they duell within the Kingdome'. Nine bonds were collected in 1684 from individuals who had been declared fugitive but wished to submit themselves to the commissioners (which of course went some way to vindicating the commissioners' faith in amnesties). Also in 1684, forty-one sureties were collected from the marquis of Atholl's wadsetters.[190]   In total, the commissioners collected *c.*460 bonds in a year. This was by a considerable margin the most ambitious and rigorous bonding exercise since 1660, and so encapsulated the hybrid identity of the Highland commission. It was a body which, by using powers delegated from Edinburgh, sought firmly to impose public authority upon the locality, yet it did so using the well-worn strategy of indirect control, allowing it to work in cooperation with a range of regional luminaries and exploit their personal authority.

The great confluence of traumas which beset the British Isles between 1678 and 1682 fundamentally changed the Restoration regime. Although historians of England, Scotland and Ireland point to different national experiences, they concur that the 1680s produced a 'second Restoration' which saw government become more

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[189] NRS, PC8/7, f.6r, ff.7v-9r and at f.10r; *RPCS*, viii, pp.58-60 and at pp.196-97.
[190] NRS, PC8/7, ff.110v-147r.

authoritarian than it had been hitherto. In Scotland, the fall of Lauderdale and the attendant rise of Albany disrupted the political *status quo*, and this had fundamental implications for the Highlands. Albany abandoned the reliance on single lieutenants which had been a key feature of Lauderdale's policy, and he expanded his Highland client-base beyond the two Campbell earls who, by the 1670s, had become the government's pre-eminent agents. It would be tempting to slot all of this into the 'second Restoration' construct – an attack on the vested interests of the Lauderdale era, followed by a movement away from over-mighty nobles. But this would be far too schematic. Albany's own engagement with Highland issues was largely limited to ensuring that the key local players answered to his interest, and the attack on the Campbells was more about cementing the duke's position than changing the local balance of power. In truth, the shifting focus and policies of the 1680s concealed strong continuities. James continued Lauderdale's scheme of attempting to create a transcendent sense of public authority running through Highland governance, but this remained in constant symbiosis with the personal power of nobles and kin elites. Such as there was one, the 'second Restoration' in the Highlands was a phase of tactical change but strategic continuity. The mechanisms by which James exercised control were different from those used by Lauderdale. But in his simultaneous reliance upon both public and private power, upon both direct and indirect means of control, his approach closely mirrored that of his predecessor.

<u>CHAPTER **7**</u>

The Highlands and the 'Fiscal-Military' State

In November 1684, James Renwick, a minister attached to the radical Presbyterian sect known as the 'Cameronians', published *An Apologetical Declaration and Admonitory Vindication of the True Presbyterians of the Church of Scotland.* This inflammatory document, which asserted the Cameronians' determination to defend the covenants against all threats, has been described by Cowan as a 'declaration of war' against the government. The regime, in response, threatened execution on anybody who refused to abjure the *Apologetical Declaration*.[1] So began the Restoration's most intense phase of persecution against nonconformists, a period of harsh and often summary punishment which formed the centrepiece of the 'Killing Times'. This heightened repression, scarring much of the 1680s on either side of its zenith in 1684-85, has often been understood as the culmination of the conflict between Episcopalians and Presbyterians which, in many conventional narratives, was the overarching theme of Scottish history throughout the Restoration. More recently, however, the 'Killing Times' have also been viewed as part of a second meta-narrative, focused on the growing coercive capacity of the Scottish state. By this thesis, the Restoration regime injected a new militancy into government, something which was allied to increased fiscal acquisitiveness. This chapter will seek to assess the place of the Highlands in this model through exploration of two broad issues. First, it will consider the Highland contribution to the fiscal and military resources of the Scottish state. Second, it will then look at the role of the military in the government of the region, focusing in particular on why force was used, and the manner in which it was deployed.

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[1] Cowan, *Scottish Covenanters*, pp.120-21; McAlister, 'James VII', pp.164-65.

The concept of a 'military revolution' remains one of the most familiar debates in the historiography of early-modern Europe. In its basic form, the model was first proposed by Michael Roberts. For him, technological advances in the century after 1560 forced rulers to create larger, more permanent, and more professional armies. This, in turn, had a transformative impact on society at large, not least in that it stimulated the development of inflated, centralised and financially voracious government bureaucracies. Thus developed the 'fiscal-military' state.[2] Roberts was primarily an historian of Sweden, and it was particularly to that kingdom that he applied his model. Subsequent historians of Sweden, if not quite accepting the grandiose sweep of his argument, have nonetheless echoed several aspects of it, particularly in relation to the absolutist system imposed after 1680 by Karl XI (r.1660-97). This king's ruthless application of the *reduktion* (by which previously alienated Crown lands were reclaimed) is usually credited with first stabilising and then vastly increasing the state's financial resources. This, in turn, underpinned his military reforms, which used *knektehåll* (provincial contracts for levies of troops) and the *indelningsverk* (permanent allocation of farms to finance specified military expenditure) to provide by the end of the seventeenth century a standing army of around 40,000 men.[3] With these reforms, it is generally agreed, Karl XI (building upon the efforts of his predecessors, particularly Gustav II and Karl X) transformed Sweden into one of the most effective 'fiscal-military' states of seventeenth-century Europe.

Yet Sweden is not the only country to which the 'fiscal-military' state model has been applied. France was at war for most of Louis XIV's reign (1643-1715), and

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[2] M. Roberts, 'The Military Revolution, 1560-1660' in M. Roberts (ed.), *Essays in Swedish History* (Minneapolis, 1967), pp.195-225, *passim*.

[3] Upton, *Charles XI*, pp.51-89; Lockhart, *Sweden*, pp.130-34; Kirby, *Northern Europe*, pp.219-22; R.I. Frost, *The Northern Wars: War, State and Society in Northwestern Europe, 1558-1721* (Harlow, 2000), pp.216-23.

by the 1690s warfare accounted for more than three-quarters of government expenditure. This yielded an army of some 400,000 men by the end of the century, and was paid for through ruthless exploitation of France's chaotic fiscal system, particularly by expanding indirect taxation and public borrowing.[4] The gradual recovery of Brandenburg-Prussia from the devastation of the Thirty Years War (1618-48) owed much to the Friedrich Wilhelm's (r.1640-88) creation of an increasingly formidable army which, in the 1680s, peaked at 30,000 men. This, in turn, was facilitated by a rationalised structure of revenue collection under the *Amtskammer* (Office for the Domains), and a new excise tax.[5] In the Dutch Republic, the string of catastrophic military defeats suffered in 1672 spurred a recalled House of Orange, represented by Pince William III (r.1672-1702), to impose very high levels of taxation in order to support a huge army (roughly 100,000 men at its height), a general trend which continued for the remainder of the *stadholder's* life.[6] Even Spain, usually regarded as the 'sick-man' of Europe during the reign of Carlos II (1665-1700), responded to its military commitments against Portugal and France with concerted (although admittedly not wholly successful) attempts at fiscal reform throughout the 1680s, especially by reducing *juros* (annuities paid for loans to the Crown).[7] Across Europe, then, the broad notion of expanded military capacities sustained by heavier fiscal exaction resonates strongly.[8]

These ideas have also been applied to Stuart Britain. In England, the demands of the Civil War and Interregnum stimulated the development of a

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[4] D. Sturdy, *Louis XIV* (Basingstoke, 1998), pp.52-60 and at pp.126-27.

[5] Clark, *Iron Kingdom*, p.43 and at p.61.

[6] J.I. Israel, *The Dutch Republic: Its Rise, Greatness and Fall 1477-1806* (Oxford, 1995), p.818.

[7] Kamen, *Spain*, pp.367-69.

[8] There were, of course, notable exceptions. Jan III's near-trebling of the military capacity of Poland-Lithuania was achieved with virtually no reforms to either the military or fiscal machinery of the state. Instead, Sobieski relied upon the established system of magnate contributions. N. Davies, *God's Playground: A History of Poland* (Oxford, 1981), i, p.478.

massively inflated military establishment, yielding a standing army which peaked at nearly 50,000 men. This was sustained by an enhanced fiscal apparatus, incorporating more effective taxation (primarily the assessment and the excise) as well as increased public borrowing.[9] Yet because this 'fiscal-military' revolution was intimately associated with the parliamentary and republican regimes of 1642-60, the position of the Restoration state was weaker. Indeed, J.D. Davies has argued that political pressures, principally the fear that a militarily strong monarchy was also an arbitrary one, ensured that the army shrank to such an extent that it became 'not a particularly significant factor in domestic or international politics'. The navy, being less associated in popular imagination with arbitrary rule, fared a little better, but even it suffered a marked contraction in the 1660s.[10] None of this should be pushed too far, however. For Braddick, reductions in the size of both the army and the navy simply masked the fact that England's military capacity had been permanently enhanced. This latent expansion, he argues, was confirmed not only by the retention of small standing forces, but by periodic mobilisation against the Dutch and, after 1688, William III's rapid success in getting England prepared for major warfare on the Continent.[11]

If the military resources of Restoration England were somewhat equivocal, fiscal developments were equally complex. Some historians have noted a distinct trend towards fiscal rationalisation. Howard Tomlinson maintains that advances were made in three areas. Firstly, the decision to put the Treasury into commission from 1667 allowed it to regularise its book-keeping, as well as to assert its pre-eminence in public financial matters. Secondly, more rigorous supervision of

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[9] Braddick, *State Formation*, pp.213-21 and at pp.253-65.

[10] J.D. Davies, 'International Relations, War and the Armed Forces' in L.K.J. Glassey (ed.), *The Reigns of Charles II and James VII & II* (Basingstoke and London, 1997), pp.211-34, at pp.218-21.

[11] Braddick, *State Formation*, pp.221-26.

revenue collection, particularly through abandoning tax-farming for the major indirect taxes, heightened efficiency. Finally, the introduction of credit orders allowed the government to extend its pool of lenders, even if the system became somewhat problematic after the 'Stop of the Exchequer' in 1672.[12] But if Tomlinson emphasises the increasing sophistication of the fiscal regimen in England, others have highlighted its ongoing limitations. Tim Harris and Lionel Glassey both argue that lax collection meant the Crown never enjoyed the ordinary annual income of £1,200,000 laid down as part of the Restoration settlement, a situation exacerbated by the expense of the Dutch Wars and, to some extent, Charles II's personal extravagance. Nevertheless, both also concede that the reforms outlined above, combined with economic growth from the early 1670s, meant that Charles II's finances grew increasingly healthy towards the end of this reign, while James II's ability, in the aftermath of Monmouth's rebellion in 1685, to wring further indirect taxes from Parliament made his position still more comfortable.[13] If then it is questionable whether England after 1660 can be described as a 'fiscal-military' state, historians have nevertheless located some evidence to suggest that the reforms of the 1640s and 1650s had permanently expanded the state's resources, even if this potential was rarely exploited to the fullest.

In Scotland, any notion of a 'fiscal-military' state would seem to be undermined by historians' focus on the country's unimpressive bureaucratic

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[12] H. Tomlinson, 'Financial and Administrative Developments in England, 1660-88' in J.R. Jones (ed.), *The Restored Monarchy 1660-1688* (London and Basingstoke, 1979), pp.94-117, at pp.95-105.

[13] Harris, *Restoration*, p.60; Glassey, 'Politics, Finance and Government', at pp.40-51. J.P. Norrey's study of south-western England illustrates the interplay of these issues in microcosm. He concludes that revenue-collection remained woefully inefficient throughout the Restoration, and that such improvements as were made can almost exclusively be credited to the pressure imposed by a reformed Treasury. P.J. Norrey, 'The Restoration Regime in Action: The Relationship between Central and Local Government in Dorset, Somerset and Wiltshire, 1660-1678', *Historical Journal*, 31:4, 1988, pp.789-812, at pp.796-803.

structure. Jackson, focusing particularly on the excise tax, notes that widespread inefficiency and corruption in the system of collection circumscribed the government's ability to maximise its income.[14] Harris agrees that the regime proved consistently unable to manage its finances properly, and adds that this in turn militated against maintaining substantial military resources, save a small standing army of around 1,200 men.[15] Yet if Scotland was hardly a classic 'fiscal-military' state during the Restoration, it has been suggested that movement in this direction was being made. Although acknowledging its limitations, Brown makes the point that taxation became much more ubiquitous than it had been under earlier Stuart kings, whether through the excise (1661), land tax (1665) or, ultimately, the reintroduction of the assessment (1667).[16] In the military sphere, similarly, Lenman contends that the state was able to maintain an enhanced capacity, despite its financial difficulties, through the establishment of the militia (1668-69), a device which allowed it to mobilise and arm forces at private rather than public expense.[17] However, it is Lee who has provided the most detailed assessment of Scotland's fiscal and military resources. He argues that the chaotic state of the public finances before 1667 (exacerbated by the Second Dutch War) stimulated a period of intensive reform under a sizeable Treasury Commission which had, by 1671, performed 'possibly the most determined and sweeping attempt at financial reform in the seventeenth century'. For Lee, these reforms (only partially successful) were aimed squarely at sustaining the military, which was consistently the largest single item of

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[14] Jackson, *Restoration Scotland*, pp.81-82.
[15] Harris, *Restoration*, pp.111-12.
[16] Brown, *Kingdom or Province*, p.143.
[17] B.P. Lenman, 'Militia, Fencible Men, and Home Defence, 1660-1797' in N. MacDougall (ed.), *Scotland and War AD79-1918* (Edinburgh, 1991), pp.170-92, at pp.170-84.

expenditure.[18] In this reading, then, there was a clear intent to transform Scotland along the lines of the 'fiscal-military' state model, even if the design was never fully accomplished.

It is straight-forward enough to establish the contribution made by the Highlands to the Restoration regime's haphazard drive towards expanding its financial and military resources, at least on paper. To take the financial sphere first, the two principal public revenue streams in Restoration Scotland were the excise and the assessment (or cess).[19] The excise was granted to Charles II for life in 1661, and was set at an annual levy of £480,000, or £40,000 per month. Shire valuations were revised two years later, although the overall total remained unchanged. The assessment was levied by the Committee of Estates in 1660, using valuations from the 1640s. It was then abandoned, before being reintroduced using a fresh valuation in 1667. This new valuation formed the basis of further impositions, in 1670 and 1672, before fresh valuations in 1678 underpinned a new levy in that year, and a further one in 1681. Although the duration of grants varied, from six months in 1660 to five years in 1678 and 1681, the annual valuation for Scotland always stood at £864,000 (£72,000 each month). Table 6 (overleaf) summarises the projected Highland share of these monthly impositions under each valuation. In general terms, the financial burden placed upon the Highlands remained fairly stable across the Restoration, although each revaluation, with the exception of the 1678 amendment to the cess, imposed a slightly higher contribution. Yet within this total there were a number of significant shifts. Most strikingly, the excise recalculation in

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[18] Lee, 'Government and Politics', p.129 and at pp.130-31. This model of impressive treasury reform after 1667 echoes an earlier argument presented by Athol Murray, and is generally followed in the subsequent work of Lee, see Murray, 'Scottish Treasury' and Lee, '*Dearest Brother*', pp.122-23.

[19] For fuller details on the composition of the Crown's revenues in this period, see Lee, 'Government and Politics', chapter 3.

1663 saw modest falls in the levies from Cromarty and Sutherland, offset by increases in Caithness (£20), Inverness and Ross (£100) and Argyll (£250 – a jump of more than 200 per cent). Comparable discontinuity affected the assessment. Caithness, and Inverness and Ross saw their valuations increase between 1660 and 1667 (although in the case of Inverness and Ross the levy was reduced again by 1678). As for the burghs, the burdens on Inverness and Dornoch fell progressively over the period: Tain's liability fell by nearly one-third after 1667; while Fortrose, Cromarty and Wick, which had not been valued in 1660, all made appearances in 1667 and 1678.

Area	*Excise (£ s d Scots)*		*Assessment (£ s d Scots)*		
	1661	*1663*	*1660*	*1667*	*1678*
Argyllshire	193 16 0	443 16 0	1950 0 9	1947 10 09	1947 10 9
Caithness	133 4 0	153 4 0	485 5 0	599 5 0	599 5 0
Cromartyshire	30 0 0	24 0 0	67 16 0	68 5 0	68 5 0
Inverness-shire	694 8 0	794 8 0	2590 19 0 (including Ross)	2782 7 0 (including Ross)	2590 19 0 (including Ross)
Ross	204 0 0	204 0 0	-	-	-
Sutherland	94 12 0	72 12 0	336 0 0	336 0 0	336 0 0
Cromarty			11 10 06	12 0 0	12 0 0
Dingwall	-	-	29 8 0	12 0 0	18 0 0
Dornoch	-	-	-	30 0 0	30 0 0
Fortrose	-	-	-	30 0 0	30 0 0
Inverness	-	-	294 5 0	264 0 0	216 0 0
Tain	-	-	59 15 6	60 0 0	42 0 0
Wick	-	-	-	30 0 0	20 0 0
Totals	**1554 0 0**	**1682 0 0**	**5824 19 9**	**6171 7 9**	**5909 19 9**

Table 6: Monthly taxation valuations in the Highlands, 1660-78.[20]

Perhaps a more important point relates to the modesty of the Highland contribution to the king's revenue. The six Highland shires represented about half of the territory of Scotland, but were expected to contribute only about 8 per cent of the

[20] See appendix 6 on the attached CD for a full breakdown of taxation levies in the Highlands.

assessment revenue, and a mere 4 per cent of the excise. The assessment was levied on valued rents, so low impositions imply low rental values, and surviving valuation rolls would seem to bear this out. A valuation of Inverness-shire, dated 1667, reckoned that the shire's rents were worth around £73,188. Argyll, in a valuation from the mid-1680s, was totalled at £128,418.[21] This compared unfavourably with other, geographically smaller shires, such as Perth (valued at £341,626 in 1667), Aberdeen (£236,240, 1674), Berwick (£216,223, 1680), Dumfries (£238,000, 1671), Forfar (£171,519, 1683) or Lanark (£162,000, 1667), all of which faced correspondingly higher assessment levies.[22] The low excise figure was equally unremarkable. Composed mostly of a tax on the brewing industry, but also from duty on imports, it was heavily associated with conventional trade, something in which the Highlands was singularly deficient. In short, the relatively small amount of revenue sought from the Highlands tended to reflect and confirm the region's perceived marginality.

Whatever the grants of taxation show about the government's fiscal intentions, it is clear that they do not reveal a great deal about the reality. Across Scotland, the money actually received by the government was probably always substantially less than the levies implied, and in the Highlands the situation was no different.[23] This, certainly, was the perception behind the Scottish Parliament's observation in 1669 that:

> Diverse persons within the shires of Ross, Sutherland, Caithnes, Argyll, Invernes and burghs within the same, ar in arrear and deficient in payment of a considerable parte of the annuitie of excise granted to his majestie in the yeer 1661, the taxation and assessment imposed by the conventions of estates

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[21] NRS, E106/3/1; E106/17/1.
[22] PKA, Commissioner of Supply Documents, CC1/1/8; NRS, E106/2/1; E106/6/1; E106/12/1; E106/16/3; E106/21/1.
[23] Lee, 'Government and Politics', p.110.

in the yeers 1665 and 1666, notwithstanding of all legall diligence used for inbringing therof.[24]

Although the surviving records are extremely patchy, there are indications that this complaint had some basis in fact. The assessment voted in January 1667 was for twelve months. An account of the first nine months reported that the Highland shires, liable for about £51,000, were already in arrears to the tune of nearly £40,000. The Highland burghs, meanwhile, had paid only about £300 of their £3,943 liability.[25] Later collections encountered similar difficulties; the £2,436 6s 9d of arrears from the five-month levy of 1670 were blamed on 'some Remote shires and Burghs', while the £22,928 still owing in 1679 from the twelve-month levy of 1672 was specifically tied to the Highland shires (with the addition of Orkney and Shetland).[26] By 1680, the Highland burghs and shires were nearly £20,000 in arrears.[27]

Payment of the excise is still more difficult to trace, but there appear to have been some similar problems. Firm references exist to deficiencies in the burghs of Tain (1668), Fortrose (1669) and Inverness (1681), as well as in Mull (1674), Ross-shire (1684) and Caithness (1685).[28] Argyllshire also seems to have been in arrears for most of the 1670s.[29] There are, however, clues that, under James VII, collection of the excise may have been becoming more reliable. Roughly £2,000 was collected from Caithness in the year from 1 November 1685, about £160 more than the shire's liabilities under the 1663 valuation.[30] Over the same period, Sutherland yielded its entire liability of £871 4s; Cromarty paid its full £288; and Inverness-shire handed

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[24] *RPS*, 1669/10/57.

[25] NRS, Supply Accounts, E67/6/1.

[26] NRS, E67/7/1, E67/9, f.1 and at f.14.

[27] NRS, GD112/43/14/12.

[28] MacPhail, *Highland Papers*, i, pp.263-64; MacGill, *Old Ross*, i, pp.117-18; *RPCS*, vii, p.73; *RPCS*, viii, pp.472-73; NRS, SC14/81/1.

[29] Cameron *et al*, *Justiciary Records*, i, pp.46-48

[30] NRS, Excise Collectors' Accounts, E79/5/2-3.

over nearly £100 more than its bill of £8,980 16s.[31] The situation was slightly less encouraging in Argyll, which registered an under-payment of around £1,000 for the period May 1683 to November 1685. Ross-shire was even worse, apparently underpaying by about £2,000 in 1685-86.[32] While there is simply not enough data to draw firm conclusions, it seems likely that this spurt of relatively studious collection was the exception, rather than the rule. In all probability, the excise, like the cess, flowed in only sluggishly from the Highlands, if at all.

There were a number of explanations for such deficiencies, one being simple evasion. There was apparently a widespread culture in Tain of avoiding the excise on beer, to the extent that the burgh council in 1663 threatened the town's brewers with imprisonment.[33] Inverness burgh council complained in 1666 that it was forced to carry most of the burden for paying the excise because 'the Shyre of Innernes payes little or nothing, nor for any thing can be sein be this Counsell are also like to do no dutie'.[34] Farther south, the inhabitants of Inveraray hit upon an ingenious method of tax-avoidance in the early 1680s. Noticing that the parks of Inveraray were lying waste in 1682 and 1683 and so free from all public dues, several town inhabitants began pasturing their livestock on this land, thereby avoiding the necessity of paying rent and duties.[35]

At the same time, the government's own fiscal machinery was far from perfect. The lack of a designated collector in Inverness-shire, for instance, was by 1669 forcing the sheriff clerk, George Leslie, to undertake the task.[36] Similarly, there was clearly no collector on the western seaboard during the early 1670s, when

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[31] NRS, E79/10/2-3 and at 5-7.
[32] NRS, SC54/20/3/3/11; NRS, E79/10/4.
[33] MacGill, *Old Ross*, ii, p.77.
[34] Mackay *et al*, *Records of Inverness*, ii, p.230.
[35] NRS, SC54/20/3/3/6.
[36] *RPCS*, iii, pp.8-9.

Macdonnell was awarded nearly £3,000 in compensation for his services in collecting royal revenues from that region, particularly Skye and Sleat.[37] Collections could also be interrupted by administrative wrangles. The decision to impose a single burden jointly on Inverness-shire and Ross, despite the fact that the two shires were officially disjoined in 1661, caused tension because the commissioners of supply, most of whom were from Inverness-shire, imposed a lighter burden upon themselves (34s per £100 of valued rent) than upon their counterparts in Ross (46s per £100).[38] A rather different problem paralysed Argyllshire in 1686. Here, the commissioners of supply could not agree how best to divide up the shire's liabilities. The commission splintered as a result, leading to rival meetings issuing contradictory instructions. Eventually an appeal to the Privy Council resulted in the appointment of an outside convener.[39]

Moreover, office-holders could not always be trusted. Some were simply unwilling to perform a duty which would make them unpopular. When it imposed a stent of £1,000 to cover the cost of public dues (amongst other expenses) in 1663, the burgh of Tain felt it necessary to accompany its appointment of Alexander Ross and John Manson as collectors with the threat that they would be fined £4 if they refused to serve.[40] In other cases, officials under-performed. Sometimes this resulted from simple human error: Colin Campbell, collector of Argyll, mistakenly granted a full discharge to John Lamont for the supply from Cowal in 1683-84, despite the fact that £42 was still outstanding.[41] Other shortcomings were more serious. John MacLeod of Milton was imprisoned in 1681 for failing to collect the excise from Ross-

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[37] NRS, E26/11/2, f.204.
[38] *RPCS*, ii, pp.295-96.
[39] *RPCS*, xii, pp.191-92.
[40] MacGill, *Old Ross*, ii, pp.77-78. Similarly in Argyll, where there were difficulties in establishing a quorum at commissioner of supply meetings, a fine of £20 was imposed on all commissioners who failed to attend. NRS, SC54/20/3/2/16
[41] NRS, SC54/20/3/2/33. The error was quickly identified and a new discharge issued.

shire – by 1684, he was said to be responsible for arrears of perhaps £9,000.[42] Corruption was far from unknown. The inhabitants of Lochhead complained in 1664 that one Captain Donald Maclean and his deputy, Donald Macmarcus, were collecting the excise of Argyll and the Isles by virtue of a fraudulent commission from the collector, Sir Walter Seaton.[43] Alexander Mackintosh of Connage, sheriff-depute of Inverness, was put to the horn in 1669 after embezzling a portion of the shire's revenue.[44] Problems such as these inevitably curtailed the government's ability to collect public revenue with any efficiency.

A weak infrastructure was not the only problem. There were also a number of claims about incorrect valuation. The heritors of Caithness claimed in 1670 that many of their lands were 'most exorbitantly over valued', and that 'a number of Lands given out in proper wadsett and possest be oth[e]r persones' were included in their valuations.[45] Argyllshire made a similar complaint in 1685-86, and succeeded in winning licence from the Privy Council to conduct a complete revaluation of the shire.[46] The burghs too frequently felt aggrieved, the standard complaint being that they were sometimes compelled to pay twice, once as a burgh and once as part of their shire. Wick made this point in 1678, claiming that the heritors of Caithness forced them to contribute towards the shire's cess liability.[47] A similar problem formed one of the grievances raised by Cromarty during its successful petition of 1681 to be relieved of royal burgh status. It was claimed that the Urquhart lairds, who were hereditary sheriffs of Cromarty, had since 1661 forced all those heritors holding lands within the burgh to contribute their liabilities on these lands towards

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[42] MacGill, *Old Ross*, i, p.118
[43] NRAS1209, bundles 54 and 100
[44] *RPCS*, iii, pp.10-11.
[45] NRS, PA7/10, f.33.
[46] NRS, SC54/20/3/3/3.
[47] *RPCS*, vi, pp.500-1.

paying the dues of the shire, rather than the burgh. This necessarily reduced the town's ability to meet its own obligations, leaving it 'ruind [and] beggered'.[48] Of course, complaints such as these were neither unique to the Highlands nor wholly trustworthy; the royal burghs in particular had a venerable tradition of pleading inability to meet their financial burdens, and for historians a degree of caution is therefore necessary.[49] Nonetheless, the gaps in the government's machinery of collection were clearly matched by confusion as to exactly how the burden was to be divided up. Added together, all of these challenges (none of them unique to the Highlands) made collection of taxation a daunting task. James Menzies, whose duties as captain of one of the Highland company involved the collection of more than £20,000 in tax arrears across the region, declared in exasperation in 1680 that 'I am so trowbled with this effair I have in hand that iff I hade knowen I hade never undertaken it'.[50] His understandable despair reflected the government's general inability to extract from the Highlands the levels of taxation it desired.

The heightened financial acquisitiveness of Scottish government after 1660 was intimately related to its burgeoning military capacity. Charles II was the first Scottish monarch to have a standing army at his disposal. In terms of size it was not an especially large force: it numbered around 900 at the beginning of the 1660s, reaching a peak of perhaps 3,000 in the 1680s.[51] Within the officer corps of this relatively modest force, there was a limited Highland presence. Kenneth Mackenzie of Suddie was appointed a lieutenant in the earl of Mar's regiment in 1671, before being promoted to captain ten years later. Hugh Mackay, third son of Hugh Mackay of Scourie, was given a major's commission in 1685 (and, in 1689, would be

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[48] NRS, PA7/11, f.47; *RPS*, 1681/7/85.
[49] Toller, ''Now of little significance'?', pp.113-14.
[50] NRS, GD112/39/132/12.
[51] Lee, 'Government and Politics', pp.153-54.

appointed commander-in-chief in Scotland by William II). Robert Mackenzie, a cousin of Seaforth, served as a captain in Mar's regiment in 1688, succeeding his father. Most strikingly of all, Sir George Munro of Culcairn and Newmore, brother to the Munro chief, Sir Robert Munro of Foulis, served as major-general of the king's forces between 1674 and 1677.[52] Below the officer level it is impossible to ascertain the extent of Highland involvement in the regular army, although it seems likely that there was a scattered Highland presence. The muster roll of the seventy-strong company gathered by Suddie at Inverness in 1686, for example, contained a range of Highland surnames, including Fraser, Robertson, Macrae, MacDonald, Maclennan, Mackintosh, Cameron, Mackenzie, Maclean, Colquhoun, Grant, Macpherson, Campbell, Stuart, MacGregor, Macmillan, Gray and Chisholm.[53]

If the Restoration was notable for yielding the first standing army in Scottish history, it also produced another military innovation: the militia. This force was based upon a declaration issued by the Scottish Parliament in September 1663, by which the king was offered a force of 20,000 foot and 2,000 horse. The liabilities thereby imposed upon the Highlands are set out in Table 7:

Area	Foot	Horse
Inverness-shire (Seaforth's and Lovat's spheres)	666	88
Sutherland, Caithness and the remainder of Inverness	1,066	88
Argyll, Dumbarton and Bute	800	0
Total	**2,532**	**176**

Table 7: Highland liabilities under the offer of forces, 1663.[54]

In practice this declaration did not lead to the raising of any forces; its purpose was more to offer a rhetorical assertion of the Crown's right to use force as a means of

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[52] C. Dalton, *The Scots Army, 1661-1688, with Memoirs of the Commanders-in-Chief* (London and Edinburgh, 1909), part i, pp.39-41; part ii, p.165, p.113, p.114, p.154, p.155 and at p.46.
[53] NRS, Army Muster Rolls, E100/9/101, 108.
[54] *RPS*, 1663/6/64.

preserving order. Not until the aftermath of the Second Dutch War (1665-67) and the Pentland Rising (1666), when internal security was at the forefront of the government's mind, was any real effort made to settle a national militia. In May 1668, the king ordered that forces be raised in accordance with the 1663 declaration, but only from a small number of specified shires. The Highlands do not seem to have been considered trustworthy enough for such employment; as Tweeddale noted, until it was known 'uhat obedienc they giue to publike orders [...] it is best kiping them disarmed'.[55] The only Highland representation, in fact, came from Argyll. In concert with Dumbarton and Bute, it was required to raise 800 foot, a force that seems to have been outfitted by at least 1670. In practice Argyllshire yielded the majority of its troops (500) throughout the 1670s and early 1680s.[56]

Argyll would remain the sole Highland representation until 1678, when proposals were introduced for a 'new model' militia. This provided for a force which was smaller, just 5,000 foot and 500 horse, but also better equipped and more frequently mustered. These proposals included provision for 660 Highland infantry (160 from Inverness, 100 from Ross, 200 from Sutherland and Caithness, and 200 from Argyll, Dumbarton and Bute) and forty-four Highland cavalry (shared between Inverness, Ross, Sutherland and Caithness).[57] In practice, little progress was made establishing the new militia, despite sustained pressure from the duke of Albany, and the proposal was quietly dropped in 1681.[58] The Highland shires, meanwhile, seem to have avoided contributing to the existing militia until at least 1683 – and even then, levies came only from Inverness and Cromarty, which together outfitted

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[55] BL, Add. Mss. 23131, f.111r.
[56] Lenman, 'Militia', pp.176-78; Lee, 'Government and Politics', pp.37-38 and at pp.171-3; Lee, *'Dearest Brother'*, pp.127-29; *RPCS*, ii, pp.438-40; NRS, E26/11/2, ff.111-8; NRS, E26/11/3, f.223; NRS, E26/11/4, ff.296-97.
[57] *RPCS*, vi, pp.82-83.
[58] Lee, 'Government and Politics', p.279; McAlister, 'James VII', p.41.

ten companies of foot.[59] In short, the government's attempts to settle the militia seem to have had a very limited impact in the Highlands.

If attempts to exploit the military potential of the Highlands through the standing army and the militia met with little success, there remained a third option. The government could try to work through the structures of lordship; as James VII put it in 1685, 'Hyland men never do so good service as uhen ther chife is upon ther heads'.[60] Local elites were likewise very keen to stress their own centrality in harnessing the Highlands' military potential. George Sinclair, 6th earl of Caithness, for example, upon hearing in 1668 that there were plans to settle a militia with Seaforth as colonel of everything north of Ardersier, demanded that 'noe other be intruded in the shyr of Caithnes bot my self', since nobody else had the necessary innate authority.[61] Likewise, Ludovick Grant of Freuchie in 1685 excused his practice of appointing family members to command the local militia because 'our countrey men are never significant without ther native officers'.[62] The extent to which this was a distinctly Highland phenomenon is open to question; the militia, after all, was organised on a territorial basis, and the men appointed as colonels were always local elites, usually noblemen.[63]

Nevertheless, from the late 1670s in particular, the government proved itself willing to rely upon the structures of lordship and clanship as a means of drawing manpower from the Highlands. The most infamous such project was the deployment of the 'Highland Host' in 1678. When the idea of deploying the Host was first mooted in the autumn of 1677, there were widespread fears that it would constitute little more than a Gaelic horde. In a letter received in October 1677 by

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[59] *RPCS*, viii, p.233; NRS, E26/12/2, ff.85-86.
[60] HMC, *Buccleuch*, ii, pp.71-72.
[61] BL, Add. Mss. 23129, f.79r.
[62] Fraser, *Chiefs of Grant*, ii, p.25.
[63] Lenman, 'Militia', pp.176-77.

William Douglas, 3rd duke of Hamilton, the extent to which clan musters were
expected to underpin the Host was made clear:

> The wholl nobilety who hav any interest in the Hylands, as Huntly, Atholl,
> Argyll, Marshall, Moray, Mar, Kintoir, Caithnes [and] c[o] ar ordered
> instently to hav all the Hylanders in reddines upon a call to march to Stirling
> [...] and itt appears ther ar non invyted hether, militia or Lolanders, bott
> Hylanders only, McDonalds, McCleans, McGregors, McEntoshes, McClouds,
> McForbesses, McCouls.[64]

In actuality, when the Host was eventually commissioned in December 1677, its
'Highland' identity was rather more limited. The earls of Atholl, Moray, Perth, Mar
and Caithness (Glenorchy) were empowered to muster the Highlanders within their
lands, meaning that only the southern and eastern fringes of the Highlands were
involved. In addition, the Host, which ultimately reached around 8,000-strong, was
fortified with the militia of Angus, and with regular forces, which together accounted
for around one-third of its strength.[65] Despite these qualifications, the raising of the
Highland Host clearly signalled that the government was willing to work through
the more informal authority networks provided by native lordship in an effort to tap
the Highlands' manpower potential.

Moreover, this was an expedient which resurfaced in the 1680s, particularly
during the crisis of Argyll's rebellion. In May 1684, at the same time as it confirmed
the scheme of dividing Argyllshire into seven lieutenancies (see chapter 6), the Privy
Council issued orders providing a 4,700-strong reservoir of manpower for the

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[64] HMC, *Buccleuch*, i, p.230.
[65] *RPCS*, v, pp.300-4; Elder, *Highland Host*, p.46; Wodrow, *History of the Sufferings*, ii, pp.388-89; Lauder, *Notices*, i, p.187. It has also been suggested that the Host may have been further regularised by the fact that many of those Highlanders raised, particularly by Atholl and Mar, were probably militia trainees anyway. Lenman, 'Militia', at p.180; Lee, 'Government and Politics', p.264.

lieutenants' use. This force was to be composed of personal levies from named individuals, broken down as in Table 8:

Lieutenancy	Person	Size of Levy
Cowal	William Graham, 8th earl of Mentieth	200
	Humphrey Colquhoun of Luss	100
Inveraray	John Murray, 1st marquis of Atholl	300
	John Campbell, 1st earl of Breadalbane	300
Kintyre	Sheriff of Bute	200
	Sir John Maclean of Duart	200
	MacLeod of Harris	200
	Sir Hugh Campbell of Cawdor (Islay)	200
Craigness	George Gordon, 4th marquis of Huntly	300
	James Drummond, 4th earl of Perth	300
	Lachlan Mackintosh of Torcastle	200
	Sir Lachlan Mackinnon	100
	Duncan Stewart of Appin	100
Dunstaffnage	George Gordon, 4th marquis of Huntly	300
	James Drummond, 4th earl of Perth	300
	Ewan Cameron of Lochiel	200
	Donald MacDonald of Moidart	200
	Coll MacDonald of Glengarry	100
Tarbert	Charles Erskine, 5th earl of Mar	300
	Alexander Menzies of Weem	100
	Kenneth Mackenzie, 3rd earl of Seaforth	300
	Sir Donald MacDonald of Sleat	200

Table 8: Proposed personal levies for lieutenants of Argyll, 1684.[66]

Just as the multiple-lieutenancies scheme quickly proved abortive, this force seems never to have been raised. Nevertheless, it represented a much more ambitious policy than had been applied in 1677-78. Whereas the 'Highland' elements of the Highland Host had been drawn from the resources of a very small group of trusted noblemen on the Highland fringe, the 1684 proposals involved a much broader range of individuals, many of whom (such as Lochiel and Glengarry) were the heads of

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[66] *RPCS*, viii, pp.508-11.

traditionally troublesome clans in the region's deep interior (not to mention old enemies of the Campbells). This trend was to continue during the raising of forces to head off Argyll's rebellion in 1685 (when James VII explicitly stated that he wished the rebel forces to be confronted not by the standing army, but by 'Highlanders, and melitia, and what troups may be had from Irland').[67] That May, levies were demanded from Gordon (600 men), Torcastle (200), Freuchie (300), Lovat (300), Seaforth (400), Glengarry (100), Moidart (200), Duart (300), Sleat (300), John Mackenzie, master of Tarbat (300), George Gordon, lord Strathnaver (300), Caithness (400), Lochiel (200) and the Tutor of Maclean (300).[68] Breadalbane also undertook to muster 6-700 men, while Atholl, the commander of the royal army, himself gathered around 2,000 Highlanders.[69] Again it is uncertain just how much of the projected force was actually raised, particularly given the speed with which the rebellion collapsed, but Campbell, Cameron, Gordon, Maclean and MacDonald contingents certainly served.[70]

Three years later, as James VII faced William of Orange's impending invasion, exploitation of clan levies again came to the fore. Orders for gathering a force of Highlanders at Stirling to defend against the 'insults of some neighbouring states' began to be issued in October 1688. About 1,000 Highlanders were gathered, although cost implications forced the government to disband half of them on 15 November. This left a force of 518 soldiers, mustered through the efforts of Atholl (200), Sir Thomas Stewart of Grandtully (50), Weem (50), Breadalbane (100), Perth (50), Alexander Robertson of Struan and Andrew Macfarlane of Macfarlane (together

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[67] HMC, *Buccleuch*, i, p.110.
[68] *RPCS*, xi, pp.43-45.
[69] Fraser, *Earls of Cromartie*, i, p.44; Murray, *Atholl and Tullibardine*, i, pp.217-18.
[70] NRAS234, box 29/I/4, item 46.

48) and Montrose (20). Mar would provide 100 more by mid-December.[71] So, in the late 1670s and 1680s the Restoration regime proved itself quite capable of tapping the military potential of the Highlands, but it was forced to do so by working through the existing structures of lordship. It found itself in this position because neither the expansion of the regular army, nor the introduction of the militia, offered a secure channel for accessing the region's manpower. What emerged instead was a compromise: the government's coercive capacity was augmented, but the local supremacy of the Highland elite was reinforced in return. In the military sphere, as in the political, direct and indirect methods of control were inextricably intertwined.

The notion that 'fiscal-military' states began to emerge in early-modern Europe links to another important theme. Jeremy Black has argued that larger and more permanent armed forces provided governments with stronger coercive machinery, enhancing their ability to enforce internal obedience.[72] Certainly, examples abound of militaries being used in this way. Louis XIV readily used his formidable army to crush dissent – some 10,000 soldiers were quartered in Brittany following a tax revolt in 1675.[73] Friedrich Wilhelm overcame the unwillingness of Prussia to help fund his participation in the First Northern War (1655-60) by stationing his army within the duchy and simply forcing payment.[74]

The military accrued crucial coercive functions in the Restoration British Isles. Most obviously, government authority in Ireland was underpinned by a relatively large standing army of around 6,000 men, overwhelmingly Protestant and strongly

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[71] NRS, GD112/39/144/4/1, 11; *RPCS*, xiii, pp.355-56; Hopkins, *Glencoe*, p.109; NRS, Army Establishments, E99/33/7.
[72] J. Black, *Kings, Nobles and Commoners: States and Societies in Early Modern Europe* (London, 2004), p.50.
[73] R. Briggs, *Early Modern France 1560-1715* (Oxford, 1977), p.146.
[74] Clark, *Iron Kingdom*, p.58.

English in composition.[75] Within England itself, military coercion was principally associated with the local militias, whose responsibility for maintaining domestic order became more pronounced after 1660.[76] For Anthony Fletcher, indeed, the militia was a central feature of Restoration government. Not only does he view it as an effective peace-keeping institution, whose efficiency only increased as the Restoration wore on, but, perhaps more importantly, he stresses its politicisation. The militias, in this view, became 'the principal link between centre and locality', giving them a vital role in implementing government policy – particularly in suppressing nonconformity.[77] Some caution is necessary, however. Although militias certainly performed policing duties, and although the Crown retained ultimate control over appointments, they remained semi-autonomous, representing the interests of the local gentry as much as those of the king, whose bidding they did not unquestioningly do.[78] Moreover, the quality of militias varied. Some counties, like Lancashire and Norfolk, produced fairly active and effective forces, but others were less successful. In the south-western counties of Dorset, Somerset and Wiltshire, unenthusiastic officials and hostile populations produced weak and lethargic militias which enjoyed little success in policing, and even less in home defence.[79] If then the existence of the militias undoubtedly gave the government tangible access to the tools of military coercion, the effectiveness and responsiveness of this resource is much less certain.[80]

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[75] Simms, 'Restoration', at pp.440-41; Connolly, *Divided Kingdom*, p.165.

[76] Braddick, *State Formation*, pp.226-27.

[77] Fletcher, *Reform in the Provinces*, p.324 and at pp.333-48.

[78] Miller, *After the Civil Wars*, pp.28-31.

[79] Norrey, 'Restoration Regime', at pp.789-96.

[80] It should also be noted that the coercive authority of the militia dipped noticeably under James II, who, unimpressed with its performance against Monmouth, allowed it to decay in favour of an expanded standing army. J. Miller, 'The Militia and the Army in the Reign of James II', *Historical Journal*, 16:4, 1973, pp.659-79, at pp.661-63.

In Scotland, the relevance of the military rule model tends to have been seen in a much more straight-forward way. Lee states quite baldly that 'The Scottish government in the mid-1670s came to resemble that of continental monarchies rather than England: an arbitrary regime dependent on military force'.[81] Above all, this argument has been applied to governmental policy on religious dissent, particularly after the deployment of the 'Highland Host' in 1678. For Rosalind Mitchison, the regime's policies after this point were so reliant on military force that they were 'the equivalent of martial rule'.[82] In this Mitchison echoes the assessment offered by Donaldson, who views the overt militarism of the post-1678 period as the logical conclusion of an ecclesiastical policy which had been growing steadily more intolerant since 1673.[83] McAlister offers a rather more detailed analysis of this militaristic phase. She points out that the extensive judicial machinery used by the government to pacify south-western Scotland after the Covenanter rebellion of 1679 was reinforced by the heavy use of the militia. These forces, McAlister notes, could either be placed in fixed garrisons, with a view to deterring potential trouble-makers, or used to hunt down suspected rebels.[84] A slightly different perspective has been offered by Lenman. He does not question the militarism of the Stuart regime after 1678, but he does implicitly question the accuracy of treating that year as the start-date. Like McAlister, he notes that the core of the royal forces in this period was the militia, which had been used for internal peace-keeping since its inception a decade earlier.[85] Lee pushes the start-date still further back, and convincingly argues that force had been a key feature of government from the very earliest days of the

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[81] Lee, *'Dearest Brother'*, pp.316-17.
[82] Mitchison, *Lordship to Patronage*, p.76.
[83] Donaldson, *James V to James VII*, pp.369-70.
[84] McAlister, 'James VII', pp.173-76.
[85] Lenman, 'Militia', at p.178.

Restoration, beginning with the modest standing army raised in 1661-62.[86]   The

militarism of the Restoration regime in Scotland has therefore been widely

recognised, particularly after 1678 but arguably extending over the entire period.

It is hardly surprising, therefore, that the use of the military in the

government of the Highlands has also attracted attention; both Lee and McAlister

point out that the militaristic trends they discuss extended across the Highland line,

albeit with thieves, rather than Presbyterians, as the intended targets.[87]   The most

extensive analysis has however been produced by Macinnes.   He bases his

assessment upon the observation that, across Scotland, the overriding aim of

Lauderdale's regime was to ensure domestic order as cheaply as possible, and that

the preferred tool for achieving this end was always military force.   Such an

aggressive stance required a pretext, and Macinnes argues that the government

manufactured one by deliberately inflating reports of both lawlessness and tax

evasion within the Highlands, particularly after the deployment of the first

independent company in 1667.   In Macinnes's reading, then, the Highlands was a

'training ground' for the kind of militaristic regime Lauderdale would increasingly

introduce into the Lowlands from the end of the 1660s.[88]

Certainly, the authorities made frequent reference to the necessity of

deploying the military in the Highlands.   As early as the mid-1660s, William

Bellenden, 1st lord Bellenden was urging Lauderdale to deal with the Highlands by

settling the militia.[89]   A memorandum penned in the mid-1670s under the influence

of Argyll put the case more strongly, warning that without the immediate

deployment of a 500-strong royal force, the region would soon be overcome by an

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[86] Lee, 'Government and Politics', pp.152-87.
[87] McAlister, 'James VII', pp.149-51; Lee, 'Government and Politics', pp.172-73.
[88] Macinnes, *Clanship*, pp.130-34; Macinnes, 'Lochaber', at p.8.
[89] Airy, *Lauderdale Papers*, i, p.194 and at p.243.

unholy combination of rebels, broken men, outlaws and thieves.[90] The Privy Council

had explicitly embraced the notion that a military presence was indispensible by

1677 at the latest, a position to which the Secret Committee was still clinging in

1685.[91] While clearly part of the broader militaristic ethos of the Restoration regime

across Scotland, this attachment to the military option was reinforced by the

prevailing understanding of the 'Highland problem'. Glenorchy, in his proposals of

the 1670s, neatly enunciated this:

> It will be necessarie that [...] Ther be ane order to a partie of his Maj[esties]
> forces to March to Lochaber [and] other places requisite For swppressing of
> Thifts [and] robberies [and] preserving the peace of [th]e Countrie For all the
> broken men will tak occasione to combyne together in parties [and] fall on the
> Cowntrie [and] the tyme [and] season of the yeir favo[u]rs [the]m Wheras a
> partie of his Maj[esties] forces being sent to the highlands to continow [the]r
> till the first of dec[embe]r The peace of [th]e Cowntrey will be [the]rby
> preserved.[92]

In this view, it was the sheer lawlessness of the Highlanders themselves that

demanded a forceful policy – nothing else stood a chance of cowing them. This

would seem to support Macinnes's thesis that disorder was exaggerated in order to

provide a pretext for military repression. Yet there was a degree of tension inherent

in Glenorchy's proposal, something made more explicit by an anonymous

memorandum of 1678, which justified the use of force on the grounds that 'many

peaceable Land lords [are] being appressed by theives and sorners possessing their

estates'.[93] The implication was not that all Highlanders were incorrigibly lawless,

but that the region was being terrorised by a hard core of elusive, 'masterless' men

whose very isolation was what made the problem insoluble without recourse to

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[90] NRAS1209, bundle 70.
[91] Airy, *Lauderdale Papers*, i, p.194 and at p.243; *RPCS*, v, p.251; HMC, *Buccleuch*, i, p.134.
[92] NRS, GD112/1/682.
[93] NRAS832, bundle 63/55, item 3.

armed intervention. Rather than Highland disorders being exploited to excuse military rule, therefore, this stringent policy was in fact validated by a relatively enlightened recognition that not all Highlanders were criminals.

Whatever the justification, once the policy of using military force had been decided upon, it could be used in a number of ways. At the most fundamental level, it could serve to reinforce other initiatives. Judicial commissions often benefited from this kind of augmentation, and many of them included specific provisions for coercive machinery. The 1663 commission against the Camerons of Lochiel was accompanied by an order for the muster of all fencible men in the shires of Inverness, Ross, Nairn and Perth; Glenorchy was given the assistance of a troop of Linlithgow's foot during his commission against Dunbeath in 1669; and Argyll was in 1671 empowered to call upon the militias of Inverness (as yet nonexistent), Dumbarton, Bute, Argyll and Perth in fulfilment of his commission against the MacDonalds, with provision for calling in the regular army should it prove necessary.[94] Noticing this trend, some local elites began specifically to seek military assistance in pursuit of private interests, which they argued were of public concern. In 1683, Lachlan Maclean of Lochbuie successfully lobbied for the assistance of the royal forces stationed in Mull and Tiree in order to eject his son Hector, allegedly an associate of Argyll, from the Maclean estates at Moy.[95] The following year, Lachlan Mackintosh of Torcastle adopted a similar approach, although apparently without success, by seeking to have '30 or at least 25' of the royal troops attending the Highland commissioners at Inverness dispatched to Lochaber, in order to assist him in securing Keppoch against Coll MacDonald.[96] If such requests underline the extent to which commissions blurred public and personal power (see chapter five), they also

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[94] *RPCS*, i, pp.415-16; *RPCS*, iii, p.64; *RPCS*, vi, pp.170-72, p.203.
[95] *RPCS*, viii, pp.21-22.
[96] NRAS217, box 6, item 465.

illustrate the government's willingness to stiffen its control of the locality with military force.

The use of the military to reinforce judicial authority became much more systematic following the introduction of independent commissioners in 1667. A key term in the original commission to Atholl was that, in order to help him fulfil his brief of curbing theft, murder, arson and other such crimes, he should 'raise and keip such a number of men as he shall think fitt, who are to be commanded by him'. This provision was repeated exactly in the commissions to Sir James Campbell of Lawers (1669) and Major George Grant (1674), as well as the joint commission to Lawers and Macdonnell (1677).[97] The size of these independent companies was not specified, but the fact that Lawers and Macdonnell were in 1677 awarded the use of 'one hundred fyre Locks [...] out of His Ma[jes]ties Magasin within his Castle of Ed[inbu]r[gh]' suggests an expected presence comparable to one company in the regular army (100 men).[98] It is also uncertain where the soldiers came from, although it seems likely that Atholl mustered his own tenants, while Lawers, Grant and MacDonald relied upon their respective kin networks. What is clear, however, is that the independent companies represented a much more formal, not to mention permanent, military presence than had existed hitherto.

When in late 1678 the policy of appointing single commissioners lapsed, military rule was not similarly abandoned. Instead, 'independent companies' gave way to 'Highland companies'. There were to be two of these, each with a strength of 150 men (all Highlanders) and commanded by Lawers and Colonel James Menzies respectively. Crucially, they were also to be part of the regular army, and were thus given a defined structure. Each soldier would be paid 5d per day for 336 days each

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[97] *RPCS*, ii, p.325; *RPCS*, iii, p.88; *RPCS*, iv, p.135.
[98] NRS, E96/12.

year. There was to be a formal officer corps consisting of one captain (paid 8s per day), as well as one lieutenant (4s), one ensign (3s), three sergeants (1s 6d each) and four corporals (1s each). There were also to be four drummers and a surgeon, and these costs were met by the government. Over the course of their roughly eighteen month existence, the Highland companies drew from the Treasury £615 16s to pay for bayonets, drums and company colours, and a further £88,360 8s in wages.[99] These forces, as had been the independent companies, were to be responsible for deterring and punishing lawlessness, but with the crucial difference that they represented a standing (and expanded) military establishment directly responsible to government.

In actuality, the distinction between the semi-private 'independent companies' and the government-funded 'Highland companies' was not quite so clear-cut. The companies quickly became the private playthings of Clan Campbell, particularly Argyll. Menzies' company was sent to Inveraray in October 1678, putting it squarely under Argyll's influence.[100] The other commission had been transferred from Lawers, who found the prospect of command too burdensome, to Glenorchy before January 1679. This new commission, however, was entrusted into Argyll's keeping, and by the simple expedient of not handing it over he was effectively able to take control of the second company until at least April. Even thereafter, despite Glenorchy's extreme reluctance to become involved in Argyll's war with the Macleans – he had long argued that it would be safer to keep one of the companies on the border between Argyllshire and Perthshire, and repeatedly attempted to avoid mustering throughout 1679 – Mull remained the key preoccupation, and by May, when the companies were ordered to obey Argyll's

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[99] NRAS832, bundle 63/55, item 3; NRS, GD112/43/13/20; NRS, E26/11/4, f.293; NRAS1209, bundle 70.
[100] *RPCS*, vi, p.18.

instructions, any pretence of independence had been dropped.[101]   Not that Glenorchy's affairs were ignored; in June 1680 he was granted permission to take his company to Caithness in order to settle his affairs there.[102]   By the time of Charles II's decree the following month that neither Highland company was to be disbanded until the situations in Mull and Caithness had been settled, it was already clear that the expansion of the regime's military presence in the Highlands did not reflect a new impartiality in policy so much as closer alignment (albeit temporary) between the regime and the Campbells.[103]   Nonetheless, it also reinforced and indeed formalised the trend, begun during the 1660s and 1670s, of using long-term military occupation to back up policy.

Even the Highland commission of 1682, often celebrated as the most enlightened of the Restoration's Highland policies, made extensive use of military reinforcement.   Detailed plans were set down five days after the commission's creation.   The commander-in-chief, Lieutenant-Colonel Thomas Dalyell, was to dispatch a company of 150 men to Inverlochy as soon as practicable.   Once there, the party would be dispersed between the three southern divisions of the commission. One group, consisting of twenty-three men led by a sergeant and a corporal, would be stationed within the central division at the head of Loch Ness.   Two further, identical forces would take up lodgings in the southern and eastern divisions, at Achallader and Braemar respectively.   The remaining eighty or so men would stay at Inverlochy.   The *raison d'être* of these small forces was clear:

> The parties are hereby ordered and commanded to be obedient to the said
> commissioners in prosecution of ther commission and in searching for and

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[101] NRS, GD112/39/125/4, 6, 8, 10; GD112/39/126/7, 8, 10; GD112/19/127/8, 10, 14, 19; GD112.39/130/3, 9; NRAS217, box 6, item 47; NRAS1209, box 99, item 31 and bundle 101.
[102] *RPCS*, vi, p.469.
[103] *CSPDC*, xxi, p.108.

apprehending of thieves recovering of spreatches [cattle] poinding upon sentences Assisting of the countrey people in searching their goods and in every other thing relateing to the said commission as the saids Commissioners shall order.[104]

This remained a consistent feature of policy: in February 1683, the Privy Council decreed that 'pairties consisting of tuentie four men' were to 'attend the se[ver]all Iurisdictiones in the Comissione [...] To be comanded each of [the]m by a fitt officer who is to receive ordors from the re[s]p[ecti]ue Com[missione]rs', while in July 1686 a company of 100 men was assigned 'to be sent to the Highlands for asissting the comissioners of the severall districts and preventing thefts, robberies and depredationes'.[105] Moreover, it was not mere rhetoric. The Justiciary courts certainly did have military escorts; by 1684 there were fifty men stationed at Inverness for the specific purpose of attending the courts of the central division, while in January 1687 a party of soldiers under Ensign Walter Sharp was dispatched from their quarters at Dunblane to Creiff with instructions to 'attend a Court of Justitiary'.[106] These escorts were not simply defensive, and they proved perfectly capable to taking proactive steps to enforce the commissioners' authority. As we have seen above, soldiers were used at Creiff in 1684 to apprehend the 'notorious hectoring thieff' Alexander Roy MacGregor after he had refused to answer a court summons.[107] Judgements were similarly liable to be backed up with force. Alexander Robertson of Struan was in October 1686 granted the use of a small party of the forces at the commissioners' disposal in order to enforce a decreet against 'The Laird of Ardgowre and se[ver]all

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[104] NRAS234, box 29/I/12, item 33. In the manuscript, the party assigned to the southern division is to be stationed at 'Aberchalader'. It seems unlikely that this meant 'Aberchalder', to the south of Fort Augustus, since this was within the jurisdiction of the central division. Given the subsequent activities of the southern division, Achallader, in eastern Argyll-shire, seems a more plausible location.

[105] NRS, PC8/7, f.93r; *RPCS*, xii, p.337.

[106] NRAS217, box 6, item 465; NRS, Sharp of Houston Papers, GD30/2077.

[107] NRS, PC8/7, f.19r.

persones in the braes of Lochaber [and] Glencoas' which could not otherwise be enforced 'against those rude people'.[108] As discussed in chapter six, the commission for pacifying the Highlands was a typical example of the kind of strategic compromise that marked the Restoration regime's approach to Highland issues. At the same time, it encapsulated the government's consistent willingness to back up its policies using military coercion.

Beyond merely adding weight to other initiatives, military rule could function as a policy in its own right. The earliest manifestation of this trend in the Restoration Highlands was the propensity for forming 'watches', a policy which found its fullest expression in an anonymous memorandum of the mid-1660s. It proposed that Highland lawlessness would be restrained by a network of small armed forces 'in all the bray and hiland Cuntreys', manned from local communities and charged with guarding their own localities. These watches would discourage theft by their very presence, but they would also be expected to 'persew and follow efter all Limmers in [th]e recover[y] of honest mens goodis takin away'. Furthermore, each local watch would maintain dialogue with its counterparts in other localities, allowing for co-operation across the Highlands.[109] This plan, then, sought to exploit local military resources in order to create what was effectively a chain of local police forces.

In all probability such a scheme was simply too grandiose – and vague – to be practicable, and nothing quite so ambitious ever seems to have been attempted. Nevertheless, a scaled-down alternative, whereby watches were formed in order to guard specific trouble-spots, did emerge. Initially, they tended to be created by the government, even if they were formed from, and armed using, local resources. Three

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[108] NRS, GD30/2075, 2205.
[109] NRS, GD16/41/379.

were established in 1666, a year in which, due in no small part to the challenge of the Pentland Rising, militaristic policies came very much to the fore. In April, Montrose was empowered to raise a watch of up to thirty men in order to guard his own lordship of Cowal from 'the many and frequent robberies and depredations daylie committed be certain vagabonds, robbers and louse men'. This watch was to be financed through a voluntary stent on the local heritors, and was empowered to pursue and apprehend all thieves, before handing them over to sheriffs, justices of the peace, or other magistrates.[110] In June, similar instructions were issues for a sixty-strong watch in Stirlingshire and Dumbartonshire, and in July Argyllshire was added to the list.[111] The watches policy re-emerged in 1679, that other year of crisis for the Restoration regime, with the establishment of a watch to guard the passes of Mentieth.[112] The government's policy, in other words, was to raise watches as a short-term, emergency measure in times of heightened national tension.

However, the government did not have a monopoly over using local military resources in this manner. Throughout the Restoration, local society itself proved willing to use armed protection for specific purposes. The burghs, of course, had a long-standing tradition of self-defence. Nairn demanded that all its male inhabitants be armed and 'always in readieness' to defend the town 'vpon ane call'. Burgesses should posses a gun and a sword, under pain of a £5 fine, while everybody else judged able-bodied should have a sword, axe, or half-pike if they wished to avoid a penalty of twenty shillings.[113] Something rather more formal existed in the larger burgh of Inverness. Here, around a dozen captains of the watch were appointed, who took it in turn to guard the town gates and patrol the streets after dark. Their

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[110] *RPCS*, ii, pp.156-57.
[111] *Ibid.*, pp.175-76 and at pp.182-83.
[112] *RPCS*, vi, pp.285-86.
[113] , HARC, f.29r, f.46r-v and at f.61r-v.

primary duty was clearly to keep the peace, but their existence was also explicitly justified in terms of the 'looseness' of the surrounding country.[114]

Similar precautions were also taken outwith the burghs. Indeed, by 1669 it had been calculated for Tweeddale that there existed such a patchwork of private watches 'betuixt dumbartane and Abirdeine' that the money outlaid 'amounts to more then the pey of fyve companyes'.[115] The accuracy of this assertion is difficult to gauge, but there certainly were examples of large-scale private watches being established. Argyll in 1676 established one in Appin (which, grumbled Duncan Stewart of Appin, was 'trwblesome and expensive' to the locals), and three years later he instituted one throughout Argyllshire to guard against thieves acting under the protection of the Macleans and their allies.[116] Both the marquis of Montrose and the earl of Perth set up watches in 1680 with the blessing of the Privy Council, the former for Stirlingshire and the latter for Perthshire, Dumbartonshire and Clackmannanshire.[117] Forming private watches had therefore become an established part of local control by the end of the Restoration, and one which the government was perfectly willing to encourage. The policy, however, had one striking weakness (aside from its cost). In 1675, John Mackintosh of Delmigavie, Paul Macbain of Kinchyll and Donald MacGillivray of Dumnaglass undertook to mount a guard on behalf of all those persons residing between Strathnairn and Starthearn. They would only do so, however, in return for 'ane certaine soume of money'. Rather than reflecting entrepreneurial zeal, this bond illustrated that the tradition of extorting

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[114] Mackay *et al*, *Records of Inverness*, ii, p.220, pp.238-39, pp.254-55, pp.275-7 and at p.297. Persuading Invernessians to give up their time and money to perform the watch proved an uphill struggle for the Town Council.

[115] NLS, MS.7033, f.144v.

[116] NRAS1209, bundle 176; NRAS217, box 6, item 49.

[117] *RPCS*, vi, p.562. These are far from the only examples. The heritors of Cardross sought to establish a watch in 1680, while Breadalbane created one for northern Perthshire in 1687. NRAS1209, bundle 114, item 155; NRAS234, box 29/I/3a, item 9; NRS, GD112/43/15/19.

blackmail could easily be modified to fit the language of private watches.[118] If then the trend for protecting the locality with armed guards represented an important means of exploiting local resources to create a firm military presence, it was a policy which could give only short-term security and which could not realistically offer a comprehensive solution to the problem of governing the Highlands

Despite the importance of both military reinforcement and armed watches, they were not the most prominent of the Restoration regime's military tactics in the Highlands. That dubious honour fell to the formation (or attempted formation) of fixed garrisons. This was not of course a specifically Highland policy. Major garrisons were maintained at Edinburgh, Stirling, Dumbarton and the Bass Rock for most of the Restoration (Edinburgh alone cost in excess of £13,000 every year), with smaller ones, such as the garrison at Shetland erected in the mid-1660s, being established when deemed necessary.[119] In the Highlands, the thinking behind garrisons was straightforward enough; permanent strongholds would terrify recalcitrant locals into remaining law-abiding, and would also offer a stable channel for transmitting and enforcing government authority.[120] They would further ensure that lawless individuals could not simply melt away in the face of a one-off campaign, only to reappear once attention had shifted elsewhere.[121]

The notion of settling garrisons at various locations throughout the Highlands surfaced repeatedly throughout the Restoration. As early as 1664, the Privy Council tabled the idea of establishing three, at Braemar, Inverlochy and Ruthven.[122] The earl of Linlithgow was in 1671 ordered to station 200 troops,

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[118] Rose, *Genealogical Deduction*, pp.362-63.
[119] NRS, E26/11/1, ff.23-26; NRS, E26/11/2, ff.111-18; NRS, E26/11/3, ff.220-22; NRS, E26/11/4, f.290; Lee, 'Government and Politics', p.115.
[120] NRAS832, bundle 63/55, item 3.
[121] NRAS217, box 7, item 465.
[122] *RPCS*, i, p.638.

accompanied by fifteen men from Atholl's regiment, in Lochaber 'to obey and presecute such orders and instructions as they shall receave'.[123] In September 1681 the Highland Committee, building upon a proposal tabled by Albany in March, suggested replacing the recently-disbanded Highland companies by permanently stationing two companies from the regular army in the Highlands, one at Kilchumin and one at Auchintore, 'where there will be aboundance of convenient houses to lodge them without any manner of danger'.[124] In 1688, Mackintosh of Torcastle, along with a company of the army under Mackenzie of Suddie, sought to establish a stronghold in Lochaber as a means of cowing the Keppoch MacDonalds.[125] All of these proposals proved abortive, but they illustrate that garrisoning had established itself as a favoured tactic for reducing particularly recalcitrant localities to obedience.[126]

By far the most common suggested site for a garrison was Inverlochy. The Scottish Parliament itself had as early as September 1661 'recommended to his majesty to settle a garrison in Inverlochie'.[127] Lachlan Mackintosh of Torcastle echoed this call in 1663, opining that a garrison of 100 men would swiftly resolve his conflict with the Camerons.[128] As noted above, the Privy Council made a comparable suggestion in 1664 when it proposed that Inverlochy be garrisoned alongside Braemar and Ruthven. The theme was taken up by the Highland Committee in 1671, when it called for Lawers to be given the power to repair and garrison Inverlochy

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[123] *RPCS*, iii, p.356.

[124] *RPCS*, vii, pp.204-5.

[125] BL, Add. Mss. 39200, f.2r.

[126] There were also some private suggestions for establishing garrisons, such as at Finlarig in 1666 and 1676 (proposed respectively by the commissioners of the excise for Perthshire, and by Breadalbane), and in Argyll in 1684 (proposed by Atholl). NRS, GD112/39/112/18; *RPCS*, vi, p.37; BL, Add. Mss. 23138, f.21r; NRAS1209, bundle 114, item 158; NRS, GD112/43/14/18; NRAS234, box 29/I/4a, item 6; NRS, SC54/20/3/2/21, 24.

[127] *RPS*, M1661/1/36.

[128] EUL, La.II.511, f.21r.

Castle.[129] In the mid-1670s, Glenorchy made a slightly different suggestion, namely

that the Highlands, and Lochaber in particular, could only be pacified by repairing

the now-derelict Cromwellian fortifications, which had been constructed from 1654

with the intention of housing three companies.[130] An old outpost situated on the

shores of Loch Linnhe at Ardgour – 'ane inconsiderable spott of ground yeilding no

rent Inclosed w[i]t[h] the sea on the one hand [and] the river on the other' – would be

expensive to repair, requiring a voluntary contribution from 'all the shyres betwixt

Dunbarton [and] Sutherland', but its situation would allow it to control access to the

area's waterways.[131] The 1670s also saw two further voices added to the chorus,

when a pair of anonymous memoranda argued that a force of 500 men, composed of

the two Highland companies alongside two regular companies, should be stationed

in the Highlands, headquartered at Inverlochy.[132] The commissioners for pacifying

the Highlands thought along similar lines, declaring in 1684 that they thought it

'absolutelie necess[a]rie That a garisone be with all convenient diligence placed at

Innerlochie without q[uhi]ch the quyet of the highlands will not be Long durable'.[133]

The regularity with which pleas to garrison Inverlochy were repeated

suggests that in practice little progress was ever made. Success came closest in 1677-

79. In September 1677, the Privy Council ordered Linlithgow to dispatch a company

of 100 men to garrison Inverlochy. It was initially objected that the medieval keep, in

which the soldiers were intended to be housed, could not be used for this purpose

until Huntly, as its hereditory keeper, was consulted, but these qualms were

overcome by Glenorchy, who pointed out that the house ultimately belonged to the

king. The castle, which was actually in a ruinous state, was ordered to be repaired

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[129] BL, Add. Mss. 23135, f.30r.
[130] Firth, *Scotland and the Protectorate*, p.367.
[131] NRS, GD112/1/682.
[132] NRAS832, bundle 63/55, item 3; NRAS1209, bundle 70.
[133] NRS, PC8/7, f.16r.

by 1 May 1678, and in the meantime the 100 troops were to be barracked at Dunolly.[134]   The deadline passed unmet, and in September 1678, as an accompaniment to the introduction of the Highland companies, fresh orders were issued for the repair of the castle. In an effort to expedite the process, £500 was given to Lawers and Menzies to prepare accommodation for up to 500 soldiers (that is, for their own 300 Highlanders, Linlithgow's 100 regular soldiers, and a contingency of 100 additional troops).[135] The following month, the Privy Council ordained that the newly-repaired garrison should be further supplemented through fortified outposts at Duart, Kinlochan, Dunnolich and Barcaldine.[136] Over the autumn and winter, genuine efforts were made to establish the stronghold. John Campbell of Inveraray was commissioned to go to Glasgow in September to collect a long list of provisions, including tools, crockery, bedding, fuel, food and drums. Eventually nearly £7,000 of provisions were collected, enough to sustain 100 men for six months.[137]   In November, a survey of Loch Linnhe was carried out 'for setting down a secure place for a garison with a swift landing'.[138] Despite this toil, little was achieved. Lochiel noted in March 1679 that there was still no garrison, and Lawers said the same thing that September.[139]   Indeed, Menzies, the garrison's prospective commander, was imprisoned in January 1683 until he repaid the money given to him in 1678 (plus interest), 'seing the fort was never built'.[140] In something of a paradox, then, the need to establish a permanent military presence at Inverlochy was a consistent feature of public discourse throughout the Restoration, but it never spawned anything tangible.

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[134] *RPCS*, v, pp.249-50; WSRO, Goodwood Mss 1166, item 1.
[135] *CSPDC*, xx, p.393; *RPCS*, vi, pp.1-2; NRS, E26/11/3, f.232; NRAS832, bundle 63/55, item 3.
[136] *RPCS*, vi, pp.35-36.
[137] NRS, E99/25/1-3.
[138] NLS, MS.975, f.30r.
[139] NRAS1209, bundles 45 and 176.
[140] Lauder, *Notices*, i, p.409.

The final use to which the government put the military was the enforcement of the tax regimen. The tactic of choice was to quarter troops on the lands of non-payers at their expense, something which was by no means unique to the Highlands. In 1661, the Scottish Parliament legislated for the use of free quarter to collect arrears of both the excise and the cess, and as early as 1661 Glasgow and Fife were already hosting troops.[141] In such quartering the Highlands shared fully. General orders for quartering in the Highland shires were issued in 1666, and each of the period's major military initiatives – independent companies, Highland companies and the Highland commission – included blanket provision for collecting tax arrears through free quarter.[142] Moreover, numerous specific examples of quartering can be traced: Moniack (1662), Tain (1665), Argyll (1668, 1674 and 1675), Fortrose (1669), Cromarty (1669), Lochaber (1671), Assynt (1671), Logierait (1672), Mull (1680), Cromarty (1681), Inverness (1681) and Caithness (1685) all certainly suffered, and it seems likely that there were far more instances for which evidence has not survived.[143] Quartering certainly had the capacity to elicit speedy payments. In 1662, when Thomas Fraser of Strichen was suffering quartering on his estates at Moniack, he sent a delegation to the troops' commander, John Cullen, seeking a few days respite. Cullen's response was to double the size of the quartering party, leading Strichen's agent to report ruefully that '[th]e best coursse [is] to mak peyment'.[144] Farther south, one dose of free quarter in 1683-84 was enough to make the commissioners of supply for Argyll hand over 4,000 merks to clear their arrears.[145] Indeed, the mere threat of quartering

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[141] Lee, 'Government and Politics', p.155 and at p.165.
[142] *RPCS*, ii, p.207.
[143] NLS, Fraser of Strichen and Lovat Correspondence, 1661-9, Dep.327/141; MacGill, *Old Ross*, i, pp.117-18; NLS, MS.7003, f.94; *RPCS*, iii, pp.107-8, p.338 and at pp.370-73; *RPCS*, iv, p.208, p.246 and at p.439; *RPCS*, vii, p.73; HMC, *Sixth Report*, p.700; NRS, GD112/39/131/13, GD112/39/132/9, GD113/43/14/12; *RPS*, 1681/7/85; NRS, SC14/81/1.
[144] NLS, Dep.327/141.
[145] NRS, SC54/20/3/2/9.

rapidly established itself as a highly effective motivator. When in 1680 Lord Macdonnell faced the prospect of hosting a party of troops commanded by James Menzies, he quickly promised to ensure that all outstanding dues were paid within a fortnight, either by the deficient heritors themselves or, failing that, by him.[146] Equally suggestive of the power of quartering to focus the mind is the fact that, by 1684, Hugh Fraser of Kinnaries was using his barony court to check that all his tenants had paid their assessment dues.[147]

But quartering was also vulnerable to abuse. Not least, it could be used as a weapon in private disputes. Argyll was for instance accused of fabricating more than £3,000-worth of tax arrears in Mull in order to have troops dispatched against the Macleans in 1673-74.[148] Certainly, the fact that, in 1675, a party of sixty foot dispatched to collect arrears in Argyllshire was also ordered to assist Argyll in keeping the peace suggests that the earl was more than capable of bending the system to his advantage.[149] Nor were the troops themselves always above reproach. The commissioners of supply for Caithness received a petition from George Sinclair of Barrock in 1685, complaining that the soldiers quartering in the shire, in concert with the former collector, James Innes, were guilty of extortion by charging a fee before they would grant payment discharges. [150] This was not the only kind of questionable behaviour of which soldiers were guilty. Moidart was informed that Captain Patrick Wishart, dispatched to extract free quarter from the Highlands in 1674, would be willing to overlook his £500 or so of outstanding liabilities in return for a 'gratuity'.[151] And in at least one case from 1680, five soldiers from the earl of

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[146] NRS, GD112/39/132/12.
[147] NRS, Warrand of Bught Papers, GD23/10/211.
[148] *RPCS*, viii, pp.393-94.
[149] NRAS1209, bundle 70.
[150] NRS, SC14/81/1.
[151] NRS, GD201/4/2/10.

Mar's regiment were arrested for allegedly murdering the Inverness-shire heritor, William Fraser of Balbeny.[152] Effectively, free quarter was a blunt tool. It was certainly an effective means of terrifying the locality into meeting its financial obligations. But it also left ample scope for imprecision and sharp practice.

It would however be wrong to understand quartering as an oppressive measure forced upon the locality by an acquisitive central government. Often, the troops were called in by local authorities themselves. Fortrose Burgh Council asked that troops be sent to quarter in Rosemarkie on at least two occasions, in 1674 and 1685.[153] The commissioners of the excise in Caithness sought to impose free quarter on a number of heritors who were in arrears in 1676.[154] A similar decision was made by the commissioners of supply in Argyll, when they ordered in 1686 that everybody who was taking advantage of the tax loophole involving the park of Inveraray (see above) should play host to a body of soldiers.[155] This local collaboration was clearly not unique to the Highlands, since commissioners of excise and supply across the country had a statutory right to impose free quarter if they so chose. Nor need it occasion any surprise. As discussed in chapter two, government in the Restoration Highlands, as across Scotland, depended upon an intimate partnership between central and local elites. Free quarter adhered to this construct, and did not represent the oppression of centre over locality. Rather, it reflected the formidable potential of a governmental framework which integrated local elites into the systems of national control.

Despite local collaboration, there is no doubt that free quarter, quite aside from its dubious legality, was deeply unpopular. In extreme cases, it could occasion

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[152] *RPCS*, vi, p.454.
[153] NRS, B28/7/3, f.10v and at ff.110v-111v.
[154] NRS, SC14/87/1.
[155] NRS, SC54/20/3/3/6.

full-scale tax revolts. One of the earliest took place in Mull in 1666, where a party of troops sent to quarter for excise arrears were imprisoned by the Macleans, and subsequently presented with a written undertaking by which the latter promised 'to oppose that party and euery other party [that] entered Mull for quartering', if necessary by mustering a force of eighty men. Only when one of the quartering soldiers escaped and prepared to gather reinforcement did the Macleans withdraw their band and promise to pay.[156] Resistance was also encountered in the wilder portions of Inverness-shire (Lochaber, Badenoch, Knoydart, Moidart and Glengarry), where it was reported in 1669 that the inhabitants, particularly Camerons, had repelled a party led by Captain Wishart 'uith very bige words and Threats', and in Argyll in 1675.[157] Yet the most infamous tax revolt took place in the 1680s, in a predictable enough locale. On 6 March 1682, the Privy Council received word of 'a deforcement committed upon a party of his Majesties souldiers quartered in Loquhaber'. After a week a clearer picture had emerged: a party of soldiers sent under the command of John Murray to quarter in Inverness-shire had been attacked at Inverlochy by several hundred Highlanders. Large-scale resistance such as this admittedly appears to have been quite rare, but it no doubt reflected a wider feeling of resentment against the practice of free quarter.[158] This, in turn, highlights the primary drawback of the policy – it may well have enjoyed a degree of local elite

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[156] BL, Add. Mss. 23125, f.105r-v.

[157] *RPCS*, iii, p.8; NLS, MS.7003, f.118r; Cameron *et al*, *Justiciary Records*, i, pp.46-48;

[158] *RPCS*, vii, p.354, pp.361-63 and at p.599; *RPCS*, viii, pp.7-8; Drummond, *Memoirs*, pp.205-7; Lauder, *Notices*, i, p.378 and at p.384; Dunn, *Letters Illustrative of Public Affairs*, f.15; BL, Add. Mss. 39187, f.57. Later it was claimed that the riot was touched off by the killing of a woman who was attempting to protect her cattle from the troops, but the Council sensed a more deliberate plot on the part of the Camerons, a large number of whom were accordingly cited for prosecution. Most of them were briefly imprisoned at Edinburgh, before being released under caution of 1,000 merks each. Three (Allan, Ewen and Donald Cameron) were tried for treason, and fined a total of 2,500 merks in January 1683. Lochiel himself, although he claimed to have been forty miles away at the time of the disturbance, was fined £1,200 as head of the clan.

collusion which allowed it to raise considerable sums of money, but it was hardly likely to win any supporters for the government.

The thesis of the early-modern 'fiscal-military' state seeks to make sense of the vastly expanded size and reach of many European governments in this period. At its heart lies the notion that, spurred on by the pressures of war, rulers sought more direct control over fiscal and military resources, leading in turn to a relative rebalancing between public, centralised power and personal, local authority, in favour of the former. Across the continent, however, the shift was tentative and halting, and did not in any simple way produce modern 'impersonal' states. Nowhere was this truer than in Britain, and Scotland in particular, where the new always went hand-in-hand with the old. The Highlands' experience was still more equivocal. The Stuart drive towards fiscal expansion was muted beyond the Highland line, partly because expectations were low and partly because of bureaucratic under-development. Military mobilisation was just as unimpressive; neither the regular army nor the militia was able effectively to tap the region's potential. But if the Highlands made little apparent contribution to the Scottish 'fiscal-military' state, it did find itself on the receiving end of that state. Military rule, whether through policy reinforcement, watches, garrisons, or free quarter, was ubiquitous. Yet this model of a passive Highlands, victimised by an alien government, is altogether too simplistic. Rather, the situation should be understood in terms of the overarching interplay between public and personal authority which characterised the Restoration period. Militaristic policies relied at least as much upon the collusion and cooperation of local elites as upon the regime's own proclivities, and were at their most effective when they embraced this dynamic. Similarly, when the government was able to exploit the military resources of the Highlands, it did so by working through established channels of lordship. In this

way, the Highlands did experience Scotland's 'fiscal-military' state, not as a crude imposition from above, but as a wider project in which the locality was heavily invested.

Conclusion

Although it is not quite the gaping chasm it once was, the Restoration remains one of the darker stretches of Scottish history. The Whiggish, Presbyterian stamp of traditional historiography did not favour the period, and it tended to be dismissed as an unenlightened, irrelevant prelude to the 'Glorious Revolution' of 1688-89. More recently it has been rehabilitated as a respectable subject of academic enquiry, and this has led to a considerably more sophisticated understanding of its social, political and ecclesiastical dynamics. This renaissance, however, has not fully impacted upon historians' understanding of the Highlands. Here the problem was not so much disinterest in the Restoration as complacency about the place of the far north and west in the wider Scottish and British contexts. The Highlands, many historians were content to assume, existed in introverted isolation, controlled by a quaint patchwork of petty chieftains and displaying at best intermittent interest in, and engagement with, the outside world. But this idea was itself a product of outdated Whiggish thinking, which needed to emphasise the backwardness of the Highlands in order to rationalise its supposed modernisation after the '45 rebellion. This orthodoxy has now been comprehensively overturned, and historians are increasingly willing to acknowledge that the early-modern Highlands were much more cosmopolitan than has been assumed. As yet, however, little attempt has been made to re-examine the Restoration Highlands in light of this newer thinking. This thesis has attempted to correct that oversight.

Any understanding of Highland government in this period must be based, in the first instance, upon a realistic appraisal of the region's place within the broader Scottish and British contexts. While recognising that relations between peripheral societies and core states, shaped by the unique peculiarities of political, socio-

economic and cultural circumstances, were almost infinitely variable, the historiography provides two opposing conceptual frameworks. 'Imperial' models tend to stress the primacy of the centre. Under this view, the impetus towards peripheral integration is seen to come from the centre, meaning that localities find themselves governed by, and in the interests of, the core state. The 'imperial' model, in other words, views state formation as an essentially aggressive and expansionist process directed by central governments.

The 'collaborative' model stands in opposition to 'imperial' readings. Such an approach tends to stress the parity of centre and locality by acknowledging, first and foremost, that peripheral integration could be sought just as fervently by local society as by central government. As a result, 'collaborative' approaches usually offer a more mutual vision of centre-periphery interaction, stressing the cooperation of local society rather than its abject subordination. Through the 'collaborative' model, state formation is seen not as an imposition from above, but as a project shared between central government and peripheral elites.

Perhaps unsurprisingly, the Highland experience under Charles II and James VII displays features from both schools. Some markers of an 'imperial' relationship can be discerned, the most obvious being the perception of Highlanders and the Highlands. Contemporaries tended to view the Highland landscape as rough, wild and unproductive, which in tern led them to characterise Highlanders as an internal 'other'. Moreover, in an age which viewed human society as a sliding scale between civility and barbarity, this 'otherness' became synonymous with inferiority, so that Highland society was denigrated as archaically tribal and militaristic. Nor was this perception challenged by native image-makers. Vernacular poets were only too happy to emphasise the 'fighting and feasting' character of traditional Gaelic society, while many local elites continued to embrace a range of conventional cultural

markers surrounding language, costume and the trappings of militaristic lordship. In short, for both contemporaries and historians the Restoration Highlands were encumbered with the kind of derogatory reputation for cultural difference that formed a necessary prerequisite to 'imperial' projects of centre-periphery interaction.

Equally suggestive of an 'imperial' relationship was the marked weakness of Highland involvement in the structures of central government. Admittedly, attendance at Parliament was fairly stable, although of course the Highlands only comprised about one-fifth of parliamentary representation. But involvement in all other organs of central government – such as parliamentary and Privy Council committees, or the offices of state – was restricted to a very small group of select individuals, such as Argyll and Tarbat. The Highland Committee, overwhelmingly Lowland and aristocratic in composition, provided further testimony to the general exclusion of Highlanders from the Edinburgh administration, something which would seem to confirm that the Highland locality really was governed under the aegis of an alien centre.

All this, however, is only part of the story. The limitations of the 'imperial' approach, and the consequent value of a 'collaborative' perspective, should be acknowledged. For a start, it is crucial to recognise that cultural denigration did not tend to involve characterisation of Highlanders as 'barbarous'; colourful language may often have been invoked, but in general the locality was seen as wild and lawless, but not fundamentally uncivil. This does not preclude the existence of an 'imperial'-style relationship, but it does throw into question the extent to which the Highlands were treated as an 'internal colony'. Perhaps more tangibly, the discourse of cultural separation masked what was, in reality, a far more fluid situation. The Restoration Highlands cannot be divided into clear-cut 'Gaelic' and 'Lowland' cultural zones, and we should not try to categorise its inhabitants as such. In

actuality, the region espoused a hybrid identity, whereby those of traditionally Highland stock were perfectly comfortable engaging with the trends and mores of Lowland society, while non-Gaels (especially in the east) were not slow to embrace some conventionally Gaelic cultural markers. On closer inspection, then, the characterisation of the Highlands as an internal 'other' begins to look increasingly superficial.

Moreover, the ostensibly 'imperial' relationship between central government and local communities was mitigated by a pattern of 'magistracy'. In common with much of contemporary Europe, Scottish government functioned through the partnership of public and personal power. Holding local government office granted renewed prestige and legitimacy to regional elites, and the government, for its part, was able to expand its influence by harnessing pre-existing power networks. This held true beyond the Highland line; government was careful to award offices to the most influential local lords, and Highlanders were assiduous in amassing and defending local jurisdictions. The pattern was repeated whether the offices in question were administrative, judicial, military or financial in character, and it served to emphasise that, far from being bypassed by an imperialistic centre, Highland elites were fully integrated into the governing structure, and were fundamental to its survival.

Given the pattern of widespread local elite integration, the notion of a 'Highland problem' begins to look unsustainable. That is not to say, of course, that controlling the Highlands was free of challenges. Banditry was clearly a major issue (although, in the absence of sufficient research, the extent to which it was more serious than in the Lowlands must remain indeterminate), and feuding, often involving a great deal of violence, remained prominent. But the 'Highland problem' model implies more than just unruliness. It suggests that control of the locality was

handicapped by challenges that were both endemic and uniquely 'Highland'. This is patently not the case. Banditry was concentrated in (although admittedly not restricted to) one locality, Lochaber, and was therefore hardly 'endemic' – in fact, it was nurtured in part by well-established local jurisdictional peculiarities. At the same time, animal theft was often rooted in individual social stresses which had little to do with the supposed peculiarities of Highland society. The same applies to feuding. Few conflicts in this period fitted the classic pattern of land-based competition, and most were complemented by a judicial campaign on behalf of one side, or both. Even clanship, the institution usually held up as the *leitmotif* of the 'Highland problem' – not to mention the explanation of Highland lawlessness – had a much more limited role than is often assumed. Certainly clans represented unofficial nexus of identity and authority, but they were equivocal and often brittle, and it is by no means certain that, in practice, they differed greatly from the kin networks that dominated much of contemporary European society. In any case, it was exactly this kind of personal power that the system of 'magistracy' attempted to exploit; if a local office-holder could use clan ties to extend the influence of his office, then so much the better.

Accordingly, government policy did not aim to affect a transformation of Highland society along Lowland lines for the simple reason that it did not need to. The Highlands had already located itself within the framework of the Scottish and British polities while retaining a distinct, hybridised local identity. The model of introducing transformative policies with a view to tightening political control, however important it may have been under James VI, or would be under the Hanoverian dynasty, was not therefore of particular relevance during the Restoration. Instead, government aims were more circumspect. On the one hand, there was a desire to curb the banditry of 'broken men'. On the other, there was a

definite drive towards opening up the Highlands to fiscal and military exploitation. The policy developments of the period only make sense if we acknowledge these modest and limited aims.

That policy was reworked several times, usually responding to broader national developments. In line with the conservative and *laissez-faire* ethos of the Restoration settlement, it began with a conventional expedient. Bonds of caution were a well-established mechanism for bolting public authority onto the structures of personal lordship – essentially an extension of the under-lying magisterial pattern. Conservatism also inspired the restoration of the House of Argyll, although this was in addition a consequence of the regime-change of 1663. In the aftermath of the Pentland Rising (1666), the use of single commissioners and independent companies injected policy with a more direct, militaristic ethos. This trend was intensified in response to the 'Restoration crisis' after 1678, although the creation of the 'Highland companies' also represented a reactionary reliance on the trusted agency of Clan Campbell. With the arrival in Scotland of James, duke of Albany, concerted attempts were made to broaden out the client base. The abortive 'five divisions' scheme signalled this intention, and the commission for securing the peace of the Highlands realised it. Running through all of these developments was an ever-growing reliance on military coercion to reinforce policy.

The government's scatter-gun approach looks at first glance singularly eccentric and inconsistent. But these tactical shifts should be assessed alongside a much deeper strategic vision. Political thinking in Restoration Scotland gradually came to embrace the notion that strong monarchical government was the best bulwark against disorder, and Highland policy mirrored this development. Two strategies thus developed. The first, in evidence from the very beginning of the Restoration, conservatively sought to preserve order through the agency of local

elites – an 'indirect' approach. The second, gaining in prominence from the later 1660s, favoured policies that would bypass local power and rule with a sense of transcendent public authority – a 'direct' approach. Had they been imposed wholesale, these two strategies would have been mutually exclusive, but the government instead sought a middle way. All of its policies from 1667 onwards sought in the last analysis to balance the entrenched authority of local elites with the pretensions of a pseudo-absolute monarchy, and this basic conceptual thread was never lost. Implicit in this was an admission that government in the Restoration Highlands was not something summarily imposed from Edinburgh, but was rather a project shared between centre and periphery.

On balance, therefore, the Highland experience during the Restoration would seem to have had more in common with the 'collaborative' model of centre-periphery interaction than with the 'imperial'. True, the rhetoric of Highland distinctiveness, even 'otherness', was relentless, and there was little place for Highlanders at the pinnacle of the Edinburgh administration. Yet the active involvement of the local elite was fundamental to the systems of local control. They themselves recognised the advantages of integration, and were as enthusiastic about the process as anybody else. Crucially, then, once the polemic is set aside, the Highlands' place within the Scottish state was broadly similar to that of any other locality. Certainly there were local peculiarities that had to be accommodated, but these differences were not fundamental. This, in turn, raises larger questions about the early-modern Highlands. With a centre capable of accommodating such cultural diversity, and a locality able to adapt and hybridise with relative ease, does the model of a stark Highland/Lowland divide still convince? This thesis has dealt with only one brief timeframe. But the patterns it has uncovered suggest that notions of a

Highland 'them' and a Lowland 'us' in early-modern Scotland may need to be revisited.

List of Appendices

The following appendices can be found on the CD attached to this thesis (PDF format). They contain the raw data upon which the various statisitcal analysis exercises in chapters 2 to 7 are based. The thesis cites these appendices in the footnotes where appropriate.

Appendix Number	*Description*	*Source(s)*	*In-text References*
1	Parliamentary Attendance, 1661-86	*RPS*	p.61, p.152
2	Local Office-Holding, 1661-88 (i) Administrative Office (ii) Judicial Office (iii)Financial Office	*RPS*; *RPCS*; *RGSS*; NRS, PA7/10; NRS, PA11/12; NRS, SC54	p.74
3	Central Office-Holding, 1661-88 (i) Administrative Office (ii) Judicial Office (iii)Commissions to the Highlands Committee	*RPS*; *RPCS*	p.77
4	Judicial Commissions, 1661-85	*RPCS*	p.195, p.215
5	The Commission for Securing the Peace of the Highlands, 1682	*RPCS*	p.263
6	Taxation Levies, 1661-81	*RPS*; NRS, PA11/12	p.274

Key to appendices 2, 3, 4 and 5:

H = Highland resident

L = Lowland resident

F = Highland Fringe resident

U = Unknon residency

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