



**OXFORD JOURNALS**  
OXFORD UNIVERSITY PRESS

## The Past and Present Society

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Source: *Past & Present*, No. 173 (Nov., 2001), pp. 90-128

Published by: Oxford University Press on behalf of The Past and Present Society

Stable URL: <http://www.jstor.org/stable/3600841>

Accessed: 02/07/2009 12:37

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## ELITE CULTURE AND THE DECLINE OF SCOTTISH JACOBITISM 1716–1745

There can be no doubt that of all the manifestations of Jacobitism in the British Isles, the Scottish variant has received the most attention. The reason is easy to see: the image of Charles Edward Stuart raising a Scottish army from nowhere, winning a miraculous victory, leading it to Derby, going down to tragic defeat at Culloden and escaping through the heather to France is an arresting one.<sup>1</sup> Even his dour but upright father's brief sojourn at Perth in 1716 has a striking, sadly romantic quality that James II and VII's stay in Ireland never had either for the Irish at the time or for subsequent generations.<sup>2</sup> English Jacobitism has some drawing power, but it was always such a damp squib that it has only recently become the subject of serious research in its own right.<sup>3</sup> Hence it may seem somewhat otiose to reflect, yet again, on the special qualities of Scottish Jacobitism. Our purpose is, however, somewhat different from that underpinning most scholarly work on this subject, for rather than focusing on particular actors and events, what we propose to do here is to explore some peculiar features of Scottish heritor — i.e. landowner<sup>4</sup> — society that directly affected the survival and authority of the Jacobite cause in Scotland.

<sup>1</sup> For examples of the drawing power of the image, see: John Ure, *A Bird on the Wing: Bonnie Prince Charlie's Flight from Culloden Retraced* (London, 1992); Fitzroy Maclean, *Bonnie Prince Charlie* (London, 1988); Carolly Erickson, *Bonnie Prince Charlie: A Biography* (London, 1989); Susan Maclean Kybett, *Bonnie Prince Charlie: A Biography of Charles Edward Stuart* (New York, 1988); George Forbes, *Rebellion: Bonnie Prince Charlie and the 1745 Jacobite Uprising* (Glasgow, 1995); Diana Preston, *The Road to Culloden Moor: Bonnie Prince Charlie and the '45 Rebellion* (London, 1995).

<sup>2</sup> Martin Haile, *James Francis Edward: The Old Chevalier* (London, 1907), 207–16; T. W. Moody, F. X. Martin and F. J. Byrne (eds.), *A New History of Ireland, iii, Early Modern Ireland, 1534–1691* (Oxford, 1976), 498; T. W. Moody and W. E. Vaughan (eds.), *A New History of Ireland, iv, Eighteenth-Century Ireland, 1691–1800* (Oxford, 1986), 397.

<sup>3</sup> Eveline Cruickshanks, *Political Untouchables: The Tories and the '45* (London, 1979); Daniel Szechi, *Jacobitism and Tory Politics, 1710–14* (Edinburgh, 1984); Paul Kléber Monod, *Jacobitism and the English People, 1688–1788* (Cambridge, 1989); Leo Gooch, *The Desperate Faction? The Jacobites of North-East England, 1688–1745* (Hull, 1995).

<sup>4</sup> Ian D. Whyte, *Scotland's Society and Economy in Transition, c.1500–c.1760* (London, 1997), 26.

Hitherto, analyses of the Scottish Jacobite phenomenon have tended to focus on politics and economics.<sup>5</sup> Both certainly have their place in a modern matrix of explanation, and will inform and underlie the argument advanced below. The essay that follows will, however, concentrate on an area with which neither politics nor economics is specifically concerned: the dynamics of social relations within Scotland's elite. For, while money and influence undoubtedly played a role in many Jacobites' engagement (and disengagement) with the Stuart cause, and particularly their willingness to turn out in arms to fight for it, they did so in a particular social context. And the rules of that social context — the cultural mores of Scotland's elite community — acted sometimes to enhance, and sometimes to detract from, overt political and economic pressure on the Jacobite elite to conform to the Whig order.

This exploration of the social dynamics of Jacobitism relative to heritor society relates directly to the larger problem of explaining how a distinct Jacobite elite community survived after 1716. That the revival of the Jacobite cause in Scotland was a phenomenon in need of explanation was first recognized by Bruce Lenman in 1980. It was a classic case of the question *bien posé*: how did the Jacobites manage to survive such a disaster and come back with another major rebellion thirty years later? For Lenman the answer was twofold. In the immediate aftermath of the rebellion, the Jacobites generally succeeded in preventing the expropriation of their estates by the Commission for Forfeited Estates and the York Buildings Company, by sustained legal guerrilla warfare. Meanwhile, the Episcopalian clergy doggedly endured the persecution that followed the collapse of the rising and continued to preach and teach the ideology of Jacobitism wherever they had hearers, and particularly in north-eastern Scotland.<sup>6</sup> And without doubt Lenman was right on both counts. Incidental to his perceptive analysis of the Jacobite community's survival, though, was an

<sup>5</sup> Bruce Lenman, *The Jacobite Clans of the Great Glen, 1650–1784* (London, 1984), 178–95; Daniel Szechi, *The Jacobites: Britain and Europe, 1688–1788* (Manchester, 1994), 131–2; George Pratt Insh, *The Scottish Jacobite Movement: A Study in Social and Economic Forces* (Edinburgh, 1952), 89–90, 158–64; Allan I. Macinnes, *Clanship, Commerce and the House of Stuart, 1603–1788* (East Linton, 1996), 210–11, 221–34.

<sup>6</sup> Bruce Lenman, *The Jacobite Risings in Britain, 1689–1746* (London, 1980), 162–70, 175–9; Bruce Lenman, 'The Scottish Episcopal Clergy and the Ideology of Jacobitism', in Eveline Cruickshanks (ed.), *Ideology and Conspiracy: Aspects of Jacobitism* (Edinburgh, 1982).

intriguing phenomenon which he noticed in passing when he observed that there was a general assumption at the time 'that there would be no social change in Scotland comparable to the process which created a new Whig ascendancy in the north of England'.<sup>7</sup> What Lenman was pointing to was the quiet complicity of many, if not most, of the heritor class in the Jacobites' efforts to subvert the central government's attempt to use their failure in 1715 to crush the Jacobite cause in Scotland.

Yet cowing or coopting the Jacobite elite community was the key to consolidating the new British state, and many of those who aided and abetted the Jacobites in the aftermath of the '15 certainly supported that objective. So why did these supporters of the new order give aid and comfort to the enemies of the Whig regime in Scotland? Just as importantly, what impact did their intervention have on the Scottish polity, and particularly on the alienated (but substantial) Jacobite minority? These questions will be the focus of the analysis that follows.

Before we explore the Jacobite elite community's interaction with their Whig peers, however, we must first review the role played by the Jacobite elite within their own, special section of Scottish society. Only by understanding the context in which they exercised their authority can we fully appreciate the dynamics of their relationships beyond it, with their Whig social equals.

## I

For a popular subversive movement to survive, or an armed uprising to occur, in any polity a great many material and other factors have to come into alignment, as also do particular power relationships: someone has to be willing and able to command; others have to be willing and able to obey. In early eighteenth-century Scotland elite Jacobites were the natural commanders, and therefore the *sine qua non*, of Jacobite resistance, but they were not operating in static, unchanging circumstances. The social dynamics of authority (in effect, the power to command) were subtle and fluid, and Scotland's Jacobite elite was dealing with what was, by early modern standards, a society in the process of rapid change.

<sup>7</sup> Lenman, *Jacobite Risings*, 178.

Moreover, the Scottish Jacobite community was *prima facie* very diverse. Every element in the Scottish polity, from Latin-writing Presbyterian academics to Gaelic-speaking Catholic cat-erans (Highland brigands, freebooters), was represented within its ranks. In that sense it was a truly national movement.<sup>8</sup> To acknowledge Jacobitism's diversity, however, is not to deny that it was also subject to a markedly regional and communal concentration. Scotland's population numbered approximately 1 million between 1700 and 1750, the heyday of the Jacobite cause there. Of that 1 million about 30 per cent were primarily Gaelic-speaking inhabitants of the Highlands and Islands. The remainder of the population were Scots-speakers living in the southern, central and north-eastern Lowlands. In addition, around half of the total population lived in the two-thirds of Scotland geographically north of the river Tay, primarily in the north-eastern Lowlands.<sup>9</sup> And it was these two regions, the Highlands and the north-eastern Lowlands, that were the bedrock of Scottish Jacobitism.

The social structure of the Highlands was, of course, unusual in that the clan system that made it so distinctive survived into the Jacobite era. The basic concepts of the clan and clanship are generally well known, but for the sake of clarity it is, nevertheless, worth briefly elucidating its central features with an eye to the way the social elite's authority operated within it on a day-to-day basis. The chieftain was the apex of clan society, and theoretically enjoyed great power over his people, but *de facto* he was far from being an absolute monarch.<sup>10</sup> All chieftains were in a reciprocal relationship with both their extended families (brothers, uncles, cousins, etc.), who in some degree shared in their dynastic legacy, and a wider circle of clan gentry composed of former cadet branches of the ruling house and others whose

<sup>8</sup> Murray Pittock, *The Myth of the Jacobite Clans* (Edinburgh, 1995), chs. 2–3; Macinnes, *Clanship*, 174, 180–1, 195; Chevalier [James] de Johnstone, *Memoirs of the Rebellion in 1745 and 1746* (London, 1820), 171–2; Hist. MSS Comm., *Stuart Papers*, 7 vols. (London, 1904–20; hereafter HMC *Stuart*), iii, 215, 554.

<sup>9</sup> Ian D. Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c.1050–c.1750* (London, 1995), 114.

<sup>10</sup> *Viz.* the clansmen's defiance of chieftains who went wholly against the political consensus within the clan, for examples of which see: Alistair Tayler and Henrietta Tayler, *1715: The Story of the Rising* (London, 1936), 47; 'Memorial Concerning the Highlands Written by Alexander Macbean, A.M., Minister of Inverness', in *Origins of the Forty-Five and Other Papers Relating to that Rising*, ed. W. B. Laikie (Edinburgh, 1916; repr. Edinburgh, 1975), 91.

ancestry was more obscure, known as 'tacksmen'.<sup>11</sup> It was the tacksmen who were the primary land managers of clan society and the immediate rulers of most of the ordinary clansmen, because they leased large tracts of land from the clan chief, subletting them to tenants in return for goods or services the tacksmen then paid in part back to the chief.<sup>12</sup> Most clans were quite small in terms of numbers (no more than 5,000–6,000 in total), so the ruling dynasty played a visible, major role in all their clansmen's lives, but the day-to-day exercise of power within the clan for the most part remained firmly in the hands of the tacksmen in most areas of the Highlands. Their relationship with the clansmen was, however, trammelled by both parties being members of the same cultural entity. Because both tacksmen and clansmen were members of the clan and partakers in its myths of common identity their relationship had certain limits. Tacksmen generally could not evict clan tenants nor ordinary clansmen decamp in search of better terms of employment elsewhere. Consequently, as long as the whole of the clan, and especially the ruling dynasty, accepted their common identity and associated responsibilities, the clans were intrinsically stable in terms of power relationships between the various ranks of society.<sup>13</sup>

In the north-eastern Lowlands the social structure was akin to that prevailing in most of the British Isles, albeit with a Scottish cast.<sup>14</sup> The fundamental distinction lay between the heritors (those who owned the land and the considerable legal rights that went with possession of it), and the tenants (those who worked

<sup>11</sup> Lenman, *Jacobite Clans*, 13–14; E. Burt, *Burt's Letters from the North of Scotland: With Facsimiles of the Original Engravings*, introd. R. Jamieson, 2 vols. (London, 1754; repr. Edinburgh, 1974), i, 233; National Archives of Scotland, Edinburgh (hereafter NAS), GD 220/5/631/10a–b (Montrose Papers), John Hope to the duke of Montrose, Inverness, 6 Apr. 1716. But cf. Lord Glenorchy on the difficulty of preventing clansmen deserting: *The Life and Correspondence of Philip Yorke, Earl of Hardwicke, Lord High Chancellor of Great Britain*, ed. Philip C. Yorke, 3 vols. (Cambridge, 1913; repr. New York, 1977), i, 519, Glenorchy to Colonel Joseph Yorke, Taymouth, 10 Apr. 1746. We are grateful to the Keeper of the Records of Scotland for permission to use the Montrose Papers held at the NAS.

<sup>12</sup> Robert Clyde, *From Rebel to Hero: The Image of the Highlander, 1745–1830* (East Linton, 1995), 7. Clyde not only provides a clear explanation of the terms 'heritor' and 'tacksman', he also analyses the importance of the breakdown of this system.

<sup>13</sup> Eric Richards, *A History of the Highland Clearances: Agrarian Transformation and the Evictions, 1746–1786* (London, 1982), 60–4; Macinnes, *Clanship*, ch. 1; Burt, *Burt's Letters*, i, 50.

<sup>14</sup> E. P. Thompson, *Customs in Common* (London, 1991), chs. 2–4; Whyte, *Scotland before the Industrial Revolution*, 151–2, 155–6, 161.

it). There was, of course, a very large range of gradations in landownership and tenancy, and all kinds of local nuances and blurrings of the two categories at different times and in different ways, but the basic line of authority was very simple: a tenant was obliged to respect and defer to the heritor whose land he farmed. As a result, the relationship between heritor and tenant was implicitly volatile. If the tenant changed his tenancy, or the heritor sold or otherwise leased the land to someone else, the relationship between the two was terminated.<sup>15</sup> This is not to deny that bonds of affection, tradition and affinity still retained some influence when a heritor was forced to sell lands, and it would be misleading not to point out that many heritor dynasties in the North-East clung to their lands through good and bad times, in this way building up a distinctly non-economic, even patriarchal, relationship with their tenants.<sup>16</sup> Yet the basically contractual terms of heritor-tenant relations there ultimately made for a lesser sense of common interest when compared with clan society.

The more limited nature of social bonds in the north-eastern Lowlands was, though, mitigated by the religious complexion of the region. In many areas from 1689 until the late 1740s heritor and tenant alike tended to be of the same confessional alignment: Episcopalian Protestant nonconformist. Whereas the rest of the Lowlands and some parts of the Highlands were overwhelmingly Presbyterian, the north-eastern Lowlands may have been as much as 50 per cent Episcopalian in the first half of the eighteenth century. Indeed, the vast majority of the 30–40 per cent or thereabouts of the Scottish population who were Episcopalian in religion lived there or in the Highlands.<sup>17</sup> And as Captain Edward Burt acidly observed in the 1720s, he had never met one ‘that is not a professed Jacobite’.<sup>18</sup>

The net result of this feature of north-eastern Lowland society was to create a reciprocally hostile siege mentality. The Presbyterian community in the North-East felt beleaguered and threatened by the Episcopalian hordes, and actively sought out-

<sup>15</sup> Whyte, *Scotland before the Industrial Revolution*, 159–61.

<sup>16</sup> *Ibid.*, 153, 161.

<sup>17</sup> Lenman, *Jacobite Risings*, 55–68; Murray Pittock, *Inventing and Resisting Britain: Cultural Identities in Britain and Ireland, 1685–1789* (London, 1997), 41, 45.

<sup>18</sup> Burt, *Burt's Letters*, i, 222. Burt was exaggerating the uniformity of the match between Episcopalianism and Jacobitism, but there can be no doubt that the great majority of Episcopalians were at least sympathetic to the Stuart cause in 1689–1746.

side intervention to protect themselves and smite their foes.<sup>19</sup> This was intermittently forthcoming, usually when the central authorities felt especially alarmed by reports of Jacobite activity. At such times the north-eastern Presbyterians could count on government troops physically attacking the fabric of the Episcopalians' religious community by arresting and harassing their clergymen and closing down or wrecking their chapels, and also on government attempts to indict and punish Jacobite activity that often had the indirect effect of forcing Episcopalian landlords to cease their opposition to the activities of the Kirk in areas under their control.<sup>20</sup> Such collaboration with outsiders by the Presbyterians, of course, antagonized the Episcopalians on two counts. By offending localist sentiment it boosted the regionalist patriotic aspect of the Episcopalian perception of themselves, and by invoking what was, in effect, overwhelming force in the shape of government military and judicial intervention it kept the Episcopalian community in a mirror-image, siege-like state of hostility and tension with its Presbyterian neighbours.<sup>21</sup>

In such circumstances it is not surprising to find that the power to command their tenants traditionally enjoyed by the heritors of the north-eastern Lowlands was considerably enhanced. In the face of harassment by Kirk and state, the tenants naturally cleaved to the traditional protectors of the local community: the heritors whose lands they worked.<sup>22</sup> Thus, in effect, state hostility allowed, even encouraged, the heritors of the North-East to maintain a role more associated with landownership in previous centuries. Elsewhere in Scotland the protective aspect of landownership was increasingly being abandoned in favour of strictly economic relations between heritor and tenant; for the peculiar

<sup>19</sup> See, for example, NAS, GD 220/5/455/3 and 7, Lord Justice Clerk Cockburn of Ormiston to Montrose, Edinburgh, 18 June and 7 July 1715; NAS, GD 220/5/455/4, anonymous account of Jacobite disturbances in Aberdeen, Aberdeen, 13 June 1715; *Origins of the Forty-Five*, 'Memoirs of the Rebellion in Aberdeen and Banff', 126–7.

<sup>20</sup> *Origins of the Forty-Five*, 'Memoirs of the Rebellion in Aberdeen and Banff', 156–7; T. N. Clarke, 'The Scottish Episcopalians, 1688–1720' (Univ. of Edinburgh Ph.D. thesis, 1987), 394–8; Murray Pittock, *The Jacobites* (London, 1998), 48, 114.

<sup>21</sup> Pittock, *Inventing and Resisting Britain*, 10; NAS, GD 45/14/220/21 (Dalhousie Papers), Margaret, countess of Panmure to the earl of Panmure, Panmure, 13 Nov. 1716; NAS, GD 1/616/64, Lord Advocate Robert Dundas of Arniston's response to a complaint by the General Assembly of the Kirk, Edinburgh, 20 Sept. 1723; Johnstone, *Memoirs of the Rebellion*, 182–4; *Origins of the Forty-Five*, 'Memoirs of the Rebellion in Aberdeen and Banff', 149. We are grateful to the earl of Dalhousie for permission to cite from the Dalhousie Papers collection held at the NAS.

<sup>22</sup> Lenman, *Jacobite Risings*, 56–7, 60–4.

reasons outlined above, this change was slower in coming in the north-eastern Lowlands.<sup>23</sup> And, as was the case in the sixteenth and seventeenth centuries, strong social bonds between heritor and tenant had distinctly military overtones. The consequences are evident in the major Jacobite risings after 1707. In both 1715 and 1745 north-eastern Lowland tenants in their thousands followed local heritors off to fight for the Jacobite cause, whereas southern and central Lowland Episcopalian heritors who joined the Jacobite risings did so either alone or with a handful of kinsmen and domestic servants.<sup>24</sup>

In the Highlands religion played a distinctly secondary role in the social bond between the tacksmen and the ordinary clansmen. Though there did tend to be an affinity of religion between the two groups in the clan hierarchy, there were particular septs of various clans which diverged from the main strand. Hence it was possible to find Catholic and Presbyterian sub-groups within what were otherwise emphatically Episcopalian entities, and vice versa with respect to the small number of predominantly Presbyterian or Catholic clans.<sup>25</sup> The majority of the clans were Episcopalian in religion, but a significant proportion were Catholic. The corollary of this was that, in so far as the central authorities could ever enforce the Presbyterian ascendancy in the Kirk on the remote and inaccessible Highlands, the tacksmen acted as protectors of local customs in religion and everyday life in much the same way as the heritors of the North-East.<sup>26</sup>

Inaccessibility acted as a form of protection in another respect. Both the North-East and the Highlands had a notoriously poor

<sup>23</sup> Ian D. Whyte, 'Agriculture in Aberdeenshire in the Seventeenth and Early Eighteenth Centuries: Continuity and Change', in David Stevenson (ed.), *From Lairds to Louns: Country and Burgh Life in Aberdeen, 1600-1800* (Aberdeen, 1986), 23, 28; Whyte, *Scotland before the Industrial Revolution*, 152.

<sup>24</sup> Pittock, *Myth of the Jacobite Clans*, 50-1, 57, 78-83; Simon Macdonald Lockhart, *Seven Centuries: The History of the Lockharts of Lee and Carnwath* (Carnwath, 1976), 223, 230-2; NAS, GD 18/2092/4 (Clerk of Penicuik Papers), Sir John Clerk's spiritual journal for Apr. 1712-1715: 10, 11 and 13 Oct. 1715; *Origins of the Forty-Five*, 'Memoirs of the Rebellion in 1745 and 1746, So Far As It Concerned the Counties of Aberdeen and Banff', 122. We are grateful to Sir John Clerk of Penicuik for permission to cite the Clerk of Penicuik Papers held at the NAS.

<sup>25</sup> Macinnes, *Clanship*, 180-1, 247-9.

<sup>26</sup> *Ibid.*, 2; Lenman, *Jacobite Clans*, 19-22. It seems certain that the kind of vicious harassment meted out to intruded Presbyterian ministers in remote areas of the Highlands could not have occurred without at least the tacit consent of the local elite, for a striking example of which see *Origins of the Forty-Five*, 'Memorial Concerning the Highlands', 77.

road network until the Whig regime began its military road-building programme in the 1720s.<sup>27</sup> Consequently the material culture of the majority of the inhabitants of the Highlands and, to a lesser extent, the north-eastern Lowlands, may have been slower than the rest of Scotland in taking up the goods being produced in the burgeoning workshops and nascent factories springing up in England.<sup>28</sup> Though research on the material culture of eighteenth-century Scottish society is in its infancy, there is evidence that, perhaps in large part owing to the persistence of Continental influences as a consequence of the flourishing north-eastern smuggling trade, the North-East only began to take up significant quantities of English imports in the 1720s.<sup>29</sup> In the Highlands the chronic poverty of the mass of the population necessarily retarded their ability to take up the goods being churned out by the English manufactories, but after 1707 more and more of the tacksmen and chiefly dynasties began to purchase English products in preference to their Continental counterparts.<sup>30</sup>

Tied closely to this shift towards English material goods were the increasingly common ties to the English social elite. James I began encouraging English–Scottish aristocratic marriages specifically to join by blood what could not in his reign be joined politically. The financial and political advantages of such matches encouraged them to continue, so that by 1715, for example, the duke of Atholl was the son of Amelia Stanley, daughter of the earl of Derby, while the ducal house of Gordon had multiple connections with the Howards of Norfolk. These women brought with them to Scotland not only English household goods, fashions, and a more cosmopolitan taste in products, but subtle shifts in the way they taught their families to interact with those around them. Marriages between Scots families who had secured a niche in the English military or a post in the English state bureaucracy and their more stay-at-home peers produced much the same

<sup>27</sup> R. H. Campbell, *Scotland since 1707: The Rise of an Industrial Society*, rev. 2nd edn (Edinburgh, 1992), 45–6. The effects of the introduction of good roads were immediately noticeable to contemporaries: Burt, *Burt's Letters*, ii, 329–30.

<sup>28</sup> Burt, *Burt's Letters*, i, 83–4, 123. The cost of transportation could as a result be prohibitive, for an example of which see NAS, GD 45/14/220/72, Margaret Panmure to earl of Panmure, London, 30 Nov. 1718.

<sup>29</sup> Whyte, *Scotland before the Industrial Revolution*, 222, 229, 328–9; Lenman, *Jacobite Risings*, 101–2, 216; Burt, *Burt's Letters*, i, 138–9, 170–1.

<sup>30</sup> Burt, *Burt's Letters*, i, 74, 95–6, 144, 159–60, 263–4.

effect by injecting sophisticated, Anglicized women like Penelope Louisa Mackenzie, daughter of the commander of the Tangiers garrison (and wife of Allan McDonald, 14th chief of Clanranald), into the Scottish hinterland. Reinforced by visits to English relatives and military service in England, these connections generated elite households as far afield as Castle Gordon and South Uist filled with English goods as well as English ideas. By 1715 many otherwise devoutly Jacobite families already owed considerable sums to merchants for their collections of English books, clothing and furniture.<sup>31</sup>

The significance of this change in the material culture of the North-East and Highlands was potentially profound. Quite apart from the commercial links, and ultimately economic integration, that went hand-in-hand with more and more widespread acceptance of such goods from England, even such minor everyday items as cloth and ironware carried an implicit burden of English values.<sup>32</sup> Each consumer item reflected the English conception of what, for example, a teapot or a hat should look like and how each should be used, and thus intrinsically tended to marginalize local — broadly Scottish — tastes and expectations.<sup>33</sup> Hence the relative tardiness of the acceptance of English material culture in the North-East and Highlands may have helped sustain the alienness of the new order. In turn, as the strangeness of these outside influences diminished over time the need to resort to the north-eastern heritors and tacksmen for the protection of local values and interests declined, and with it the ability of these elite groups to continue commanding their people in traditional fashion.

In addition, the social position of the clan elites and north-eastern heritors was itself undermined by the increasing intrusion of English values into customary relationships. The tacksmen suffered direct repercussions as more and more chiefly dynasties began the long process of assimilation into the nascent pan-British

<sup>31</sup> Melvin Henry Massue, marquis de Ruvigny and Raineval, *The Jacobite Peerage, Baronetage, Knightage and Grants of Honour* (London, 1904; repr. London, 1974), 157 and *passim*; British Library, London, Add. MSS 51043/17, Elizabeth, duchess of Gordon to Henrietta, marchioness of Huntly, 14 Jan. 1729; A. Mackenzie, *History of the MacDonalds* (Inverness, 1881), 419; NAS, SH 296.002, A. Smith, 'Island Forfeiture 1715' (unpublished unpaginated paper for conference on the Island of Coull, Sept. 1989).

<sup>32</sup> T. C. Smout, *A History of the Scottish People, 1560–1830* (London, 1969), 266–71.

<sup>33</sup> Burt, *Burt's Letters*, i, 83–4, 130, 263–4; ii, 329–30.

elite.<sup>34</sup> The crucial stage in the process, from their point of view and that of customary power relations within the clan, was the chieftains' reconceptualization of the relationship between themselves and the clan elite as an almost entirely economic one. Relations between the two groups had always had a strongly economic aspect; this now became supreme and more and more tacksmen were supplanted by commercially oriented land managers — many, if not most, of whom came from outside the clan, and of whom there was no expectation of military service. Not, indeed, that there was any possibility of extracting such service from the ordinary clansmen once the clan's traditional junior officers, the tacksmen, had departed.<sup>35</sup>

In the North-East the process worked somewhat differently, in that the crucial group to embrace the new economic order was much broader than in the Highlands, consisting, as it eventually did, of almost the whole of the heritor class. The turn towards more commercially oriented agriculture, focused on the English market, underlay the whole process.<sup>36</sup> With that reorientation the heritors began their transition from guardians of the local moral economy to simple rent-collectors. Traces of the old order, in terms of respect and deference to old-established families, continued on into the nineteenth century and beyond, but commercial exploitation of the land after this fashion automatically militated against any deep affinity between the tenantry and their increasingly Anglicized, and often absentee, landlords.<sup>37</sup> The final triumph of the Kirk in the North-East in the wake of the '45 accelerated the process by driving a religious wedge between the tenantry, who in the enforced absence of native, Jacobite-inclined Episcopalian clergy to minister to them tended to drift into the embrace of the state church, and the heritors, many of whom still clung to Episcopalianism but were henceforth obliged to support it more circumspectly.<sup>38</sup>

<sup>34</sup> Linda Colley, *Britons: Forging the Nation, 1707–1837* (New Haven, 1992), 155–64; Macinnes, *Clanship*, 223–4; Burt, *Burt's Letters*, i, 36, 165–6; ii, 199.

<sup>35</sup> Richards, *Highland Clearances*, 65–6, 123–4; Macinnes, *Clanship*, 18–21.

<sup>36</sup> Smout, *History of the Scottish People*, 271–81; Whyte, *Scotland before the Industrial Revolution*, 149, 299–300.

<sup>37</sup> Smout, *History of the Scottish People*, 287–94; Campbell, *Scotland since 1707*, 124–8. The exile of a significant number of landowners as a consequence of their involvement in Jacobite risings may well have accelerated this process: A. K. Smith, *The Noblest Jacobite of Them All* (Edinburgh, 1995), 1–2.

<sup>38</sup> Pittock, *Inventing and Resisting Britain*, 45; William Ferguson, *Scotland: 1689 to the Present* (Edinburgh, 1994 edn), 129; Callum G. Brown, *Religion and Society in*

It should not be taken from the foregoing synthesis, however, that the tenants and the ordinary clansmen were merely pawns in their betters' game. By the '45 even traditionalist heritors like Lord Nairn, the earl of Cromarty and the Oliphants of Gask could have problems in mobilizing their tenantry, and Allan Macinnes has suggested that by the same time in some clans Jacobitism had become a vehicle of protest against the modernizing tendencies of the chieftains and their lieutenants.<sup>39</sup> Yet it is undoubtedly true that in a profoundly hierarchical society like that of eighteenth-century Scotland the elite possessed an enormous sway over the behaviour of their social inferiors. Thus it follows that the eclipse of the tacksmen and the falling away from Jacobitism of the north-eastern heritors played a pivotal role in precipitating the decline of Scottish Jacobitism.<sup>40</sup> This much has been known within the field, though surprisingly not much beyond it, for some time, and in large part all we have done so far is rehearse and synthesize the work of scholars such as Bruce Lenman, Allan Macinnes, Murray Pittock, Chris Smout, Chris Whatley and Ian Whyte.

There is, however, an unresolved problem here. Contemporary observers were in no doubt that the Jacobite community was visibly waning in the twenty-six years between the puny rebellion of 1719 and the '45:

whilst no party is acting for his interest, no projects formed, nothing done to keep up the spirits of the people, the old race drops off by degrees and a new one sprouts up, who having no particular byass to the king [i.e. the Old Pretender], as knowing little more of him than what the public news papers bear, enter on the stage with a perfect indifference, at least

(n. 38 cont.)

*Scotland since 1707* (Edinburgh, 1997), 35. This process began earlier in some parts of the Highlands, such as Kintail, which were especially troublesome in 1715 and 1719. There the local elite came under direct pressure to conform in the 1720s, the Kirk made a determined effort to plant ministers, and consequently Presbyterianism was apparently making serious inroads by the mid-1740s. *Origins of the Forty-Five*, 'Memorial Concerning the Highlands', 76–7, 78.

<sup>39</sup> Katherine Tomasson and Francis Buist, *Battles of the '45* (London, 1962; repr. London, 1978), 45; Macinnes, *Clanship*, 166, 171–2; *Origins of the Forty-Five*, 'An Account of the Late Rebellion from Ross and Sutherland Written by Daniel Munro, Minister of Tain', 98. General resistance by ordinary clansmen to their clan elite's call to arms on either side was also apparent in some places, notably in Atholl: Leah Leneman, *Living in Atholl: A Social History of the Estates, 1685–1785* (Edinburgh, 1986), 222–3, 224–5, 234.

<sup>40</sup> *Origins of the Forty-Five*, 'Memoirs of the Rebellion in Aberdeen and Banff', 130–1.

coolness, towards him and his cause, which consequently must daylie languish and in process of time be tottally forgot.<sup>41</sup>

Yet, as Murray Pittock has shown, the Jacobites mobilized a remarkably large percentage of the adult male population in areas under their control in 1745–6.<sup>42</sup> This, in turn, is sharply at odds with the incontestable fact that Scottish Jacobitism was virtually moribund by 1750. And lest socio-economic or military determinism rear its ugly head it is worth pointing out that even the most profound social and economic forces, and the most catastrophic military defeats, do not necessarily kill a nationalistic movement like Scottish Jacobitism. The history of Irish republicanism between 1798 and 1919, for example, is punctuated by socio-economic upheaval on an epic scale and terrible military disasters, yet these never permanently discredited it as an ideology.<sup>43</sup> And the Irish case pales by comparison with the Catalan or Polish experience. Nor is it necessarily the case that long cultural, economic and political familiarity with a regime necessarily lends it full legitimacy in the eyes of alienated minorities. The Catholic Irish, after all, have had well over two centuries of exposure to British (i.e. primarily English) culture, values and norms — which have, furthermore, profoundly influenced the outlook and assumptions of the great majority of the Irish population — and have been ruled by a modern British state which, at least intermittently, has tried to conciliate and win them over. Moreover, most Irish Catholics under British rule have undoubtedly cooperated with the British state, more or less happily, most of the time. Nevertheless, the British state has faced periodic uprisings and a persistent vein of nationalistic opposition from an apparently irreconcilable minority in virtually every generation since the 1790s.<sup>44</sup> How, then, may we resolve these apparent paradoxes? Our contention here is that there was a peculiar brittleness to Scottish Jacobitism that made it especially vulnerable to all the factors outlined above, and it stemmed directly from the social relationship between the Whig elite and its Jacobite counterpart.

<sup>41</sup> *The Lockhart Papers*, ed. Anthony Aufrere, 2 vols. (London, 1817), ii, 405.

<sup>42</sup> Pittock, *Myth of the Jacobite Clans*, 61, 79–80.

<sup>43</sup> Robert Kee, *The Green Flag*, i, *The Most Distressful Country* (London, 1989), 108–45, 161–9; Robert Kee, *The Green Flag*, ii, *The Bold Fenian Men* (London, 1989), 34–44, 252–76.

<sup>44</sup> K. Theodore Hoppen, *Ireland since 1800: Conflict and Conformity* (London, 1989), 128–68.

## II

So where and how did relations between elite Whigs and elite Jacobites affect the Jacobite cause in Scotland? What were the points of contact? There can be no doubt that gentry sociability lay at the heart of the interaction between the two. In both town and country the heritors and their families seem to have been constantly visiting each other, dining together and exchanging gifts.<sup>45</sup> Indeed, judging by his diary, even a minor laird like George Home of Kimmerghame rarely went two days without calling on, or being visited by, his kinsfolk and neighbours, and senior officials like Robert Dundas of Arniston, later president of the court of session, were famously convivial.<sup>46</sup> Nor was this a peculiarly male activity. Women from elite families travelled and visited widely and consequently developed semi-independent networks of sociability of their own.<sup>47</sup>

The content of Scottish elite sociability was fairly standard for the eighteenth century British Isles, involving a good deal of drinking, the trotting out of the most delectable comestibles in the household at various mealtimes, hunting, walking, bowling, gambling and talking politics.<sup>48</sup> What is striking about it, given

<sup>45</sup> Henry Grey Graham, *The Social Life of Scotland in the Eighteenth Century*, 2nd edn (London, 1901; repr. New York, 1971), 12–13; NAS, GD 18/2092/2, Sir John Clerk's spiritual journal for 1699–1709: 17 Mar. 1701; *The Letters of George Lockhart of Carmath, 1698–1732*, ed. Daniel Szechi (Scot. Hist. Soc., 5th ser., ii, Edinburgh, 1989), 52–3; Robert Wodrow, *Analecta: or, Materials for a History of Remarkable Providences: Mostly Relating to Scotch Ministers and Christians*, 4 vols. (Maitland Club, Edinburgh, 1862), i, 345. This subject has recently been explored in an English context, from which it is clear that many of the mores of Scottish sociability were common to England too: Susan E. Whyman, *Sociability and Power in Late-Stuart England: The Cultural Worlds of the Verneys, 1660–1720* (Oxford, 1999).

<sup>46</sup> *An Album of Scottish Families, 1694–96: Being the First Instalment of George Home's Diary, Supplemented by Much Further Research into the Edinburgh and Border Families Forming his Extensive Social Network*, ed. Helen Kelsall and Keith Kelsall (Aberdeen, 1990), 15 and *passim*; *The Arniston Memoirs: Three Centuries of a Scottish House, 1571–1838*, ed. George W. T. Omond (Edinburgh, 1887), 59.

<sup>47</sup> NAS, GD 18/5246/1/46, earl of Galloway to Sir John Clerk, Glasertoun, 30 Mar. 1713; NAS, GD 27/6/16 (Kennedy of Dalquharran Papers), Thomas Kennedy to Grizel Kennedy, London, 5 May 1716; NAS, GD 18/5271/4, Elizabeth, dowager countess of Stair, to Sir John Clerk, 3 Sept. 1715; Johnstone, *Memoirs of the Rebellion*, 239–43, 296.

<sup>48</sup> Graham, *Social Life of Scotland*, 12–13, 15; *Arniston Memoirs*, ed. Omond, 107–9; Burt, *Burt's Letters*, i, 159–60; *Correspondence of Colonel N. Hooke, Agent from the Court of France to the Scottish Jacobites, in the Years 1703–7*, ed. W. D. Macray, 2 vols. (Roxburghe Club, London, 1870), ii, 230–1. For a literary vignette that nicely underscores the ubiquity and lavishness of mid-eighteenth-century Scottish elite hospitality, see Tobias Smollett, *The Expedition of Humphrey Clinker* (Everyman edn, London, 1968), 211, 216–17, 225–6, 230–2, 240.

the fractionated, religiously partisan nature of the Scottish elite in this period, is its eclecticism. Thus in 1708 the solidly Presbyterian Sir Patrick Scott of Ancrum instructed his son William that while he (and they) were in Edinburgh he was to call at least once a week on the duke of Queensberry, the earl of Portmore, Secretary Johnston and George Baillie of Jarviswood, once or twice a week on the dukes of Hamilton and Montrose, 'oftener' on the duke of Roxburghe, and to arrange for himself to be introduced to the earl of Mar.<sup>49</sup> This remit neatly covered the entire religious and political spectrum: Queensberry and Portmore were moderately Presbyterian courtiers; Johnston, Baillie, Montrose and Roxburghe committed Presbyterians and hardline Squadron Whigs; and Hamilton and Mar were Episcopalian Tories. William Scott was being sent to Edinburgh to make his way in the world, but at the local level too there was remarkably little social discrimination between kinsmen and neighbours on politico-religious grounds. Episcopalian/Torycum-Jacobite and Presbyterian/Whig neighbours and kinsfolk seem to have undertaken regular visits to each other, and to have honoured the traditions of both family and good neighbourship by attendance at formal occasions such as weddings and funerals.<sup>50</sup> Those sources that record the participants' impressions of such visits suggest there was a certain tension in the proceedings when the visitors and the hosts were seriously at odds over religion and politics, but social custom demanded restraint on such occasions and all parties generally seem to have tried to avoid falling into open disputes.<sup>51</sup>

The natural consequence of such normative behaviour was that kinsfolk and neighbours of very different political and religious opinions could become socially close through the regular round of local elite fraternization. Kinship networks were generally very broad — Captain Burt observed in the 1720s that 'the better sort here are almost all of them related to one another in some degree, either by consanguinity, marriage, or clanship'<sup>52</sup> — and family ties traditionally carried greater weight than those of neighbourliness, but in terms of everyday social activity neighbours

<sup>49</sup> NAS, GD 259/4/1/41 (Scott of Ancrum Papers), 'Memorandum for my Eldest Sone', [Ancrum?], 9 Dec. 1708.

<sup>50</sup> Burt, *Burt's Letters*, i, 230, 234.

<sup>51</sup> NAS, GD 18/2092/2, Sir John Clerk's spiritual journal for 1699–1709: 12 Feb. and 26 Sept. 1702, and 1 and 9 Feb. 1708.

<sup>52</sup> Burt, *Burt's Letters*, i, 233.

were probably more important than kin. Given the political and religious divisions already noted it was also virtually certain that every heritor family would have members of the opposing party in its neighbourly and kinship networks.<sup>53</sup> Indeed, some large elite families, such as that of the fourth duke of Hamilton, spanned the entire range of religion and contemporary politics within one generation.<sup>54</sup> Learning to live with the enemy was thus a normal part of elite life in late seventeenth- and early eighteenth-century Scotland.

It was also in the nature of Scottish elite society that such personal ties would become currency in the political arena. Outside the burghs virtually all Scottish voters were heritors, and usually relatively wealthy ones to boot. Consequently county electorates were small, usually less than a hundred voters, and really only susceptible to manipulation through personal connections rather than grand patronage and corruption.<sup>55</sup> Being returned to Westminster as a knight of the shire for a Scottish county therefore required a successful candidate to exploit his local and family networks to produce a coalition of friends, neighbours and kinsmen sufficient to vote him in. In most cases this was bound to include some who were normally adherents of the opposing party.<sup>56</sup> Beyond parliamentary elections the corollary was that in emergencies such ties would be used by those in trouble to elicit the help of friends and relations in the opposing camp.

This is most clearly seen in the treatment of neighbours and friends of the opposite party in areas under the control of the Jacobite or British governments. In both cases the official position of the regime was discriminatory, in that the other side's partisans were subjected to special taxation, and particularly obnoxious individuals were either incarcerated or harassed. Thus the

<sup>53</sup> Lenman, *Jacobite Clans*, 187; John B. Stewart, *Opinion and Reform in Hume's Political Philosophy* (Princeton, 1992), 9; Wodrow, *Analecta*, ii, 307, Nov. 1715; NAS, GD 220/5/623/4 (Montrose Papers), Hyndford to Montrose, Edinburgh, 5 Mar. 1716; K. A. Moody-Stuart, 'Lieutenant-Colonel James Steuart: A Jacobite Lieutenant-Governor of Edinburgh Castle', *Scot. Hist. Rev.*, xxi (1923), 22.

<sup>54</sup> Sir James Balfour Paul, *The Scots Peerage: Founded on Wood's Edition of Sir Robert Douglas's Peerage of Scotland: Containing an Historical and Genealogical Account of the Nobility of that Kingdom*, 9 vols. (Edinburgh, 1904), *passim*.

<sup>55</sup> Ronald M. Sunter, *Patronage and Politics in Scotland, 1707-1832* (Edinburgh, 1986), 2-8.

<sup>56</sup> *Ibid.*, 48-60; NAS, GD 18/2092/3, Sir John Clerk's spiritual journal for 1710 to Apr. 1712: 26 Aug. and 8 Nov. 1710; *Letters of George Lockhart*, ed. Szechi, 69-70.

Jacobites levied a double cess payment on all pro-Hanoverian families in Aberdeenshire and Banff in 1715, while their opponents arrested and imprisoned suspected Jacobites all over southern Scotland and hit Jacobite nonjurors with swingeing financial penalties in the aftermath of the rising.<sup>57</sup>

This official harshness was, however, mitigated to a significant extent by the personal intervention of friends and neighbours who were partisans of the prevailing regime, who would appeal for special treatment of their particular friends on the other side. In December 1715 James Campbell of Ardkinglass, for example, appealed to Colonel Henry Hawley, a commander on the government side, not to beggar his neighbour, Viscount Kilsyth's, tenants, by confiscating all their draught horses. At much the same time on the Jacobite side James Malcolm of Grange was busy interceding for a neighbour who was a well-known partisan of the government and in imminent danger of having all her horses seized by a Jacobite foraging party and David Smythe of Methven was doing his best to protect his Whig neighbours and the Presbyterian ministers of Perthshire from harassment and impositions.<sup>58</sup> Captain Grant of Wester Elchies squared the conflicting demands of clan loyalty and good neighbourship by assuring the Jacobite commander John Gordon of Glenbucket that he and his men would not attack the estates of his neighbour the marquess of Huntly unless their clan chief personally led them against him, and Lord Lovat went one step further by vehemently denying he would ever contemplate ravaging Huntly's lands.<sup>59</sup> For his part, Huntly persistently refused 'to attack my relations and friends'.<sup>60</sup> Sir Thomas Hope actually saved his diehard Whig neighbour, the earl of Rothes's, property 'from destruction', during Jacobite foraging and tax-collecting forays into Fife.<sup>61</sup> In the same vein, in 1745 General Alexander Gordon of Auchintoul

<sup>57</sup> *The Jacobite Cess Roll for the County of Aberdeen in 1715*, ed. Alistair Tayler and Henrietta Tayler (Third Spalding Club, Aberdeen, 1932); Geoffrey Holmes and Daniel Szechi, *The Age of Oligarchy: Pre-Industrial Britain, 1722-1783* (London, 1993), 90; *Letters of George Lockhart*, ed. Szechi, 200.

<sup>58</sup> NAS, GD 220/5/1913/7, Colonel Henry Hawley to James Campbell of Ardkinglass, Falkirk, 2 Dec. 1715; HMC *Stuart*, i, 458, James Malcolm to John Gordon of Glenbucket, Kirkcaldy, 31 Oct. 1715; NAS, GD 220/5/642/9, copy, 10 ministers of the Kirk in Perthshire to the Lord Justice Clerk, Perth, 3 Aug. 1716.

<sup>59</sup> HMC *Stuart*, i, 478 [Glenbucket to Huntly, 14/25 Dec. 1715]; i, 492, Lovat to Glenbucket, Inverness, 20 Jan. 1716.

<sup>60</sup> *Ibid.*, 501-2, Huntly to ?, Gordon castle, 2 Feb. 1716.

<sup>61</sup> NAS, GD 220/5/631/7, John Hope to Montrose, Edinburgh, 17 Mar. 1716.

persuaded the Jacobite commander in northern Scotland, Lord Lewis Gordon, not to attack Culloden house, where Lord Advocate Duncan Forbes of Culloden was holding out against the Jacobites.<sup>62</sup> But although this process of mitigation was a two-way street, in that Jacobite friends would intercede on behalf of their Whig neighbours in areas under Jacobite control as much as vice versa, it is the softening of the Whig line after hearing personal appeals that is most significant, because the Whig-dominated government usually controlled most of Scotland and invariably had the last word in these matters.

On one level such interventions by kinsmen, friends and neighbours helped restore local harmony and reconstitute fractured elite communities. Since it was difficult for the central authorities to control the localities without at least the tacit consent of the majority of the local elite at any time in early modern Scotland, this made the job of administering a given area much easier in the aftermath of the fighting. As the duke of Atholl somewhat peevishly observed while interceding on behalf of two Perthshire heritors who had been captured in arms:

I am perswaded both these gentlemen would be very serviceable to his Majesty and government in this shire, if their lives be spared, and that they may be depended upon hereafter. Wee will have much need of them, for there is above 130 heretors out of this shyre who have been concerned in the rebellion, of whom there is none yett surrendered themselves except the Lord Rollo and [the] laird of Methvine.<sup>63</sup>

Likewise, allowing John Gordon of Glenbucket to work his passage back into the good graces of the government by facilitating the surrender of arms and the return home of the ordinary clansmen considerably speeded up the pacification of the Highlands in 1716.<sup>64</sup> And the return of the marquess of Seaforth ended a prolonged period of confrontation between the central authorities and his Mackenzie clansmen. 'We are daily threatened', lamented two agents for the Commission for Forfeited Estates in 1721, by way of explaining their abject failure

<sup>62</sup> *Arniston Memoirs*, ed. Omond, 135, anonymous letter to Solicitor-General Robert Dundas of Arniston Jr, Edinburgh, 9 Nov. 1745.

<sup>63</sup> Blair Castle Papers, Blair Castle, box 45, bundle 12/137, Atholl to Lord James Murray of Garth, Huntingtower, 1 May 1716. We are grateful to the duke of Atholl for permission to see these papers and to the archivist at Blair Castle, Mrs Jane Anderson, for her help and assistance.

<sup>64</sup> John Baynes, *The Jacobite Rising of 1715* (London, 1970), 202; Tayler and Tayler, *1715: The Story of the Rising*, 239–40; NAS, GD 220/5/631/11, John Hope to Montrose, Inverness, 7 Apr. 1716.

to collect any rents from Seaforth's tenants.<sup>65</sup> As the clan chieftain he was simply irreplaceable, and finally allowing him to return home de facto restored order in his clan's territory and meant that the government's writ henceforth had some possibility of running there.<sup>66</sup>

Elsewhere, negotiating the return of exiled and other elite Jacobites to their homes, families and social networks could directly bolster the Whig regime's authority. When George Lockhart of Carnwath used his political clout in Midlothian to bargain for lenient treatment of a number of convicted Jacobites in the aftermath of the '15, the quid pro quo was that he would use his interest to support the lord advocate, Robert Dundas of Arniston, in his bid to represent the county at Westminster. The bargain was struck, the Jacobites secured a lord advocate who 'thenceforwards acted a friendly part to them', thus saving several 'honest men' from being expropriated by the Commission for Forfeited Estates, and the government secured a lock on the most prestigious seat in Scotland.<sup>67</sup>

Personal deals between imprisoned and exiled Jacobites and their families and powerful individuals in the government also created obligations that such Jacobites were subsequently reluctant to dishonour by further activism. After Montrose personally interceded with George I to secure a free pardon for him, David Smythe of Methven frankly, and as it turned out sincerely, expressed himself as bound not to embarrass his benefactor even though his own principles had not changed:

Your grace's undertaking for my peaceable behaviour to the king shall add a further ty upon me, for had I not found my self at freedom to practice according to my profession nothing could have tempted me to submit; for as my fault proceeded from a principall, so does my submission, and I'll venture just as far in performing the on as I have done in my defence of the other.<sup>68</sup>

Likewise, after Alexander Murray of Stanhope was allowed to return to Scotland on the condition that he live quietly at home he apparently felt himself under no obligation to forsake either his friends or his principles, and cheerfully moved back into the

<sup>65</sup> NAS, E609/22/5 (Commission for Forfeited Estates Papers), William and Robert Ross to the Commissioners, 13 Jan. 1721.

<sup>66</sup> Macinnes, *Clanship*, 196–7; Burt, *Burt's Letters*, ii, 178–80.

<sup>67</sup> *Letters of George Lockhart*, ed. Szechi, 179.

<sup>68</sup> NAS, GD 220/5/721/2, Smythe of Methven to Montrose, Edinburgh Castle, 15 Feb. 1717.

Jacobite socio-cultural milieu. When, however, he was approached by a Jacobite agent to act as a liaison between the clans and the Lowland Jacobites he refused:

I like the king [the Old Pretender] and my country as well as ever I did, and I will draw my sword whenever there is to be a general effort for restoring the king and kingdom of Scotland, but in the interim my head and heart are set upon improving the Highlands estate I have purchased, and bringing the mines to perfection (which will be a service done my country) and I will think upon and undertake no other business of any kind. Besids, when I got my life, after the last affair, I enterd into engagements that will not allow me to be active in contriving or carrying on measures against the government, though when there's to be a push made, I will venture all with the first.<sup>69</sup>

From personal deals to save individual Jacobites flowed personal obligations to Whig benefactors which effectively acted to neutralize many of the Jacobites concerned as political actors. It was a classic, E. P. Thompsonesque, instance of how the amelioration of the 'awful majesty' of the law could act as social cement.<sup>70</sup>

Legal engagement with the Whig regime also had a marked impact on the traditional Jacobitism of particular heritor families. All actively Jacobite heritor families faced the very real threat of expropriation in the aftermath of the '15. The Commission for Forfeited Estates and the York Buildings Company were established specifically to ferret out and confiscate Jacobite property, and they worked diligently at the task for over ten years. Yet, taken in the round, they were singularly unsuccessful. Between 1716 and 1725 the commission realized £411,082 from sales of the forfeited estates. This looks impressive until £327,039 is deducted for the settlement of real and fictitious debts attached to those estates. After legal fees, salaries and other incidentals were deducted, the net gain to the Treasury was £1,107.<sup>71</sup> Everywhere the commissioners turned, it seemed, in their efforts to gain control of Jacobite estates, creditors and lessors with impeccable pro-government, or at least not overtly anti-government, credentials popped up. These creditors would then appeal to the courts for stays and reversals of the commission's decisions and seizures, and a large proportion of these appeals

<sup>69</sup> *Letters of George Lockhart*, ed. Szechi, 293.

<sup>70</sup> Douglas Hay, 'Property, Authority and the Criminal Law', in Douglas Hay *et al.*, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London, 1988 edn), 40–56.

<sup>71</sup> *Highland Papers. Vol. II*, ed. J. R. N. Macphail (Scot. Hist. Soc., 2nd ser., xiii, Edinburgh, 1916), 291.

seem to have been successful. As a result the commission was soon hopelessly enmired in the Scottish courts and was itself forced to have recourse to the cumbersome and expensive process of appealing to the House of Lords.<sup>72</sup> But, as everyone well knew at the time, most of these debts and leases were fictitious, designed simply as a form of legal guerrilla warfare by the families of the forfeited rebels.

Stirling of Keir's estate, for example, was sequestered by the court of session as a result of claims lodged against it by a smith, two maltsters and a merchant, none of whom produced any receipts. The earl of Southesk's property was similarly sequestered after claims were lodged by a surgeon and a Writer to the Signet who did not even bother to name the sum they were allegedly owed.<sup>73</sup> Under Scottish law every brother, sister, cousin, aunt or uncle who had a dowry, annuity, jointure or debt on the estates could also file a claim and get an estate taken under the supervision of the courts, and a great many did. Once the estate was sequestered, the 'creditors' could then appoint a factor to secure their property. These, of course, were usually friends or clients of the original owners. The creditors of the Drummond estate appointed George Drummond of Callendar, who had not been out in the rebellion himself, but whose son was executed after Preston for his involvement. The factor on the earl marischal's estate was Thomas Arbuthnott, who was well known locally to have been out, but had escaped official detection.<sup>74</sup> The friendly factors would then turn a blind eye to the secreting or other disposal of the personal property of the forfeited rebels.<sup>75</sup> In addition to such straightforward obstructionism, the families often sought to confuse the issue of who exactly owned the estate in question. Mary Hamilton claimed that her son Basil Hamilton's estate could not be forfeit because it was an inheritance from her father and would not legally become Basil's until her death. Mackenzie of Coull's estate was apparently under an entail dating

<sup>72</sup> Lenman, *Jacobite Risings*, 161–4; Edinburgh City Library, Edinburgh, YAN E23 EC, *Edinburgh Evening Courant*, no. 187, 18–22 Feb. 1720, 1115, 1122, 1148.

<sup>73</sup> D. Murray, *The York Buildings Company: A Chapter in Scotch History. Read before the Institutes of Bankers and Chartered Accountants, Glasgow 19th February 1883* (Edinburgh, 1889; repr. Edinburgh, 1973), 13; *A Report from the Commissioners Appointed to Enquire of the Estates of Certain Traitors in that Part of Great Britain Called Scotland, Appendix* (London, 1717), 41.

<sup>74</sup> Murray, *York Buildings Company*, 14; *Report from the Commissioners . . . Estates of Certain Traitors, Appendix*, 43.

<sup>75</sup> NAS, E650/59/3, notes of reported complaints re the Panmure estate, 1716.

from 1701 which directed it should go to the nearest heir who had not committed treason, thus it could not be the property of anyone who had done so. Most ingeniously of all, Robert Stewart of Appin claimed that since he had been forfeited — albeit subsequently reprieved — in 1690 and never officially pardoned, his estate could not be forfeited because he did not legally own it; he just happened to be in possession.<sup>76</sup> If all else failed, and the estate was auctioned, agents for the original owners could buy their property back and surreptitiously convey it to them. It is a testament to the effectiveness of these tactics that by 1719 the commission had discovered only £8,593 and successfully confiscated only £3,221.<sup>77</sup>

The Jacobites' generally successful defence of their estates was strongly buttressed by help from two sources. The most visible was provided by their Whiggish kinsfolk, friends and neighbours. This is not to deny the very real hostility the rebellion sometimes generated between kith and kin, which those who lived through the '15, such as Lady Janet Nimmo, feelingly recalled in 1745 when she observed: 'I believe neighbours about will be our greatest enemys, as it happened at the last rebellion'.<sup>78</sup> But in general old ties overcame new tensions once the rising was over. Thus it was Whig friends, neighbours and kin who undertook the legal defence of the alleged debts and leases, and furthermore used their connections and acquaintances within the Whig regime to facilitate the fraud. By using such middlemen Margaret, countess of Panmure, for example, was able to weave such a fine net of interlocking debts and spoiling lawsuits by alleged creditors around the Panmure estates that the Forfeited Estates Commission was soon hopelessly entangled.<sup>79</sup> And in 1718 when they tried to sell off the one part of the estate that could be easily expropriated, Panmure's bank stocks, she simply let it be publicly

<sup>76</sup> NAS, E604/3 (Mary Hamilton); E622/3 (Mackenzie of Coull); J. H. J. Stewart, *The Stewarts of Appin* (Edinburgh, 1880), 121.

<sup>77</sup> Murray, *York Buildings Company*, 12.

<sup>78</sup> 'Marchmont Correspondence Relating to the '45', ed. G. F. C. Hepburne Scott, in *Miscellany of the Scottish History Society* (Scot. Hist. Soc., 3rd ser., v, Edinburgh, 1933), 323, Lady Jane Nimmo to the earl of Marchmont, Red Braes, 30 Sept. 1745. See also: NAS, GD 45/14/220/21, Margaret Panmure to Panmure, Panmure, 13 Nov. 1716; NAS, GD 220/5/611/3, Colin Graham of Drenny to James Graham, 'Inarbreases', 30 Jan. 1716; *Memoirs of the Insurrection in Scotland in 1715: By John, Master of Sinclair*, ed. Sir Walter Scott (Edinburgh, 1858), 100.

<sup>79</sup> NAS, GD 45/14/220/10–18, 21, 28; Margaret Panmure to Panmure, Panmure and Edinburgh, 1716.

known that she intended to repurchase them — leading to the larger moneyed interests withdrawing from the auction — and calmly instructed her agent, the supposed representative of Panmure's creditors, 'not to be out bid . . . for I shall still endeavour to keep in our own possession any thing that can be reckoned heretage'.<sup>80</sup> Such aid and comfort in turn created a reciprocal obligation on the rebels' families. They could not honourably continue to be active Jacobites because to do so risked embarrassing their friends and relations who had fronted for them in the courts and used their influence and connections to help them escape forfeiture. In effect, the families of the forfeited Jacobites incurred a dynastic debt of honour with each fictitious mortgage and lease they passed on to Whig friends and relations, and many paid it by withdrawing from active Jacobitism.

It is instructive to note that the custom of using mercy as a form of patronage even reasserted itself after the '45, despite the fact that the government had been badly frightened by the early successes of the rebellion and was therefore initially a great deal harsher in its treatment of both elite and non-elite former rebels.<sup>81</sup> Though the earl of Cromarty and his son Lord Macleod were the only high-profile Jacobites successfully to trade on their kith and kin to escape the axe, loyalist friends, relations and patrons vigorously interceded for many of the less prominent Jacobites, and as a result a significant number of well-connected second-rank rebels, such as James Gedde, William Sharp and William Murray (later 3rd earl of Dunmore), eventually obtained free pardons.<sup>82</sup> One of the few significant changes over the (non-military) retribution that followed on the '15 was that after the '45 the government made sure that its measures to seize Jacobite estates were carried through, and consequently the property of former rebels was detected and seized a great deal more effectively than had been the case thirty years previously.<sup>83</sup>

<sup>80</sup> NAS, GD 45/14/220/67, Margaret Panmure to Panmure, Panmure, 25 Aug. 1718.

<sup>81</sup> *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 458, 461–3; Macinnes, *Clanship*, 211–14.

<sup>82</sup> Lenman, *Jacobite Risings*, 271–6; *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 548–9, earl of Dunmore to Hardwicke, London, 17 July 1746. See also *ibid.*, 497–8, 510, 534, 549.

<sup>83</sup> Lenman, *Jacobite Risings*, 277. The harrying of the Highlands after Culloden, and legislation designed (however ineffectively) to destroy clan ties and Highland culture, nonetheless gave the post-'45 settlement a much grimmer cast.

The second, less obvious, source of help for Jacobite heritor families in their attempts to fend off government attempts to confiscate their property came from within the Whig regime itself. In the aftermath of the '15 there were certainly some therein who favoured swingeing punishment. Adam Cockburn of Ormiston, the lord justice clerk, for example, advocated nothing less than a Carthaginian peace based on unconditional surrender and wholesale forfeiture. It might 'savour of too much severity to reduce so many families all at one stroke', he admitted, '[but] I desire leave to lay in the scales the interest of our religion and libertys, opposite to all these families, and the latter will always prove too light with me'.<sup>84</sup> Fortunately for the Jacobites, Cockburn was quietly opposed by many within the ranks of the army and administration. The general attitude of the officer corps seems to have been very much that of David Grahame of Orchill, who, after the Whig army captured Perth, sympathetically (if somewhat contemptuously) observed:

And so there's an end of this ridiculous story which by artifice of disoblidged and designing knaves has miserably envolved numbers of poor unthinking Gentlemen whose freinds do nou heartilly regrave their delusion. For to be plain with your Grace, I beleive there's not one of the Country Gentlemen dipt in this affair but who would willingly accept of any terms of mercy. The ring leaders to be sure expect no favour and there may be some willfull fools who will suffer rather than part with their humor, but I speak in generall.<sup>85</sup>

Lord Advocate Sir David Dalrymple of Hailes also spoke for an influential and significant minority within the civil administration that included the duke of Argyll<sup>86</sup> (after he was replaced as commander in chief in Scotland), the duke of Montrose, the earl of Stair<sup>87</sup> and doubtless others who were less willing to act or put their misgivings down on paper, when he expressed his unhappi-

<sup>84</sup> NAS, GD 220/5/455/56, 57, Cockburn to Montrose, Edinburgh, 29 Nov. and 29 Dec. 1715 (though it appears that even Cockburn could have 'good' Jacobites, for which see Public Record Office, London, State Papers 54/77, Cockburn to [Robert Pringle], Edinburgh, 20 Sept. 1715). See also NAS, GD 220/5/631/4a-b, John Hope to Montrose, Aberdeen, 8/10 Feb. 1716, and GD 220/5/615/17, Sir Robert Pollock to Montrose, Fort William, 18 Mar. 1716.

<sup>85</sup> NAS, GD 220/5/635, [to Montrose], Perth, 2 Feb. 1716. See also: NAS, GD 220/5/645, Colonel Charles Cathcart to Montrose, Aberdeen, 14 Feb. 1716; NAS, GD 220/5/655, Lord Charles Ker to Montrose, Edinburgh, 23 Feb. 1716.

<sup>86</sup> *Lockhart Papers*, ed. Aufrere, ii, 5; *Jacobite Cess Roll*, ed. Tayler and Tayler, 98.

<sup>87</sup> NAS, GD 220/5/624/1, [Stair to Montrose], Paris, 17/28 Jan. 1716. See also *Culloden Papers*, ed. H. R. Duff (London, 1815), 61, anonymous letter to Sir Robert Walpole (possibly by Duncan Forbes of Culloden), Aug. 1716.

ness about mass reprisals. He prefaced his argument with good pragmatic reasons for showing mercy. In the first place, the Jacobites' families were certain to use the legal system to block any forfeitures, and overcoming their resistance would be difficult and expensive. In addition, there were political considerations that militated against swingeing punishment of the rebels, amongst which one of the most important was the possibility that:

three or four hundred noblemen and gentlemen of birth and interest in the countrie being chassed to the hills and islands and readie to escape to France or some other Catholike Countrie . . . may afford such as are enemies to his Majestie and the reformed religion ane oppertunitie to form bodies of British subjects as they have sometyme since done of Irish, which by reason of the great interest and influence which these people will have for many generations in the country where they were borne, will be recruited and keepd full.<sup>88</sup>

But the upshot was that he urged that all the Jacobites, bar a handful of top leaders, should be granted amnesty and allowed to compound for their estates. Nor, when the administration at Westminster chose to ignore his advice, did Dalrymple shrink from outright sabotage of its attempts to prosecute former rebels and seize their property.<sup>89</sup>

Dalrymple's memo and his subsequent obstruction of government measures may have stemmed in part from a degree of sympathy with *some* of the (non-dynastic) objectives of the rising. For many of the grievances the Jacobites had promised to redress were felt too by their Whig kinsmen and friends. The stalwartly Whiggish Stair, for example, argued in the aftermath of the '15 that the best way to prevent another Jacobite rising was not swingeing retribution but measures 'to make the Union not greivous to Scotland'.<sup>90</sup> This body of Whiggish opinion was further alienated by the harsh treatment English courts were meting out to the Scots rebels who had surrendered at Preston in November 1715 and the decision to move the trials of a number of Jacobite prisoners captured in Scotland over the border to Carlisle.<sup>91</sup> The

<sup>88</sup> NAS, GD 220/5/631/6: memo by Sir David Dalrymple (copy), Feb.? 1716.

<sup>89</sup> *Arniston Memoirs*, ed. Omond, 60; Lenman, *Jacobite Risings*, 163; George W. T. Omond, *The Lord Advocates of Scotland*, 2 vols. (Edinburgh, 1883), i, 306; Sir David Dalrymple, *The Laws and Judicatures of Scotland* (London, 1718), 9, 14.

<sup>90</sup> NAS, GD 220/5/624/2, [Stair to Montrose], Paris, 18/29 Feb. 1716. See also NAS, GD 220/5/624/3, [Stair to Montrose], Paris, 10/21 Apr. 1716.

<sup>91</sup> Lenman, *Jacobite Risings*, 159; Tayler and Tayler, *1715: The Story of the Rising*, 174–6; *The Seven Sons of the Provost: A Family Chronicle of the Eighteenth Century Compiled from Original Letters, 1692–1761*, ed. Henrietta Tayler (London, 1949), 84, William Kennedy to Thomas Kennedy, Edinburgh, 25 Aug. 1716.

nationwide campaign to raise money to support the prisoners in Carlisle, which brought in contributions from Scots of all political persuasions, and the stubborn refusal to participate in the trials of some of the administration's senior legal officers, such as deputy Lord Advocate Duncan Forbes of Culloden, amply attest the revulsion the Scottish elite felt at the government's conduct.<sup>92</sup> There was by that time already a wide divergence in the treatment of all ranks of prisoners between England and Scotland. In England those who were deemed especially culpable — mainly serving and half-pay army officers who had deserted to the Jacobites, noblemen and Catholic and nonjuring gentry — were busily being condemned to be hung, drawn and quartered. And though most of them were ultimately reprieved, many Scots were troubled by shocking reports of the sufferings of those who were executed. Walter Stirling was a loyal Whig well known to the Scottish administration, but when a Jacobite friend sought his advice as to whether he should surrender himself in March 1716, Stirling forthrightly urged him not to:

The condition of all those who have surrendered themselves or have been made prisoners is so very miserable and hard, that no wise man will put himself in the hands of those who have no mercy. Above 70 of those who were taken at Preston have been tortured to death in the most cruel manner, particularly Mr Burnet of Carlops and Mr Drummond, a son of Callendar's, were quartered alive, and their cries heard a great way off from the place of execution. All the rest of them are sold to be slaves in the plantations. . . . So that the only safety for any of those who have been concerned in the late business is to go off the country.<sup>93</sup>

Additionally, the treatment of the plebeian prisoners taken at Preston was distasteful to many Scots. In Scotland the rank and file of the Jacobite army were, in general, quietly allowed to go home after surrendering their weapons; it was not felt to be appropriate to punish those who had simply followed their betters in turning out to fight for the Stuarts.<sup>94</sup> Consequently the transportation of hundreds of Scots to slavery in the plantations

<sup>92</sup> *Culloden Papers*, ed. Duff, 58, Duncan Forbes to Islay, Edinburgh, 7 July 1716; *ibid.*, 68, circular letter signed by William Drummond of the Bank of Scotland, Edinburgh, 6 Nov. 1716.

<sup>93</sup> NAS, GD 220/5/610/5, [Walter Stirling to ?] (copy), c.17 Mar. 1716.

<sup>94</sup> Baynes, *Jacobite Rising*, 202; Blair Castle Papers, box 45, bundle 12/117, numbers of former Perthshire rebels who took the oaths, 12–22 Mar. 1716; NAS, GD 220/5/631/6, memo by Sir David Dalrymple (copy), Feb.? 1716; NAS, GD 220/5/610/5, [Walter Stirling to ?] (copy), c.17 Mar. 1716. Though there were notable exceptions to this general trend: Tayler and Tayler, *1715: The Story of the Rising*, 158.

offended the sensibilities of many otherwise staunch Scots Whigs. All of which must certainly have contributed to the willingness of many of them to help their Jacobite kith and kin as they struggled to preserve their estates.

Another important point of contact between the Scottish Jacobite community and the Whig establishment was negotiation for permission to return to Scotland for those who had fled into exile and pardon for those who had been condemned to death or to transportation. The Act of Pardon of 1717 specifically excluded those who had fled the country to avoid prosecution for their participation in the uprising. Those Jacobites languishing on the Continent who wished to return home were thus obliged to seek special exemptions from the strict terms of the Act.<sup>95</sup> The alternative was to risk sneaking home incognito and hope that the authorities would not bother to hunt you down. And while this was certainly a reasonable risk for the small fry of the exiled community, it was distinctly less so for more prominent Jacobites. James Stirling of Keir, who returned home with the 'conivance of the government' about 1718, and was 'so much favoured as to have the purchasing of his estate . . . for a very trifle', then 'lived retiredly at his countrie house' thereafter, was nonetheless arrested in 1727 as part of a government sweep following the interception of letters directed to George Lockhart, the Old Pretender's premier agent in Scotland.<sup>96</sup> Stirling was completely inactive by that stage, and had absolutely nothing to do with Lockhart or the rest of the Jacobite underground, but he was one of the usual suspects, and so he and his family had to go through the whole expensive process of negotiating a pardon while he was incarcerated as a fugitive felon. Most of the leaders of the Jacobite community understandably wanted to avoid such problems if they returned home, and correspondingly they preferred to have their families bargain for a pardon while they were still safe overseas.

Bargaining for a pardon or a remission of sentence was, of necessity, an intricate and sometimes corrupt business. The only sources for such exemptions from normal legal process were the ministers and senior administrators of the government at Westminster, well-connected Whig politicians and senior courtiers with access to the monarch. In those cases where the father

<sup>95</sup> HMC *Stuart*, v, 600–1.

<sup>96</sup> *Letters of George Lockhart*, ed. Szechi, 323.

had been resolutely loyal, but one or more of his sons were so ill-advised as to turn out for the Jacobites, reprieves and pardons in general seem to have come fairly easily, at least in high-profile cases. James Forbes, the son of William, 13th Lord Forbes, obtained a free pardon specifically for this reason, as did James Fraser, a younger brother of Alexander, 12th Lord Salton.<sup>97</sup> The duke of Atholl had more mixed success in persuading the authorities to forgive his errant offspring, possibly because three of his four sons and at least one of his brothers were on the rebel side in 1715, but he did obtain reprieves for Lord Charles Murray (despite the fact that he was a serving officer in the British army at the time he joined the rebels) and, eventually, one for Charles's more famous brother, Lord George Murray.<sup>98</sup>

When the family in question had no clear record of loyalism to boost its case for special treatment, however, some senior Whigs seem to have regarded their plight as nothing more than an excellent opportunity to make a little money. In Edinburgh, 'tho it be not posted in the Gazet, yet it's weel knouen where, hou, and with whom such bargains are to be meide', and middlemen representing well-connected courtiers negotiated prices with syndicates formed to raise money among the prisoners in the castle.<sup>99</sup> For his part, the marquess of Huntly matter-of-factly paid £2,000 to secure leniency for his tenants and vassals.<sup>100</sup> Likewise, despite the support of her cousin, Earl Stanhope, Margaret Panmure had considerable trouble securing a grant of her jointure and in the end, as Panmure delicately put it, the grant 'cost her a great deal of money'.<sup>101</sup> For his part, Sir James Erskine of Alva had to surrender the secret of what was believed to be a fabulously lucrative silver mine on his lands to a consortium of Whig grandees that included Viscount Townshend before he was allowed to come home.<sup>102</sup> And though (for obvious reasons) little direct evidence of such corruption survives, there

<sup>97</sup> *Jacobite Cess Roll*, ed. Tayler and Tayler, 114, 153.

<sup>98</sup> NAS, GD 220/5/634/4, Grizel Cochrane to Montrose, Levenside, 23 Feb. 1716; Tomasson and Buist, *Battles of the '45*, 32.

<sup>99</sup> NAS, GD 220/5/642/23, 24, Smythe of Methven to Montrose, Edinburgh Castle, 16 and 27 Nov. 1716.

<sup>100</sup> NAS, GD 220/5/642/23, Smythe of Methven to Montrose, Edinburgh Castle, 16 Nov. 1716.

<sup>101</sup> NAS, GD 45/14/220/10-17, Margaret Panmure to Panmure, Edinburgh, June-Sept. 1716; HMC *Stuart*, vii, 669, Panmure to Mar, Paris, 15/26 Dec. 1718.

<sup>102</sup> HMC *Stuart*, iii, 44, Sir John Erskine to Mar, 27 Sept./8 Oct. 1716; vii, 668-70, Panmure to Mar, Paris, 15/26 Dec. 1718.

are sufficient references to it to indicate that graft may have been responsible for the return home of a fair number of lesser Jacobite prisoners.<sup>103</sup>

In many more cases, however, it would appear that the families of the prisoners and exiles were able to obtain permission for them to return home without any special connections or bribery beyond the usual round of elite present-giving. Solid Scottish Whigs such as Baron of the Exchequer John Clerk of Penicuik, and the earls of Islay, Argyll, Montrose and Stair, seem to have helped Jacobite prisoners and former rebels without asking for any kind of financial return.<sup>104</sup> Indeed Dalrymple specifically refused to take any money when it was offered him by Alexander Hamilton, Margaret Panmure's agent in Edinburgh.<sup>105</sup> The usual pattern was for Jacobite families to use their friends, kith and kin to gain the attention of these senior Whigs, and for them then to use their influence at court and in government to intercede for the prisoners and the exiles. Thus when Lord Glenorchy's case for leniency appeared to be hanging fire William III and II's former mistress, Elizabeth Villiers, the countess of Orkney, 'press'd Viscount Townshend so hard that for self defence he was obliged to cause read your petition and certificates in the Committee of Council'.<sup>106</sup> Typically, the petitioners would claim extenuating circumstances of various kinds that their intercessors could use to argue for clemency. George Drummond, for example, pleaded that his stepson was 'not yett twentie years off age and was easilie seduced with the promise off a pair of collours to bear', and that the boy's mother had died of grief at hearing

<sup>103</sup> *Jacobite Cess Roll*, ed. Tayler and Tayler, 56, 58, 63; *Lockhart Papers*, ed. Aufrere, i, 496; NLS, Abbotsford 902/60. Even the more important prisoners were sometimes obliged to oil the wheels of the state bureaucracy to ensure that their remissions passed through it in a timely manner, for an example of which see NAS, GD 112/39/273/34 (Breadalbane Papers), Patrick Campbell of Monzies, Lord Monzies of the court of session, to Glenorchy, London, 29 Sept. 1716.

<sup>104</sup> NAS, GD 18/5245/5, petition by Laurence Charteris to the earl of Sunderland (care of John Clerk), The Hague, 23 Aug./3 Sept. 1720; NAS, GD 220/5/619/1, Lord Nairne to Montrose, Tower of London, 11 Jan. 1716; NAS, GD 220/5/611/4, James Graham to Montrose, Edinburgh, 28 Feb. 1716; NAS, GD 112/39/273/37, Campbell of Monzies to Glenorchy, London, 25 Oct. 1716; NAS, GD 220/5/623/3, earl of Hyndford to Montrose, Edinburgh, 21 Jan. 1716; HMC *Stuart*, vi, 498, Panmure to Mar, Paris, 20/31 May 1718.

<sup>105</sup> NAS, E650/63/21: Alexander Hamilton's expenses charged to Margaret Panmure, 1716.

<sup>106</sup> NAS, GD 112/39/273/10, Campbell of Monzies to Glenorchy, London, 31 May 1716.

of his likely fate. Graham of Slipperfield asked that his stepson, Robert Smith, be pardoned because 'the lad was led away with bad company'. Lord Elibank interceded for John Paterson of Prestonhall on the grounds that he was 'without a stain, if he had not ingaged in this unnatural rebellion, which indeed is to be imputed to prejudice of education, and his being too easily seduced by bad company'. The earl of Home begged for Montrose's intercession on behalf of his brother, James Home of Eaton, on the grounds that 'he is young and unacquainted with the world. . . . and . . . has the honour to be your Grace's near relation'.<sup>107</sup>

Elite female networks overlapped with, but were often distinct from, their male counterparts. They were correspondingly activated in parallel with more generic family connections in order to save the former rebels. Although the chief recipient of petitions in Scotland, the duke of Argyll, lacked a wife connected to the great kin network of titled families, the wives of other Whig notables found themselves besieged by petitions from relatives or acted themselves to help Jacobite women and their families. The most common form of help was to influence a Whig husband to intercede for, or inquire into, the charges against an accused Jacobite, as when Margaret Hume of Wedderburn managed to get her aunt, Grizel Baillie, to persuade her husband, the powerful George Baillie of Jerviswood, to intercede for Hume's errant husband. In similar fashion, Grizel Cochrane added petitions to Christian, duchess of Montrose, to her appeals to Montrose himself.<sup>108</sup>

Elite women who helped their Jacobite peers seem to have been acting from a variety of motives. Some acted out of sympathy with fellow women left destitute by their husbands' roles in the rebellion, others out of a sense of family duty, and some, apparently, for the sheer thrill of aiding desperate rebels. Henrietta, marchioness of Huntly and daughter of the Whig earl of Peterborough, solicited friends of her father's in order to expedite the jointure case of Lady Jean Drummond, her sister-in-law,

<sup>107</sup> NAS, GD 220/5/616, Drummond to Montrose, Callander, 7 Jan. 1716; NAS, GD 220/5/611/2, James Graham, judge admiral, to Montrose, Edinburgh, 23 Feb. 1716; NAS, GD 220/5/636/2, Elibank to Montrose, Balincrieffe, 26 Mar. 1716; NAS, GD 220/5/641, Home to Montrose, Edinburgh Castle, 11 Feb. 1716.

<sup>108</sup> NAS, GD 267/19/15 (Hume of Wedderburn), Grizel Baillie to Margaret, Lady Wedderburn, 7 Feb. 1717; NAS, GD 220/5/540/3, Grizel Cochrane to Montrose, Levenside, 23 Dec. 1715.

explaining that she both owed her deceased father-in-law for the kindness he had shown her as a young bride, and that she felt revulsion at the prospect of seeing a member of her family reduced to scraping and begging, regardless of politics. Mary Maxwell, countess of Traquair, helped her sister-in-law, Winifred Nithsdale, hide family documents and furniture from the Commissioners for Forfeited Estates. The Nithsdales also benefited from the generosity of Christian Montrose, in whose London house Lady Nithsdale hid in the hours immediately after helping her husband escape from the Tower of London, and who went to court to discover what was being said about the escape. The duchess of Montrose, indeed, seemed to Lady Nithsdale to be treating the whole business as a thrilling masquerade rather than a desperate bid to avert the earl of Nithsdale's imminent execution.<sup>109</sup>

Elite women, like their male relatives, also offered help in order to build up their own networks of social and political credit. One of the most striking examples of this is the way in which Sophia, countess of Lippe-Buckenburg, one of George I's female Hanoverian courtiers, moved quickly to offer her help to Jacobite women in need of court connections. Margaret Nairn plied her with gifts to present a petition for leniency on behalf of Lord Nairn to the Princess of Wales, thus establishing Buckenburg as a woman of influence at court as well as someone owed considerable respect and favours by members of the British elite. Margaret Panmure, petitioning the duke of Atholl, was unctuously deferential to his second wife, Mary Ross, despite the fact that her pedigree was considerably less exalted than that of his first wife, Katherine Hamilton, Lady Panmure's sister, and Lady Panmure herself. Mary Atholl was thereby confirmed in her new status and her social ascendancy acknowledged. In a society in which your power and rank were visibly denoted by the status of those who deferred to you, these represented significant gains on both Sophia Lippe-Buckenburg's and Mary Atholl's parts. And such manoeuvrings make it clear that in some cases the women were acting in no less calculating a way than their menfolk.<sup>110</sup>

<sup>109</sup> NAS, GD 160/217/4 (Drummond Papers), Henrietta Gordon to ?, 25 Mar. 1717; Henrietta Tayler, *Lady Nithsdale and her Family* (London, 1939), 46–58, 61.

<sup>110</sup> NAS, GD 38/2/2/48 (Stewart of Dalguise), Sophia of Buckenburg to Margaret Nairn, St James, 22 Mar. 1716; NAS, GD 45/14/270/12, Margaret Panmure to Mary, duchess of Atholl, 1716.

Moreover, it appears that at least some of the Jacobite women, having engineered favours for their male kin, were even more acutely aware of the reciprocal obligations these entailed than their male counterparts, as may be seen from Margaret Panmure's stern injunction to her husband, 'I think it right both in the sight of God and man that whoever receives such a favor from any government, be their title what it will, are tied by both the rules of honour and gratitude never to disturb it again'.<sup>111</sup>

For when male Whig grandees responded to the Jacobites' appeals there was almost certainly an element of calculation in their behaviour, in that the returned exiles and released prisoners were virtually obliged to become the grateful clients of their benefactor once they were home. And when an early eighteenth-century Scottish magnate such as Huntly promised Montrose on behalf of himself and his connection that 'wee shall indevor to show your Grace wee ar men of honour and will ever show our great sence of your Grace's being pleased to patronis us in owr present unhappy sircumstances', none of their contemporaries would have been in any doubt that Montrose had substantively advanced his power and authority.<sup>112</sup> But there was also manifestly a good deal of humanity and compassion in the behaviour of some of the intercessors, notably Argyll, Islay and Montrose. Montrose, for example, overlooked both David Smythe of Methven and Alexander Urquhart of Newhall's contumacy (both men were already clients of his before they joined the rebellion) and personally spoke to George I to save two men who freely admitted they could offer no excuse for their behaviour other than that by rebelling they were being true to principles they had held all their lives, and who had no substantial assets, either financial or political, with which to repay Montrose for his help.<sup>113</sup> In the same vein, Islay as lord justice general ordered the release of his old friend George Lockhart of Carnwath from Edinburgh

<sup>111</sup> NAS, GD 45/14/220/73, Margaret Panmure to Panmure, London, 18 Dec. 1718. See also NAS, GD 1/44/7/6, Sophia Erskine to Sir John Erskine of Alva, 4 May 1716.

<sup>112</sup> NAS, GD 220/5/672/1, Huntly to Montrose, Edinburgh Castle, 7 Apr. 1716. See also NAS, GD 220/5/658/1, earl of Dunmore to Montrose, [London], 'Saturday evening' [21 Feb. 1716]; NAS, GD 220/5/637/2, earl of Kinnoull to Montrose, 'Inderaske', 10 Mar. 1716; NAS, GD 220/5/646/3, John Maxwell, Lord Pollock of the court of session, to Montrose, Pollock, 23 Apr. 1716.

<sup>113</sup> NAS, GD 220/5/721/1, Montrose to Smythe of Methven (copy), London, 5 Feb. 1717; NAS, GD 220/5/642/1, Smythe of Methven to Montrose, Aberdeen, 12 Feb. 1716; NAS, GD 220/5/662, Urquhart of Newhall to Montrose, [Feb. 1716]; *The House of Commons, 1715-1754*, ed. Romney Sedgwick, 2 vols. (London, 1970), ii, 490.

castle when he became seriously ill, thereby adding to the criticism he and his brother were already incurring for advocating leniency towards the defeated rebels, and drawing on himself the animus of the earl of Hyndford, who specially wanted to see his estranged kinsman rot in prison.<sup>114</sup> Such behaviour on the part of Whig grandees undoubtedly softened the impact of the punitive legislation enacted to try and ensure there would be no further Jacobite rebellions in Scotland — and was subject to considerable criticism by the more zealous or embittered Whigs as a consequence — but in the long term it may have been just as effective in undermining the Stuart cause.<sup>115</sup> For the matrix of obligation it established between the former rebels and their families and the Whig regime tended to be a lasting one, not just for the individuals concerned but for subsequent generations.

In this respect the enforced engagement between the Jacobite community in Scotland and its Whig counterpart in the aftermath of the rebellion of 1715 was of the first importance. It did not directly diminish the Jacobite community per se, because most of the returnees soon took up their old socio-cultural milieu again, and by the 1720s the clergy of the episcopal church had emerged from hiding and were once more teaching and preaching Jacobitism.<sup>116</sup> Its impact was more subtle. At the level of the family most of the Scottish Jacobite elite had always been willing to take advantage of suitably lucrative employment opportunities associated with the new British state, doubtless reasoning that investing a son or two in the army or the bureaucracy merely made good dynastic sense. Thus a large number of the senior Jacobite military leaders in the rebellion, from John, Master of Sinclair, to Major-General George Hamilton, had seen active service in the British army in the War of Spanish Succession, and many of the lesser lights, from Thomas Bruce, the future 7th earl of Kincardine, to Harry Maule of Kellie, had served as minor

<sup>114</sup> NAS, GD 220/5/453/16, Dalrymple to Montrose, [Edinburgh?], 5 Dec. 1715; NAS, GD 220/5/455/57, Lord Justice Clerk Cockburn of Ormiston to Montrose, Edinburgh, 29 Dec. 1715; NAS, GD 220/5/623/3, Hyndford to Montrose, Edinburgh, 21 Jan. 1716.

<sup>115</sup> *Arniston Memoirs*, ed. Omond, 102; Wodrow, *Analecta*, iii, 145; 'Marchmont Correspondence', ed. Scott, 317–18, George Carre to Marchmont, Nisbet, 10 Sept. 1745.

<sup>116</sup> *Letters of George Lockhart*, ed. Szechi, 309–10, 344; Burt, *Burt's Letters*, i, 223–5; Clarke, 'Scottish Episcopalians', 411–12.

functionaries in the state bureaucracy.<sup>117</sup> Their own employments were of course terminated by their conduct in 1715–16, but their family connections in both areas were greatly enhanced in importance. To take two cases in point, the Master of Sinclair's brother, General James Sinclair's, loyal service to the Hanoverian state was in large part responsible for the Master eventually being allowed to return home, and John Maule of Inverkeillor's diligent performance of his duties as Islay's confidential secretary paved the way for the restoration of his family's estates and fortunes. In return, their families never embarrassed either man by further displays of active Jacobitism.<sup>118</sup> Rather the contrary. In the late 1730s on encountering the then zealously Jacobite Lord Elcho, the Master of Sinclair earnestly advised him to take service with the Hanoverian state rather than continue in his adherence to the Stuarts.<sup>119</sup> In the same vein, though Harry Maule served throughout the 1720s as one of a secret committee (the 'trustees') established to oversee Jacobite affairs in Scotland, in 1725 when he heard two of his fellow trustees begin serious discussion of a proposal by the Old Pretender for a Jacobite rising,

He turnd all into a jest, falling afterwards into a passion and swearing that it was madness to propose anything to be done for you [the Old Pretender], and that none but madmen would engage in such an affair. In short, he went on at such a rate, that after leaving him we concluded that tho he is content to be reckond a Jacobite in the present situation of affairs, he will not venture further or meddle if anything in earnest come in play, and would therefor have matters stand as they are.<sup>120</sup>

The marquess of Huntly took this tendency a stage further when he deliberately turned the relationships he had established with members of the Hanoverian establishment such as Montrose and General (later Lord) George Carpenter in the process of saving himself and his followers in the aftermath of the '15 into a platform for his family's transformation from a bastion of Catholicism and Jacobitism in the Highlands to a Protestant

<sup>117</sup> Lenman, *Jacobite Risings*, 167; Baynes, *Jacobite Rising*, 27, 142; Szechi, *Jacobitism and Tory Politics*, 204–5; Tayler and Tayler, *1715: The Story of the Rising*, 273.

<sup>118</sup> Lenman, *Jacobite Risings*, 167; John Stuart Shaw, *The Management of Scottish Society, 1707–1764: Power, Nobles, Lawyers, Edinburgh Agents and English Influences* (Edinburgh, 1983), 70; *Letters of George Lockhart*, ed. Szechi, 254–5. General Sinclair was also helpful in getting permission to return home for other exiled Jacobites: *Seven Sons of the Provost*, ed. Tayler, 122, 130.

<sup>119</sup> David Wemyss, Baron Elcho, *A Short Account of the Affairs of Scotland in the Years 1744, 1745, 1746*, ed. E. Charteris (Edinburgh, 1907), 37.

<sup>120</sup> *Letters of George Lockhart*, ed. Szechi, 255.

pillar of the Hanoverian regime — a position cemented by his son Cosmo's marriage to Catherine Gordon, daughter of the Protestant Gordon earl of Aberdeen.<sup>121</sup>

Indeed, so common was it for Argathelian nominees to state offices to have families that had a record of involvement with the Stuart cause, that Argyll and Islay's political rivals, the Squadrone, seem to have been genuinely offended and certainly tried to use the pattern of appointments sponsored by the Campbell brothers to smear them with Jacobitism in the crucible of power at Westminster.<sup>122</sup> Such allegations were manifestly ridiculous, though Argyll occasionally played along with Jacobite overtures when he wanted Tory political support.<sup>123</sup> Nevertheless, the number of Argathelian clients with close personal or familial Jacobite connections is striking, and though David Hayton will argue in his forthcoming introduction to the *History of Parliament* volumes for 1689–1715 that this was a by-product of the aggressive recruitment of clients for the rebuilt Argathelian connection the brothers inherited, John Stewart in his forthcoming book on the political world of David Hume will make a strong case for Islay having pursued a deliberate policy of allowing his patronage network to become a bridge into the new order for erstwhile Jacobites.<sup>124</sup>

### III

A complex, interacting series of events and social changes sapped the strength of Scottish Jacobitism between 1716 and 1745. Some

<sup>121</sup> Tayler and Tayler, *1715: The Story of the Rising*, 199–218, 252; *Jacobite Cess Roll*, ed. Tayler and Tayler, 31, 196–7; Jeremy Black, *The Grand Tour in the Eighteenth Century* (Stroud, 1997), 171; *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 512, Joseph Yorke to Hardwicke, Aberdeen, 9 Mar. 1746. Huntly was graciously wining and dining government officers within little more than a month of the rebellion's disintegration: *Seven Sons of the Provost*, ed. Tayler, 83, William Kennedy to Thomas Kennedy, Edinburgh, 24 Mar. 1716.

<sup>122</sup> 'Marchmont Correspondence', 331–2, Lady Jane Nimmo to Marchmont, Redbraes, 27 Oct. 1745; *ibid.*, 334–5, James Nimmo to Marchmont, 21 Dec. 1745; *Ariston Memoirs*, ed. Omond, 101, 102.

<sup>123</sup> *Lockhart Papers*, ed. Aufrere, i, 395–9; *Letters of George Lockhart*, ed. Szechi, 132–3; Ferguson, *1689 to the Present*, 137–8.

<sup>124</sup> *Lockhart Papers*, ed. Aufrere, i, 395–9; Shaw, *Management of Scottish Society*, 70; Macinnes, *Clanship*, 197. Daniel Szechi is grateful to David Hayton for a thought-provoking conversation with him in London in 1997 regarding his work on Scottish parliamentary politics, and to John Stewart for letting him see an early draft of several chapters of his book and for the stimulating discussion of Islay's clientage network he had with him in Edinburgh, also in 1997.

of them, such as its military collapse and defeat in the early months of 1716, are very obvious. Others, such as the experience of exile and its counterpart, the effects of engagement with the Hanoverian state, were more subtle and far less dramatic, but equally damaging in their long-term effects. Collaboration with the Whig regime was to some degree inescapable — even rigid nonjurors like Lord Pitsligo had to pay their taxes — but the net effect on many, if not most, Jacobite families was catastrophic for the Jacobite cause. Defending their estates with the help of Whig kinsmen, friends and neighbours; searching out this social network's connections within the upper ranks of the Whig regime; exploiting family scions' positions within the army and the administration to find friends willing to plead their cause at the political centre: all served to enmesh them in a network of obligations that it would have been dishonourable to ignore by undertaking further Jacobite activity — and the primary duty of the patriarchs of elite families was always to uphold their dynasties' status and honour.

Jacobitism in Scotland did not, of course, die as a result of such engagement. Naturally not every Jacobite was successfully brought off by his Whig friends, and some who were did not stand by their obligations. John Cameron of Lochiel, for example, refused the offer of an indemnity and (after some heart-searching) Lord George Murray rebelled again in 1745.<sup>125</sup> Moreover, the political, social, cultural and economic machinery for producing new Jacobites was still functioning efficiently. Quite apart from the Jacobite cause's continuing, broad ideological appeal in certain parts of the country, and the deep hold Jacobite culture continued to have on many elite families, Scotland's lingering post-Union economic depression and the accumulated (and accumulating) national grievances blamed on the English connection ensured that Jacobitism survived until the 1740s. What was critical to the future of Jacobitism in Scotland, however, was that the '15 created an opportunity to deracinate a large section of the Jacobite community by acts of clemency. And whether out of simple humanity, as seems to have been the case with Montrose, or humanity alloyed with a cool appreciation of the likely political impact of such mercifulness, as may have been the case with Argyll and Islay, it collectively exploited the opportunity. The net effect was

<sup>125</sup> John Sibbald Gibson, *Lochiel of the '45: The Jacobite Chief and the Prince* (Edinburgh, 1995 edn), 24–5, 26.

not visibly to destroy the Jacobite community, but to weaken it. Thus even though the '45 came in like a lion, full of charisma, drama and early successes, a significantly lower proportion of the potential pool of sympathizers felt able to take up arms once again.<sup>126</sup>

The strength of this tendency within the Jacobite community may be seen from the fact that while he was on the run after Culloden James Johnstone alone encountered at least three formerly active Jacobite heads of families who still wished for the restoration of the Stuarts (and did their best to help him and other Jacobite fugitives at considerable risk to themselves), but no longer felt able to act because of their ties to the Hanoverian regime. Grant of Rothiemurcus was representative of all three, and of many others like them:

This worthy man, who was then about fifty years of age, and a delightful companion, took a strong liking for me, and frequently assured me of his friendship, as did also his eldest son, with whom I had been at school, but who was in the service of King George. The father was a partisan of the house of Stuart, but from prudential motives, did not openly declare himself; and both he and his vassals remained neutral during the whole of our expedition.<sup>127</sup>

Moreover, a further tranche of former Jacobites, whom Johnstone was fortunate not to encounter, converted to (as opposed to accepted) the new order, albeit some more sincerely than others. Charles Stewart of Ballechin, for example, hardly evinced any great enthusiasm for the Hanoverian regime when he admitted that he absented himself from home when the Jacobite army came through Atholl in September 1745 'so as to be free of force and temptation'.<sup>128</sup> Likewise the 2nd earl of Breadalbane, who as Lord Glenorchy had led the Breadalbane Campbells 'out' in rebellion in 1715, but had since then forged some excellent dynastic connections with the Whig regime, was clearly leaving his options open when he used his valetudinarianism and alleged deafness to keep Charles Edward at arm's length in a personal interview in September 1745, thereby avoiding being immediately drawn into another uprising.<sup>129</sup> By contrast, the 5th earl of Findlater, who

<sup>126</sup> *Jacobite Cess Roll*, ed. Tayler and Tayler, 196–7, 221–2; Leneman, *Living in Atholl*, 232–3.

<sup>127</sup> Johnstone, *Memoirs of the Rebellion*, 162. See also 197, 225.

<sup>128</sup> Leneman, *Living in Atholl*, 232–3.

<sup>129</sup> *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 209–10; *ibid.*, 470, Hon. Charles Yorke to Joseph Yorke, [end of November 1745].

as a young man was a quietly committed Jacobite associated with Lord Pitligo and other north-eastern Episcopalian mystics, and was consequently one of the first to be arrested in 1715, in 1745 courageously refused to bow to Jacobite demands for cess payments even when they threatened to burn his house down.<sup>130</sup> And Charles Erskine, lord tinwald of the court of session, scion of a Jacobite family thoroughly committed to the '15 and well known as a Jacobite at that time, who gave the exiled Stuart monarch's principal Scottish agent George Lockhart timely warning that he was in imminent danger of arrest for Jacobite conspiracy in 1727, in 1745 did his duty by his new masters so 'ably and zealously' that he earned the praise of no less a patron than Lord Chancellor Hardwicke.<sup>131</sup>

The normal dynamics of Scottish elite society made it not only possible, but completely reasonable, to cherish the Jacobite cause and take a pride in one's previous service to it, while simultaneously upholding the honour of the family through engagement with the Whig regime. Hence when individual Jacobites and their families were obliged to forswear further active support for the Stuarts in the aftermath of the '15, they were not breaching either the normative values of the heritor class or those of their own peculiar milieu. By remaining cultural Jacobites, but becoming day-to-day collaborators with the Whig regime, they squared the circle. And the cumulative impact of this process of enforced, yet honourable, accommodation was profound. When rebellion broke out again in 1745 the effective neutralization of many Jacobites active in the '15 (and often, too, their heirs), denied the movement the public support from influential members of the elite it so badly needed. Without doubt a wide range of personal, political and economic factors played their part in many Jacobites' decision by 1745 to submit to, or even embrace, the Whig regime. Certainly one of the most important amongst them was the sense of obligation many Jacobites felt towards the friends, neighbours,

<sup>130</sup> *Mystics of the North-East*, ed. G. D. Henderson (Third Spalding Club, Aberdeen, 1934), 42–3; *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 515–16, Joseph Yorke to Hardwicke, Aberdeen, 31 Mar. 1746. The Jacobites retaliated by plundering Findlater's house at Cullen, but did not in the end destroy it: *Origins of the Forty-Five*, 'Memoirs of the Rebellion in Aberdeenshire and Banff', 157.

<sup>131</sup> *Arniston Memoirs*, ed. Omond, 102; *Letters of George Lockhart*, ed. Szechi, 308; *Life and Correspondence of Philip Yorke, Earl of Hardwicke*, ed. Yorke, i, 459; *ibid.*, 551–2, Hardwicke to the duke of Newcastle, London, 21 Oct. 1748.

kinsmen and patrons who had rescued them or their families thirty years previously.

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