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VOLUME

XIII



THE PRISONERS OF THE '45

VOLUME

I

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THE PRISONERS OF THE '45

EDITED FROM THE STATE PAPERS

BY

SIR BRUCE GORDON SETON, Bt. OF ABERCORN, C.B.

AND

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VOLUME I



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INTRODUCTION

THE field of Jacobite research has been so thoroughly examined by successive generations of enquirers that it might well appear that nothing worthy of further study remained for investigation. There are, however, two aspects of the campaign of 1745-6 which have not yet been dealt with comprehensively—the purely military and the personal. Both of these are, of course, referred to in every work dealing with the adventure of Prince Charles Edward; but, as regards the first, it is obvious that the ordinary historian is not sufficiently acquainted with military operations from the tactical or strategical point of view, to write a technically accurate account of the campaign, free from political or racial bias; and, as regards the second, historians and students alike have confined themselves almost entirely to the part played by the limited class who were responsible for the policy of the attempt, or by the rather larger class who, while not concerned with such policy, were the actual leaders of the expeditionary force.

The military history of the '45 awaits a qualified writer; the prison history of the personnel is the subject of this work. Information stored up in the State Papers regarding the prisoners of this campaign incidentally throws a good deal of light on its military aspect; but it was not with that object in view that these volumes have been compiled.

An attempt has here been made to rescue, from the oblivion in which they have lain for one hundred and eighty years, the names, the fate and, to some extent, the

achievements, of the rank and file of the Jacobite army—the ‘ Kanonenfutter ’ of the campaign.

Those men may have cared little for military operations, tactical or strategical, and still less for the policy behind them ; they may have been impelled by the clan system, by herd instinct, by religion, by romance—or even by economic necessity—to plunge into the maelstrom. It is impossible to assess the relative strength of the motives which impelled the individual. What is certain is that, willingly or unwillingly, they embarked on a course of armed resistance to an established Government equipped with a regular army well trained in warfare, without regard to the inevitable consequences. Abandoned, almost entirely, by the French Government and by the English Jacobites, and opposed by the majority of their own fellow-countrymen, they set out in support of what was from its inception a Lost Cause ; and a very large proportion of them had to pay the price of their loyalty.

To some it meant permanent exile from their native land ; to all it meant physical and mental torture ; to many, to far more than we can now say, it involved the painful journey to ‘ Tir nan Og,’ from which there was no returning.

To all—Highland, Lowland, French and English Jacobites alike—may be applied the ancient words :

‘ They were stoned, they were sawn asunder, were tempted, were slain with the sword ; they wandered about in sheep-skins and goat-skins ; being destitute, afflicted, tormented ;

‘ They wandered in deserts, and in mountains, and in dens and caves of the earth.

‘ Of whom the world was not worthy.’

References to prisoners appear in many contemporary works ; but in none is there anything approaching a comprehensive account of them or their disposal. The information, contained in the *Lists of Persons concerned*

in the Rebellion, collected by the Supervisors of Excise in Scotland, has been published by the Scottish History Society; but of the 2590 persons mentioned therein only about 300 are definitely stated to be prisoners at the time of compilation, although the Records show that there were about 900 in Scottish prisons, over 600 in the prison camp of Inverness, and many hundreds in England captured at Carlisle or on the high seas. Whether the discrepancy was the result of lack of information or deliberate cannot now be stated.

The Lyon in Mourning and the *Letters* of Albemarle and the Lord Justice Clerk no doubt give a good deal of information about prisoners, but the numbers referred to are comparatively few; and clan and family histories usually mention only their own members, and these mostly persons of importance.

All these sources together fail to provide material for a complete record of the prisoners of the '45 as a whole.

The original intention of this work was to publish for the Society the official Jail Returns of Scotland during the campaign and up to the General Pardon in July 1747. Of these Returns two manuscript sets exist: one, which is probably the original, was lent by the late Dr. Walter Blaikie for this purpose; the other, a contemporary copy, is in the Charter Chest of Seton of Touch, and was lent by Sir Douglas Seton-Steuart, Bt. It was the copy kept by Mr. Robert Seton, W.S., who dealt with the rationing accounts of prisoners.

These Returns were analysed by transferring the name of each of the 900 individual prisoners contained in them to a History Sheet. It was then found that, in the absence of any reference to the large numbers captured at Culloden and in the subsequent operations, the record dealt only with a portion of the Jacobite prisoners, and it was decided

to continue the work by a systematic search of the State Papers in London.

The same procedure was adopted. All the State Papers dealing with the '45—Domestic and Scottish, Patent Rolls, Treasury Records, Admiralty and War Office Papers—were copied; and the individuals contained in them were transferred to History Sheets. Each Sheet ultimately contained all the prison history of each individual, as far as such could be ascertained.

The information so obtained was then amplified by examination of the contemporary documents published by this and other Societies, clan and family histories and similar works, detailed below; such additional matter was also transferred to the Sheets, and the authority is given for each item.

The two volumes of *Lists of Prisoners* are compiled from these History Sheets; and references are given to every entry in the State Papers which has been traced. Great care was necessary in avoiding, as far as possible, the error of showing the same individual twice, and thereby inflating the total number. The method adopted to avoid this is explained in Chapter XII. ('Identification').

No attempt has been made to trace the history of the prisoners who were transported, after leaving Great Britain; this could only be done by reference to records in America.

It is impossible to acknowledge adequately the assistance that has been given by correspondents all over Scotland interested in the history of their ancestors who were out in the '45; and much useful information has been derived from this source.

To the late Dr. Blaikie, through his loan of the original copy of the Scottish Jail Returns, are due, in the first place, the inception of the work; without the kindly assistance of Mr. J. R. N. Macphail, K.C., at every

stage of the work, it would never have been completed. Miss Henrietta Tayler has provided several items of information from the Public Records, including the invaluable 'Case of Nicholas Glascoe'; and Miss Lucy Drucker supplied much of the information in the State Papers on which the Lists are based; and Mr. David Anderson of H.M. Register House permitted the use of the Manuscript Orders of the Duke of Cumberland in his possession. Mr. Duff Tayler and Dr. J. M. Bulloch have kindly reviewed the lists of Aberdeenshire and Banffshire prisoners. As far as possible, the authority for statements and the source of quotations have been given in abbreviated form throughout the three volumes.

SOURCES AND BIBLIOGRAPHY

STATE PAPERS

Abbreviations used in the Text.	Title.
<i>Ad.</i>	Admiralty Papers.
<i>Add. MSS.</i>	Additional Manuscripts, British Museum.
<i>Baga</i>	Baga de Secretis. Appendix II. to the 5th Report of the Deputy Keeper of the Public Records, pp. 172-193.
<i>C.O. Docquet Book</i>	Crown Office Docquet Book.
<i>Egerton</i>	Egerton Manuscripts, British Museum.
<i>Newcastle</i>	Newcastle Papers, British Museum.
<i>J.R.</i>	Jail Returns.
<i>P.R.</i>	Patent Rolls.
<i>P.R.Cal.</i>	Patent Roll Calendar.
<i>P.S.O.</i>	Privy Seal Office Docquet Book.
<i>S.P.Scot.</i> or <i>S.P.S.</i>	State Papers, Scotland. Series ii.
<i>S.P.Dom.</i> or <i>S.P.D.</i>	State Papers Domestic.
<i>S.P.Dom. Entry Book</i>	State Papers Domestic Entry Book.
<i>S.P.Dom. M.S. Cal.</i>	State Papers Domestic Manuscript Calendar.
<i>S.P.Dom. Mil.</i>	State Papers Domestic Military.
<i>T.B.M.</i>	Treasury Board Minutes.
<i>T.B.P.</i>	Treasury Board Papers.
<i>W.O.</i>	War Office Papers.

NOTE.—The numbers following an abbreviation indicate the Bundle and Folio number.

Thus, *S.P.D.*, 29-94 means State Papers Domestic, Geo. II., Bundle 29, Folio 94; and *P.R.*, 3621-21 means Patent Rolls, Geo. II., Bundle 3621, Folio number 21.

The name of a town following the abbreviation *J.R.*, means that it is the Jail Return of the prison of that town.

Achmonie A Short History of the Mackays of Achmonie. Dr. William Mackay.

Abbreviations used in the Text.	Title.
<i>A.H.R.J.</i>	Journal of the Society of Army Historical Research. 'The Orderly Book of Lord Ogilvy's Regiment.'
<i>Albemarle</i>	The Albemarle Papers. (New Spalding Club, 1902.)
<i>Allardyce</i>	Historical Papers relating to the Jacobite Period. (New Spalding Club, Col. James Allardyce. 1895.)
<i>Appin</i>	Stewarts of Appin. John M. J. Stewart.
<i>Atholl</i>	Atholl Chronicles, John, 7th Duke of Atholl, K.T. Vol. iii.
<i>Bisset</i>	Diary of the Rev. John Bisset, 1745-6. (Spalding Club Miscellany, vol. i.)
<i>Blackstone</i>	Commentaries on the Laws of England. Sir William Blackstone.
<i>Boyse</i>	An Impartial History of the late Rebellion in 1745. Samuel Boyse.
<i>Browne</i>	A History of the Highlands. James Browne. Glasgow, 1838.
<i>Bulloch</i>	Gordons under Arms. Constance Skelton and John Bulloch. (New Spalding Club, 1912.)
<i>Burton</i>	History of Scotland. J. Hill Burton. (Edinburgh : Blackwood, 1873.)
<i>Cadell</i>	Sir John Cope and the Rebellion of 1745. General Sir Robert Cadell. 1898.
<i>Campbell</i>	Children of the Mist. Lord Archibald Campbell.
<i>Catholic Highlands</i>	The Catholic Highlands of Scotland. Don Odo Blundell, O.S.B.
<i>Chambers</i>	Biographical Dictionary. Ed. Patrick and Groome.
<i>Clan Donald</i>	The Clan Donald. The Revs. A. and A. Macdonald.
<i>Clan Gregor</i>	History of the Clan Gregor. Amelia Murray M'Gregor of M'Gregor.
<i>C.M.</i>	The Caledonian Mercury. 1745-46.
<i>Cockayne</i>	Complete Baronetage, 1900. G.E.C.

Abbreviations used in the Text.	Title.
<i>Cope</i>	Report of Board of Officers on the conduct of Sir John Cope. 1749.
<i>Culloden</i>	Culloden Papers. Letters of Duncan Forbes of Culloden. 1815.
<i>Cumberland Orders</i>	The Manuscript Orders of the Duke of Cumberland, 28th January to 7th July 1746. (The property of David Anderson, Esq.)
<i>D.N.B.</i>	Dictionary of National Biography.
<i>Douglas</i>	The Peerage of Scotland. Sir Robert Douglas of Glenberrie. Ed. J. P. Wood. 1818.
<i>Egerton</i>	Egerton MSS., British Museum.
<i>Elcho</i>	Affairs of Scotland, 1744-46. Lord Elcho. Edinburgh, 1907
<i>Erskine</i>	An Institute of the Law of Scotland. John Erskine of Carnock. Edinburgh, 1773.
<i>Fletcher</i>	Letters of Andrew Fletcher. Lord Justice Clerk to the Earl of Albemarle. (Albemarle Papers, vol. ii.)
<i>Forbes</i>	Jacobite Gleanings. J. Macbeth Forbes.
<i>Forfeited Estates</i>	Forfeited Estates Papers. A. H. Millar. (Scottish History Society, 1909.)
<i>Fraser</i>	Major Fraser's Manuscript, 1696-1737. Col. Alexander Fergusson.
<i>Fraser Papers</i>	Fraser Papers. J. R. N. Macphail, K.C. (Scottish History Society, 3rd Series, vol. v.)
<i>Grossett</i>	'An Account of Money disposed by Walter Grossett.' Origins of the '45. W. B. Blaikie, LL.D. (Scottish History Society, 1916.)
<i>Henderson</i>	The Life of William, Duke of Cumberland. Andrew Henderson. Edinburgh, 1766.

Abbreviations used in the Text.	Title.
<i>Hist. MSS.</i> . . .	Historical Manuscripts Commission Reports.
<i>Home</i> . . .	The History of the Rebellion in the year 1745. John Home.
<i>Invercauld</i> . . .	Records of Invercauld. Rev. John Michie. (New Spalding Club, 1901.)
<i>Itinerary</i> . . .	Itinerary of Charles Edward Stuart. W. B. Blaikie, LL.D. (Scottish History Society, 1897.)
<i>J.M.</i> . . .	Jacobite Memoirs. Robert Chambers, 1834.
<i>Johnstone</i> . . .	Memoirs of the Rebellion of 1745. Chevalier de Johnstone. London, 1820.
<i>Johnstone, C.</i> . . .	John Blaw, of Castlehill. Sir Christopher N. Johnston. (Lord Sands.)
<i>Lang</i> . . .	Prince Charles Edward. Andrew Lang, 1900.
<i>Lyon</i> . . .	The Lyon in Mourning. Robert Forbes. Rev. Henry Paton. (Scottish History Society, 1895-96.)
<i>Mackay, J. G.</i> . . .	The Romantic Story of the Highland Garb and Tartan. J. G. Mackay. 1924.
<i>Mackay, W.</i> . . .	Urquhart and Glen Moriston. William Mackay, LL.D. 1893.
<i>Mackenzie</i> . . .	Simon Fraser, Lord Lovat. W. C. Mackenzie. London, 1908.
<i>Mackintosh</i> . . .	The Forfarshire or Lord Ogilvy's Regiment. Alexander Mackintosh. 1914.
<i>Macleod</i> . . .	Narratives by John, Lord Macleod. 1745-46.
<i>Marchant</i> . . .	The history of the present Rebellion. 1746. John Marchant.
<i>Michel</i> . . .	Les Écossais en France. F. Michel. 1861.
<i>Military Guide</i> . . .	A Military Guide to Young Officers. Thomas Simes. 1781. 3rd Edition.

Abbreviations used in the Text.	Title.
<i>Murray</i> . . .	Lord George Murray and the '45. Winifred Duke.
<i>Murray</i>	Murray of Broughton's Memorials. 1740-1747. Ed. Robert Bell. (Scottish History Society, 1898.)
<i>Norie</i>	Some personal narratives of the '45. W. Drummond Norie. ('Oban Times.')
<i>Origins</i>	Origins of the '45. W. B. Laikie, LL.D. (Scottish History Society, 1916.)
<i>P.C.</i>	A List of Persons concerned in the Rebellion, 1745-46. Ed. Rev. Walter Macleod. (Scottish History Society, 1890.)
<i>Pickle</i>	Pickle the Spy. Andrew Lang. London, 1897.
<i>Riddell</i>	Enquiry into the Law and Practices in Scottish Peerages. John Riddell. 1842.
<i>Ruddiman</i>	The life of Thomas Ruddiman. George Chalmers. 1794.
<i>Ruvigny</i>	The Jacobite Peerage. Marquis of Ruvigny. 1904.
<i>Scots Mag.</i>	Scots Magazine. Contemporary.
<i>Seton</i>	Family of Seton. George Seton. Edinburgh, 1896.
<i>Sidelights</i>	Sidelights on Highland History. William Mackay, LL.D.
<i>S.H.R.</i>	Scottish Historical Review.
<i>S.N.Q.</i>	Scottish Notes and Queries. 3rd Series, vol. v. 1927.
<i>S.P.</i>	The Scots Peerage. Ed. Sir James Balfour Paul, K.C.V.O.
<i>Spalding</i>	Spalding Club. Miscellany, vol. i. 1890.
<i>Stewart, David</i>	Sketches of the Highlanders. General David Stewart of Garth. 1825.

Abbreviations used in the Text.	Title.
<i>Stewart, Duncan</i> . . .	A short historical Account of the Royal Family of Scotland and of the surname of Stewart. Duncan Stewart. 1739.
<i>Stewart, Francis</i> . . .	Patrick Lindesay the Jacobite. Francis Steuart. 1926.
<i>Stirling</i> . . .	Stirlings of Keir. William Fraser. 1858.
<i>Terry</i> . . .	History of Scotland. C. Sanford Terry.
<i>Tullibardine</i> . . .	A Military History of Perthshire. Ed. The Marchioness of Tullibardine, 1908. (Section, 'Perthshire in the '45.' W. B. Blaikie, LL.D.)
<i>Williamson</i> . . .	The Official Diary of Lieut.-General Adam Williamson, Deputy-Lieut. of the Tower, 1722-1747. Camden. 3rd Series, vol. xxii. Ed. J. C. Fox, 1912.
<i>Woodhouselee</i> . . .	The Woodhouselee Manuscript. Narratives of events in Edinburgh. Sept.-Nov. 1745.

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CHAPTER I

THE DISPOSAL OF PRISONERS

1. THE CUMBERLAND PROCLAMATIONS

ON 24th February 1746 the Duke of Cumberland issued a Proclamation which was frequently appealed to by prisoners after the campaign.

Having stated that many persons who had been concerned in the Rising had returned to their houses or were 'lurking,' and that they had concealed their arms, it proceeds to require such persons to bring in their arms to the Magistrates or Ministers of the Church of Scotland, and to declare their names and places of abode, and 'to submit themselves entirely to the King's Mercy.'

Persons who have knowledge of the whereabouts of such arms are ordered to report the matter or to deliver them up.

'And all such as shall any ways fail with most exact obedience to this Order . . . will be pursued with the utmost severity as rebels and traitors by due process at law or military execution.'

In the absence of nominal rolls of surrenders the effect of this Proclamation cannot be estimated; but many prisoners afterwards claimed that they had complied with its provisions. Such persons were usually discharged, on corroboration of their statements. As, however, many had been sent to London and elsewhere, and it took time to refer to the Ministers and Magistrates, they were often retained for months in prison.

On 1st May 1746 the Duke issued another Proclamation from Inverness, with special reference to the large numbers of persons who had dispersed to their houses after Culloden, and who 'presumptuously and insolently' retained their arms.

The Civil Authorities were accordingly ordered to make diligent search for all who had been in arms and had not surrendered themselves and their weapons in the terms of the first Proclamation. Such persons when found were to be committed to prison for trial.

'And, in order to the more effectual execution of this service, the officers of the Law are to take informations from Ministers of the Established Church of Scotland, touching the behaviour of the inhabitants within their respective parishes, and of the present haunts . . . of such rebels as may be lurking.

'And the said Ministers and all other . . . dutiful subjects who shall have any knowledge of the lurking places of such rebels and of the places where their arms may be lodged are to give information. . . .'

Finally, severe pains were threatened for the crime of concealment or entertainment of rebels, or resetting of arms.

On 12th May 1746 Newcastle wrote from London congratulating Cumberland on his action and informed him of the measures it was proposed to take in regard to the disposal of prisoners (*S.P.Scot.*, 31-17). The relevant portion of the letter is as follows :

'His Majesty has thought fit to order that the necessary Preparations should be made for bringing to an immediate Trial the Rebel Prisoners that are now in the several gaols in England and Scotland. For this purpose Commissions of Oyer and Terminer will be sent to Carlisle and Newcastle, as soon as the Preparations previously necessary will permit, for trying the Prisoners that are in Scotland and in the Northern Parts of England.

'But, as to those which have been taken in Scotland, these Commissions can extend only to such as have been actually in Arms or have personally joined with others whilst in Arms in the Rebellion.

'But, in order to prevent any mistakes, I am ordered by His Majesty to desire that Your R.H. would give immediate Directions for transmitting hither, as soon as possible, an exact list of the names of the several officers and persons of note that have been committed, by your Order, to any Prison in Scotland or England, with an account of the proofs and evidence that can be brought against them ; together with the names of the private men that have been taken in arms against His Majesty,

or have surrendered to Your R.H., and been committed to Prison.

'I have wrote by His Majesty's Order to the Lord Justice Clerk to transmit lists of those persons that have been committed by the Civil Magistrates in Scotland, on account of the present rebellion. . . .'

2. DECISION OF THE PRIVY COUNCIL, 15TH MAY 1746

The earliest record of a formal decision by the Government in regard to the method of disposal of Jacobite prisoners is in the 'Proceedings of the Privy Council' held at Newcastle House on 15th May 1746 (*S.P.Dom.*, 83-88).

The Sederunt consisted of the Lord Chancellor, the Duke of Argyll, the Earl of Harrington, Mr. Henry Pelham the head of the Ministry, and his brother, the Duke of Newcastle.

The following decisions were arrived at :

1. 'That all the Rebel Prisoners in Scotland be tried at Carlisle or Newcastle.
2. 'That the Commissions be issued, as shall be thought proper, by the Lord Chancellor, the two Lords Chief Justices, and the Lord Chief Baron.
3. 'To acquaint H.R.H. the Duke that no Orders can be sent about the prisoners in Scotland till we know the numbers, and the Commissions go down for their Tryal.
'No room for them in any Jayls in England.
'The Duke's proposal to send the Irish to Ireland.
4. 'To write to Van Hoey for the Exchange of the few prisoners sent to France on Delivery of a like number from hence.
5. 'To send to Lord Chancellor the Order of Council d. 1715 for the Tryal of every 20th Rebel. To be reconsidered.
6. 'To consider Mr. Kilby's Proposal of sending the Rebels to New England.
7. 'What to do with the Provost of Edenborough & Sir Hector MacLean, Ld Tullybardine, Mr Ratcliffe.'

The intention, thus, was that the large number of prisoners at Inverness, taken at Culloden and in the period which had elapsed after the battle, as well as those who were already in Scottish prisons, should be tried at Carlisle or Newcastle—not in London. No explanation

for the later change, and the transfer of many of them to London, has been traced.

The reference to the exchange of 'prisoners sent to France' is made clear by another paragraph in the letter of 12th May (*S.P.Scot.*, 31-17), above quoted, from Newcastle to Cumberland, which is as follows :

'His Majesty would be glad if your Royal Highness could procure an account of the number and names of the Officers who were taken Prisoner by the Rebels and have been sent to France; it being His Majesty's intention to detain in this Kingdom as many natural born French subjects, now Prisoners here, as shall be sufficient to exchange against them. And Your R.H. will therefore be pleased to give the necessary Directions for that Purpose.'

It is a remarkable fact that, while contemporary writers refer to the fact of English officers captured at Prestonpans and Falkirk being interned in various parts of Fife, in Blair-Atholl, and elsewhere in Scotland, no reference appears to any such officers having been sent over to France; and the State Papers do not indicate that the proposed exchange actually took place.

3. CUMBERLAND'S PROPOSAL TO DEPORT THE CLANS

When in full pursuit of the remnants of the broken Jacobite army Cumberland had evidently advised Newcastle that wholesale deportation of the Clans was the only real solution of the problem of the Highlands, as, on 23rd May 1746, the latter wrote to him, with reference to this proposal (*S.P.Scot.*, 31-27) :

'As your R.H. mentions that It is wish'd by the Well affected in Scotland that some whole Clans could be transported, not as Slaves, but to form Colonies in the West Indies, His Majesty would be glad to know in what manner it is proposed that that should be done,—whether by Trial and Condemnation, or by an Act of Parliament to be made for that purpose.

'I hope (in) my next Letter to be able to acquaint Your R.H. with some Regulations that are intended to be offered to the consideration of Parliament, relating to the Highlands.'

To this letter the Duke replied on 5th June 1746 and made the following definite proposal (*S.P.Scot.*, 32-4) :

‘What I have formerly mentioned, as wished by the well affected in Scotland, will I believe be the only sure remedy for establishing Quiet in this country, I mean the transporting of particular Clans, such as the entire Clan of the Camerons and almost all the Tribes of the M'Donalds (except some of those of the Isles) and several other lesser Clans, of which an exact list may easily be made. . . . This Scheme might be put in Execution, either by a Citation to every individual of these Clans to appear under penalty of Outlawry, as the most open Acts of Treason might be proved against every one of them, or by a Law passed for their being transplanted, as there formerly was one against all of the name of M'Gregor ; for, I am sorry to be obliged to say, that it is my opinion, was there the least Occasion, they would rise again to-morrow.

‘So, though the same Dangers might not accrue from their Rising, yet the same Trouble and Expence must be repeated. . . .’

No further reference to this proposed wholesale banishment of individual clans has been traced. It was evidently not considered feasible, even if it was ever considered by the Privy Council.

4. TRANSFER OF CULLODEN PRISONERS TO LONDON

The local authorities at Newcastle successfully protested against the decision to send prisoners there for trial. On 10th June 1746 the Mayor, Cuthbert Smith, informed the Duke of Newcastle that the transports from Inverness had arrived at 5 A.M. the previous day, and that, on receiving the letters addressed to him by the Duke, Captain Dyve, R.N., H.M.S. *Winchilsea*, had at once set sail for London with the convoy (*S.P.Dom.*, 84-21). In conclusion, he expressed himself in fulsome terms of gratitude :

‘for H.M. goodness in giving such orders as frees us from the great inconveniences which must have attended their Tryals in this town, where . . . we have not proper places for their Security.’

The transports were the *Thane of Fife* with 97 prisoners,

Wallsgrave with 102, *Margaret & Mary* with 40, *Dolphin* with 101, *Jane of Alloway* with 43, *Jane of Leith* with 98, and *Alexander & James* with 83.

These 564 prisoners, nominal rolls of whom are preserved (*S.P. Dom.*, 84, of 3rd June 1746), were taken on to London.

Other batches followed as the sweeping up of the country was carried out.

On 13th June Newcastle informed the 'Secretary at War' that 600 prisoners were on their way to London for trial, and that the Savoy barracks should be prepared to receive them (*S.P.Dom. Entry Book*, 226, p. 222). Before anything could be arranged, however, the convoy had reached the Thames, and immediate action had to be taken.

On 18th June he wrote to the Admiralty :

'His Majesty having been pleased to direct that Three Hundred of the Rebel Prisoners which are now on board the Transports in the River should be carried to Tilbury Fort, in order to be Kept ther till His Majesty's further Pleasure shall be known concerning them, and that the remaining number should continue on board the Transports, I am commanded to signify to your Lordships . . . that you should give the necessary directions to the Commander of His Majesty's Ship who has the care of them, that the said 300 prisoners be accordingly landed at Tilbury; and that the Commissioners for Sick and Wounded should provide the said Prisoners with Necessaries during their Imprisonment there.' (*S.P.Dom. Entry Book*, 226-125.)

It is not clear whether the Commissioners were also made responsible for the remaining prisoners of this convoy, or whether the latter were deliberately left to the tender mercies of the masters of the ships, under the orders of the naval or military authorities.

As Tilbury Fort could not accommodate more than 300 men, no alternative to the continuance of the confinement of the remainder in transports presented itself.

But sickness, the result of overcrowding, was already making such inroads among these unfortunate men that, on 22nd August, Newcastle was compelled to initiate

further measures. Accordingly, he again addressed the Admiralty and pointed out that :

‘ the rebel prisoners, now on board a transport at Woolwich, are so straitened for room as to be very sickly, which may make it unsafe to land them.

‘ One or more empty transports (are) to be sent to receive some of the said prisoners ; the transports are to drop down to Tilbury, where the prisoners may be daily landed for air, and may be attended by the Apothecary.’ (*S.P.Dom. Entry Book*, 226-131.)

Similar orders were issued regarding two transports lying at the Nore, in which the same conditions obtained.

There is no evidence, however, that prisoners in these transports were ever allowed to land ‘ for air,’ or that they were ‘ attended by the Apothecary.’ On the contrary, as shown elsewhere, they were left, uncared for, to face overcrowding and complete lack of sanitary measures of any kind, with an epidemic of typhus carrying them off in large numbers. (*See Chapter VIII.*)

5. THE LOTTING OF PRISONERS

The next step was a revival of the instructions contained in an Order in Council of 1715 which provided for the selection of individuals for trial from among the prisoners taken during that Rising. This selection was effected by the simple process of drawing lots and taking one man in twenty for trial.

A new Order (*S.P.Dom.*, 88-17) was accordingly promulgated on 23rd July 1746, the provisions of which were as follows :

‘ His Majesty this day in Council, taking into consideration the great Numbers of Persons detained in Custody on account of the late Rebellion, and how much it imports the publick Peace of the Kingdom that a speedy Example be made of some of them, hath thought it fit to Order, and it is hereby Order’d by His Majesty, . . . That such Person or Persons who shall be appointed for that Purpose, shall, after setting apart such of them as shall be thought proper for Witnesses, cause the rest

of the said Prisoners, not being Gentlemen or Men of Estates, or such as shall appear to have distinguish'd themselves by any Extraordinary Degree of Guilt, to draw Lots, to the Intent that every Twentieth Man on whom the lot shall fall shall be appointed for Tryal in order to due punishment; and, if any of the said Prisoners shall refuse to draw, the Lot is to be drawn for them in their Presence; and the Residue, on whom the Lot shall not fall, are to be respited his Majesty's Mercy, on such conditions as he shall be graciously pleas'd to think fit.'

A copy of this Order was forwarded on 3rd October 1746, along with the following letter (*S.P.Dom.*, 88-17), to the persons 'appointed for that purpose,' one of whom was Captain Stratford Eyre, Battereau's regiment:

'His Majesty, having been pleased by an Order in Council to direct That a speedy example should be made of the Prisoners detained in Custody on Account of the late Rebellion, and that the said Prisoners should draw lots, to the Intent that every Twentieth Man on whom the lot shall fall shall be appointed for trial, in order to due Punishment, I send you herewith the said Order, and am to signify to you His Majesty's pleasure, that you should take Care that the same be duly put in Execution with regard to the several Prisoners that are now at Tilbury Fort, or on board the Transports lying off that Place.

'As to the Prisoners upon whom the Lots shall not have fallen, his Majesty is graciously pleas'd to declare his Intention to extend his Mercy to them, provided it shall be their own Request to be pardon'd on such Conditions as His Majesty shall think proper. And that they do, in the Petition they shall sign for this Purpose to his Majesty, acknowledge their Guilt; And you will accordingly take care that an Intimation be given to the said Prisoners, that such a Petition will be favourably receiv'd.'

This lotting was applied only to prisoners who were in English prisons or transports, and not to those who were confined in the Scottish prisons.

Among these latter, selections for trial had already been made personally by Mr. David Bruce, Judge Advocate of the Army, and by others acting under the instructions of the Lord Justice Clerk; and about 270 individuals had been combed out and sent to Carlisle in August 1746.

The actual procedure in the drawing of lots is described in considerable detail by a prisoner, Alexander Stewart,

in a letter to Bishop Forbes, dated 30th January 1749 (*Lyon*, ii. 236). He had been captured in Perthshire soon after the battle of Culloden, and was sent to Carlisle in a convoy which left Edinburgh for that town on 8th August 1746, and reached its destination on 17th August.

On the afternoon of that day, he says :

‘ a rascall of the name of Gray, Solicitor Hume’s man from Edinburgh, with his hatfull of tickets, and Miller and Solicitor Web from London, presented the hat to me, being the first man on the right of all the twentie that was to draw together. I asked Gray what I was going to doe with that, and he told me it was to draw for our lives, which accordingly I did and got number fourteen. And betwixt five and six o’clock at night Webb, Miller, and Gray, and one Henderson, came all out to the yarde, where we was sitting on the grass, with a verie large paper like a charter, and read so much of it to us as they thout proper, and told us that it was to petition their King for mercy to us, and that it was to go off to London that night, and, as soon as it came back we might probably get home or else transportation, which would be the worst of it ; and that we belove to put down our names at the foot of it ; and them that could not, and some that would not, Miller did it for them, and told me that I might be verie glad to doe it, for such mercy that was but to hang only one of twentie and let nineteen go for transportation. . . . And about eight a clock we was all cairried to the county goal that was for transportation.’

In accordance with instructions Captain Stratford Eyre visited Tilbury Fort, the hospital ship *Mermaid*, and the transports *Pamela*, *Liberty & Property*, and *James & Mary*, accompanied by Lieutenant William Moore and Surgeon John Kirkes. From the 430 prisoners he excluded 52 individuals who were ‘ set apart for Tryal ’ and 20 as ‘ Evidences ’ against their fellow prisoners ; 3 ladies had already been transferred to the custody of a messenger in London.

As regards these 52 persons ‘ set apart for Tryal ’ the explanation was that they came under the Exception clause of the Order in Council of 23rd July, and were marked down for trial on account either of an ‘ extraordinary degree of guilt,’ their being ‘ Gentlemen or Men of Estates,’ their religion, or the fact that they were required as King’s

Evidences. The list included such men as M'Neill of Barra, John Gordon of Achriachan (Glenbucket's son); five M'Donalds from Benbecula, each of whom is styled 'Gent'; Donald M'Leod of Gualtergil 'the Prince's Palinurus'; Malcolm M'Leod of Raasay; John M'Kinnon of Elgol; and five clergymen, of whom one was James Taylor the non-jurant Episcopal minister of Thurso, and the others were Catholic priests.

Combining Captain Eyre's lists, the distribution of the prisoners was as follows :

Lotted in Tilbury Fort . . .	185
Hospital Ship . . .	55
<i>Pamela</i> . . .	20
<i>Liberty & Property</i> . . .	46
<i>James & Mary</i> . . .	49
	<hr/>
	355, of whom the 'Lot'
	fell on 17.
Besides these there were 'set apart for Tryal or further Ex- amination, and for Evidence, who have not been lotted' . . .	75
	<hr/>
	<u>430</u>

Captain Eyre's report, dated 11th October 1746 (*S.P.Dom.*, 88-60), gives details of names, ages and regiments of seventeen groups of 20 prisoners

'in the order they lotted; and the lots being drawn, fell on the several persons whose names are expressed in Red letters, and opposite to whose names the word "Justice" is wrote.'

Being a soldier he naturally divided up the prisoners as far as possible in regimental groups, and the results were that the lot fell on five men of Lord Cromarty's, four of Glengarry's, one each of Lord Lewis Gordon's, Lord Ogilvy's, Lord George Murray's, Lochiel's, Clanranald's, Lord Lovat's and Glenbucket's regiments, while the seventeenth man was William Mavor, aged fifty-one, an aleseller of Turriff, against whose name no regiment is shown, but the remark that he was 'accused by James

Paterson of having occasioned M'Leod's defeat at Inverury.'

In the unlotted list three individuals, Murdoch Campbell, Alan M'Donald, and Neil M'Aulay, have the marginal note against them that 'Capt. Ferguson reports these last men to be guilty of many acts of Barbarity, and the last two to be employed by Barrisdale to undertake to murder him.'

Similar action was taken successively at Carlisle, Lancaster and York. Thus, on 27th July 1746, Mr. Philip Webb visited York Castle on the same instructions, and submitted a report of the action taken, in a Memo rendered to the Duke of Newcastle (*S.P.Dom.*, 85-122). There were at the time in York 109 prisoners 'Confined for High Treason, in Levying Warre,' most of whom had formed part of the Carlisle garrison.

Out of this number Webb says :

'I sett apart for Tryal pursuant to the List sent me by his Grace the Duke of Newcastle, 25 ; I sett apart for witnesses as appears by the annexed list, 8 ; the remaining 76 were thrown into 4 Lotts . . . and, the Lotts being drawn, fell on the 4 following persons, viz., Angus Campbell, William Hunter, George Saunders and Andrew Youl.'

6. DISPOSAL OF PRISONERS 'EXCEPTED' FROM LOTTING

As shown above, a certain number of prisoners were debarred from the privilege of drawing lots for their disposal. The selection of many of them was made by the Duke of Newcastle himself, and was based, no doubt, on the reports of informers, or of the military and legal authorities in Scotland ; in addition, a supplementary list of such persons was prepared by Mr. Philip Webb when he went round the English prisons to superintend the lotting.

These 'excepted' prisoners were, as a rule, of a class apart from the ordinary, and represented the leaders, or those who had taken a prominent part in the Rising ; and they were usually sent to London. They were often

accorded differential treatment in so far as their place of confinement was concerned, and were ultimately sent, according to their social position, to the Tower of London, the New Prison, Southwark, or to Newgate; from these they were often transferred to the custody of messengers—notably Mr. Dick, Mr. Money, and Mr. Charrington—who were responsible for keeping them safely in their own houses until a decision was arrived at regarding the action to be taken on their individual cases.

A good example of the method adopted in dealing with these 'excepted' prisoners is afforded by the proceedings of a meeting on 13th February 1746/7, between Newcastle, Sir Dudley Ryder, and the Hon. William Murray, at which Mr. Sharpe, Solicitor to the Treasury, was present (*S.P.Dom.*, 94-41):

' 1. Mr Sharpe to attend the Attorney & Solieitor General with the Evidence against the 66 prisoners at Tilbury who were not admitted eithor to Lot or Petition, and to report their opinion whether there be sufficient evidence to proceed against them, and in what manner these Proceedings should be had.

Query.—Whether they should not remain till discharged by due course of law, the Evidence being strong but not sufficient to conviet them.

' 2. The case of the Prisoners in the Custody of the Messengers, from Ranald M'Donald to Anne M'Kinnon inclusive, to be referred to Attorney & Solieitor General.

Pattison, who carried the Letter to Lord Buttevant, which was destroyed, to remain in the Messenger's House.

Dr Burton . . . refer'd.

St John to find Bail or be committed.

Aeneas M'Donald to remain in Messenger's Custody, till examin'd by the Seeret Committee.

William Parsons, notice to be given to him that he will be discharged.

Andrew Cockburn to be continued in Custody.

John Gray, Lieutenant in Lord John Drummond's, to be pardoned and sent over.

' 3. *New Gaol.*

No evidence against them.

Law.

Duncan Gordon.

Kenith M'Kenzie.

Cushnie.

James Moody.

Wm M'Guire.

Query.—Whether to be discharged.

‘4. *In Lancaster Gaol.*

To be discharged immediately.

Peter Donell.

Thomas Jones.

Henry Painey.

James Hulley.

Thomas Gornall.

‘5. Edward Barrow, Mr Sharpe to enquire into this Man’s case ; and to write to Justice Dukinfield to know what evidence he can procure against

Jeffrey Battersby.

John Tomlinson.

Daniel Meller.

‘6. All the prisoners (most of them women and children) in Chester Castle to be discharged except John Kent.

‘7. Mr Sharpe to inquire into Mr Buck’s Memorandum concerning those Prisoners in York Castle who are not able to find Security, and to inquire whether the said Prisoners will not petition for Transportation.

Query.—Lord Mordington.

‘8. A Return to be made of the Names of all the Gentlemen now under Sentence of Death in the different Gaols in England who are not order’d to be transported, when condemned and distinguishing their Ranks.

‘9. All French Officers, the King’s subjects, to be pardoned and sent away. All others to be exchanged.

‘10. The list of Scotch prisoners to be made perfect.

‘These lists, with the Attorney and Sollicitor Genl’s Report upon them, to be sent to Scotland, with directions to Ld Albe-marle and Major General Huske, Lord Justice Clerk and Ld Advocate, to meet together and to consider the said Lists ; to return forthwith the Names of those against whom there is no sufficient evidence, [and] the Persons whom they think most guilty and most material for the Government to bring to Justice. As for those against whom no Evidence is to be had that they should be discharged.

‘As for those whom they think most culpable and most material for the Government to bring to Justice, to bring their Names hither ; and such Proceedings to be had against them as may prevent their being Discharg’d on the expiration of the Act for the suspension of the Habeas Corpus Act.

‘11. The names of the French Officers in Scotland, natural Born Subjects of His Majesty, to be sent up, that they may be pardon’d.

‘12. Clanranald to be excepted.’

Throughout the year 1747 and the first half of 1748 further enquiries for evidence were being carried out by Mr. Sharpe, with the assistance of the Law Officers of the

Crown; and, at intervals, reports were submitted to Newcastle. Meanwhile the prisoners concerned remained in confinement.

A typical list of prisoners whose cases had been enquired into by Mr. Sharpe and reported upon by him (*S.P.Dom.*, 107-28) was as follows :

‘ A List of the Rebel Prisoners under Sentence of Death referred to the Consideration of their Excellencies the Lords Justices.

‘ The following, upon the best information Mr Sharpe can get, appear to be really Gentlemen.

‘ *In the New Gaol, Southwark*

‘ 1. John Burnett was a Captain in the Rebel’s Train of Artillery. He is said to have belonged to the Artillery Company at Woolwich, and to have a small Estate of about £20 a year at Campfield in Aberdeenshire, and has a beneficial Lease of a Farm from Sr Alexr Guthrey of Ludguharar in the same County, and is also said to be worth about £3000 in Money. His father was a Gentleman in Aberdeenshire, and he is generally spoke of as a person that was very well Esteemed.

‘ 2. Allan Cameron was a Captain in Lochiel’s Regiment in the Rebel Army, he was a Vassal of Lochiel’s, and is a Gentleman of an Estate of about £100 or 150 p. Annum in the wildest part of the Highlands. He has a wife and ten children.

‘ 3. Francis Farquharson of Monaltry, Esqr, Commanded a Small Body of Men in the Rebel Army of his own Name, but is not a Chief of the Clan of the Farquharsons. He is said to have a small Estate in Aberdeenshire, and to be a Gentleman of a very fair Character and to be generally Esteemed by his Neighbours.

‘ 4. Adam Hay, is a young gentleman of Asleid (Asslid) in Aberdeenshire, and has an Estate of about £80 sterling a year Subject to the Jointures of his Mother and Grandmother, who are both living, and to portions for his two sisters. His father, who was a Merchant, being long since Dead. He was bred up to the Law as a Writer at Edinburgh and is now about 21 years of Age. He is but of a small Capacity, but in other Respects is very well spoke of.

Note.—Upon his Trial the Jury unanimously recommended him to Mercy.

‘ 5. Alexr Kinloch, is a brother to Sr James Kinloch, and was a Captain in Lord Ogilvie’s 2d Battalion, but has no Estate and was, before the Rebellion, a Merchant in Montrose.

' 6. Charles Kinloch is another brother to Sir James, and was a Captain in the same battalion ; he has no Estate and, before the Rebellion, was a Clerk or Bookkeeper to a Merchant in Aberdeen.

' 7. Henry Kerr, was called a Colonel in the Rebel Army and Aide de Camp to Lord George Murray, and was formerly an Officer on the Spanish Service, and is said to have a small Estate of about £50 a Year in Teviotdale, called Graden.

' 8. James Stormonth of Pitseandlie, Esqr, was an Ensign in Lord Ogilvie's Regiment. It appeared at his Trial that he has an Estate of about £55 per Annum in Scotland in right of his Wife : but I am Informed it is about £160 a Year, but he has no Estate in his own right. He is of a Gentleman's family.

In York Castle

' 9. Sir David Murray, Bart, was a Captain in the Rebel's Hussars. He is a Youth of about 17 Years of Age. His father was a Merchant at Leith and was second brother to Sir Alexr Murray of Stanhope. He is a distant relation of Lord Hope-toun, and had his Education at Douai. He has no Estate, Sr Alexr having left his Estate to Charles Murray his third Brother.

' The following Mr Sharpe apprehends do not properly fall under the description of *Gentlemen*, but are above the rank of *Common Men*.

' In the New Gaol, Southwark

' 10. Wm Brittough, *als* Britter, was an Ensign in the Manchester Regiment, and, when he Entred into the Rebellion, was Clerk to his Uncle Mr Banke, an Attorney at Salford near Manchester. His Father is an Exciseman at Liverpool, but neither of them have any Estate that I can learn.

' 11. Charles Deacon was an Ensign in the Manchester Regiment. He is now the eldest son to Dr Deacon, a Physician at Manchr, and is between 16 and 17 years of Age. He was a Schoolboy when the Rebels came thither, Has no Estate, but his Father is in good business as a physician at Manchester and has 4 or 5 other Children. He was recommended to Mercy by the Jury on Account of his Youth.

' 12. Thomas Furnival was a Lieutenant in the Manchester Regiment ; when he Entered into the Rebellion he was a Shop-keeper in Manchester, and is Reported to have no Estate and to be in very Indifferent Circumstances. He is of a Gentleman's Family and his eldest brother has an Estate of 2 or 300£ a Year in Cheshire.

' 13. Charles Gordon was a Lieutt in Lord Ogilvie's Regiment, He is a Youth of about 20 years of Age and was, when he entred

into the Rebellion, Clerk to a Writer in Edinburgh and has no Estate. He was, upon Account of his Youth, recommended by the Jury to Mercy.

' 14. Alexr M'Kenzie (of Cora) was a Lieutt in Lord Cromartie's Regiment. He was, when he entred into the Rebellion, Steward or Factor to Lord Cromartie. Has a small Estate called Cora, of about £25 a Year, and is Reported to be a Man of Considerable Credit and Substance.

' 15. Henry Moir, was a private Gentleman in the Pretender's Son's Life Guards. He was, when he Entred into the Rebellion, a Surgeon at Kelso in Scotland, but had little business and has no Estate.

' 16. Chas Oliphant. He was a Lieutt in Lord John Drummond's Regiment. He had been Servant to Alexr Brodie Esqr, Lord Lyon, and afterwards was an Exciseman at Aberdeen and Inverness and has no Estate.

' The following are of a *Lower Degree* than the preceding, and also *above the rank of Common Men*.

' *In the New Gaol*

' 17. John Farquharson was a Captain in the Rebel Army, he called himself a Gentleman, but Mr Sharpe is Informed at the Time he Entred into the Rebellion, he was only a Farmer by way of Undertenant in the County of Aberdeen, and is but a low Man.

' 18. James Lindsey was a Volunteer in Strathallan's Horse in the Rebel Army. He was a Shoemaker at Perth before the Rebellion; he is a very low Man and has no Estate.

' 19. Walter Mitchell was Ensign and Adjutant in the Regiment called the Duke of Perth's regiment, when he entered into the Rebellion he was a Farmer by way of Undertenant in the parish of King Edward in Aberdeenshire. His Father is Dead and his Mother keeps an Alehouse; is a very low Man, and has no Estate.

' 20. Alexr M'Grouther was a Lieutt in Perth's Regiment, when he Entred into the Rebellion he was a Farmer or Undertenant to the person called Duke of Perth. He is a low Man and has no Estate.

' 21. Hector M'Kenzie was an Ensign in Lord Cromartie's Regiment; he was a Farmer by way of Undertenant to Lord Cromarty in Ross-shire. He is a low Man, and has no Estate.

N.B.—The case of this Man upon his Trial appeared to be almost in all respects the same with another of the M'Kenzies who was acquitted by the Jury.

' 22. Robert Moir was a Private Man in the Pretender's Son's Life Guards. He is brother to Henry Moir; when he entred

into the Rebellion he was a Farmer by way of Undertenant near Kelso in Scotland; is a low Man, and has no Estate.

'23. Alexr M'Lauchlan was called a Major in the Athol Brigade, when he entered into the Rebellion he was a Farmer by way of Undertenant in Ardnamurchan in Argyleshire. He is a low Man and has no Estate. The Jury recommended him to Mercy.

'24. George Ramsay was an Ensign in the Regiment called the Duke of Perth's Regiment; when he Entered into the Rebellion he was a Turner at Strathbogie, he is a Low man and has no Estate.

'25. Christopher Taylor was an Ensign in the Manchester Regiment. He is a Youth of about 19 Years of Age, was Educated in France and came over to his father near Wigan in Lancashire a Short Time before the Rebellion broke out. He has no Estate of his own, but his Father is Reputed to have an Estate near Wigan of about £100 a Year.

'26. James Wilding was an Ensign in the Manchester Regiment; he was an Apprentice to his Father, a Dyer in Manchester, when the Rebels came thither, and neither he nor his Father had any Estate and were in low circumstances, his Father is since dead. This Prisoner being but 15 Years of Age when Tried the Jury recommended him to Mercy.

'27. Thomas Watson was a Lieutt in Lord Ogilvie's Regiment; when he Entered into the Rebellion he was a Tobacconist at Arbroath in the County of Angus. He is a Low Man and had no Estate.

N.B.—He was pardon'd upon condition of Transportation but Illness prevented his going with the rest of the Rebel Prisoners.

'The following prisoners in *York Castle* were *Common Men* :

William Crosby.	George Miles.
Matthew Matthew.	Angus Campbell.
Archibald Paton.	Alexr Goodbrand
John Barnaghy	(15 years old).
(15 years old).	David Ogilvie.
William Farrier.	

'The following prisoners at *Carlisle* were *Common Men* :

James Ancram.	John Campbell.
Alexr Anderson.	William Duncan.
James Campbell, otherwise	Donald M'Kenzie.
M'Gregor.	John Poustie.
Thomas Lawson.	Lewis Barton.
William Winstanley.	John Radcliffe.
Simon Leightoun.	Patrick Stewart.

'Richard Morrison was a menial servant to the Young Pretender and attended him to make and dress his Whigs, but never Bore Arms or appear'd upon his Tryal; which can be attested by Mr Webb, His Majesty's Solicitor.

'(Endorsed.—A List of the Rebel Prisoners under Sentence of Death referred to the Consideration of their Excellencies the Lords Justices with their Ranks and Circumstances as far as Mr Sharpe could get Information.)

'R. from Mr Sharpe, 4th June 1747.'

(*S.P.Dom.*, 107-28.)

A second list was submitted by Mr. Sharpe a few days later, dealing with 16 individuals omitted from the earlier one (*S.P.Dom.*, 109-14); and 46 'common men' in York and 47 in Carlisle who were under sentence of death.

The second list submitted by Sharpe, which is undated, is as follows:

'A List of Rebel Prisoners under sentence of Death, with some additions given below.

'In the New Gaol

'Sir James Kinloch Bart was Lieut-Col of Lord Ogilvie's 2d Battalion. He is reported to have an Estate in Angus of about £5 or 600 p annum, but greatly Incumbred.

'Roderick M'Culloch Esqr was a Captain in Lord Cromarties Regiment and is Reputed to have an Estate in Ross-shire of about 4 or 500£ a Year Clear, and is Chief of the Clan and is Reported to have an Exream good Character.

'(*sic*) Lawrence Mercer, son to Lawrence Mercer commonly called Sir Lawrence Mercer of Aldie. He has an Estate in Perthshire of about £400 a Year and he dyed in Carlisle since his condemnation as I am Informed.

(Under the Heading of Gentlemen.)

'In Carlisle Gaol

'William Sharpe Esqr was one of the Gentlemen in the Pretender's Son's Life Guards. He is a Youth of about 18 Years of Age. His Father was a Merchant, and he is Grandson to the late Arch Bishop Sharp. He is said to be a Young Gentleman of very Modest Behaviour, and His Majesty's Council (*sic*) who Attended the Tryal and Mr Webb the Sol-

licitor all Join in representing him as one whom they hoped his Majesty would pardon. He has no Estate.

' Henry Clark Esqr. He acted as Commissary to the Rebel Army. He was married to a sister of Sr Hector M'Lean but had no Estate as I am Informed ; I am also Informed that he dyed in Gaol at Carlisle since his condemnation.

' James Gordon was a Lieutenant in the Rebel's Train of Artillery. He is a Young Man of about 20 Years of Age. His Father, Charles Gordon of Tarpersie, was a private Man in the Rebel Army and was Tried Convicted and Executed at Carlisle. Mr Sharpe is informed his Father had a small Estate of about £50 a Year in Aberdeenshire, but greatly incumbred, and it is generally believed this Prisoner was forced into the Rebellion by his Father, and, upon some Evidence of this Kind being given at his Trial, he was recommended by One of the Jury to Mercy.

' James Gad was a Captain in the Regiment called the Duke of Perth's Regt. He was, when he entred into the Rebellion, a Printer at Edinburgh, and son of James Gad a Jeweller there. He has no Estate. He is reported to be a Man of Ingenuity and to have Invented a New Method of Printing by Copper Plates in Lieu of Types.

' James Stewart was Major to the Regiment called the Duke of Perth's Regt. but before the Rebellion he was his Gentleman and had no Estate.

' John Sanderson joined the Rebel Army in England and was made Captain in the Manchester Regiment. He was Employed by Mr Blackit in Overlooking his Coal Works in Northumberland when the Rebellion broke out, and has no Estate of his own, but his Eldest Brother is reputed to have an Estate in that County.

' At Carlisle

' William Home was a Cornet in Lord Balmerino's Troop, is brother to Alexr Home of Manderston and a youth of about 15 Years of Age, but has no Estate of any kind. His brother David Home was Executed at Carlisle.

' Robert Maxwell was a Volunteer in the Rebel Army, and when he entred into the Rebellion was a Writer in Edinboro' before (*sic*) the Rebellion. I am informed he is a Natural Brother to Sr Wm Maxwell of Moncrieff, but has no Estate.

' Andrew Porteous was a Volunteer in the Rebel Army, and when he entered into the Rebellion was a Merchant at Dalkeith ; but I am informed he has no Estate of any Kind, and is not of a Gentleman's Family.

' James Smith, was a Private Man in the Pretender's Son's Life Guards, and, at the Time of his Entering into the Rebellion, he was a Writer in Edinboro'; he dyed in Gaol at Carlisle as I am informed, but has no Estate.

' Robert Wright was a Volunteer in the Rebell Army, and is Son to James Wright and Writer in Edinbro' and one of the Extractors of the Decrees in the Court of Session there. I am Informed his Father was in the Rebellion in 1715, he has no Estate of his own, but his Father is reckoned a Man of Substance. He was recommended by the Jury to Merrey.

' Robert Forbes was an Officer in the Rebel Army, is a Younger Son of Forbes of Hough in the County of Aberdeen who has an Estate of about £250 a Year. I am informed he bears a very good Character and has no Estate.

' Alexander Davidson was an officer in the Rebel Army. Before he joined them he was a shoemaker at Edinburgh. He has no Estate of any Sort.'

Mr. Sharpe's lists were considered by the Privy Council on 20th August 1747.

The Proceedings (*S.P.Dom.*, 110-65) are detailed below :

' I. The Lords took into consideration the cases of the Rebel Prisoners remaining under Sentence of Death in Southwark, York Castle and the Gaol at Carlisle; and agreed humbly to advise His Majesty, That all the Common Men vizt, 46 at York and 47 at Carlisle, should be pardon'd on Condition of Transportation for Life.

' And that the following Persons vizt :

<i>No.</i>	<i>No.</i>
21 Hector Mackenzie.	— Robert Maxwell.
10 William Brittough.	— Andrew Porteous.
11 Charles Deacon.	Query about these 2.
12 Thos Furnival.	17 John Farquharson.
14 Alexr MacKenzie.	13 Chas Gordon.
15 Henry Moir	18 James Lindsay.
16 Charles Oliphant.	19 Walter Mitchel.
22 Robert Moir.	20 Alexr Macgrouther.
23 Alexr MacLauchlan.	26 James Wilding
24 George Ramsay.	27 Thos Watson.
25 Chrisr Taylor.	— Alexr Davidson.
	Query abt him.

should be pardoned on the like condition of Transportation for life.

‘ Their Lordships agreed humbly to recommend to His Majesty the following six Persons, for a free Pardon vitz :

‘ 1. Roderick Mac Culloch, earnestly recommended by Sr Henry Munroe.

‘ 2. William Sharpe, recommended by His Majesty’s Council, who attended the tryals of the Rebels.

‘ 3. James Gordon, suppos’d to have been forced into the Rebellion by his Father, who was try’d, condemned and executed at Carlisle.

‘ 4. James Gad, recommended by the Master of Trinity College, in Cambridge, on account of His having discover’d a new Method of Printing.

‘ 5. William Home, recommended by the Earl of Home. His brother was executed at Carlisle.

‘ 6. Robert Forbes, certified by the Earl of Findlater to be of a very loyal family in Scotland and earnestly recommended by his Lordship.

‘ 7. Henry Kerr, having claimed as a Spanish Officer, by the King of Spain’s Minister at the Hague ; Recommended to be pardoned on Condition of His never returning into any Part of his Majesty’s Dominions.

‘ Their Lordships were of opinion, That the following Persons should be recommended to His Majesty, to be pardon’d, on Condition of their immediately leaving this Kingdom and never returning into any part of His Majesty’s Dominions vitz :

9. Sir David Murray.

2. Allan Cameron.

1. John Burnet.

4. Adam Hay.

5. Alexander Kinloch.

3. Francis Farquharson.

6. Charles Kinloch.

N.B.—Francis Farquharson

8. James Stormonth.

to be examin’d.

‘ Their Lordships agreed humbly to recommend :

‘ Sir James Kinloch to be pardon’d on condition that He remain in such Place, or within such District in the King’s Dominions as His Majesty shall be pleased to direct, by His Royal Sign Manual.

‘ That James Stewart recommended by Mr Bowles on account of His having saved His Brother’s Life at the Battle of Preston Pans to be pardon’d on the same condition, as Sr James Kinloch.

‘ That John Sanderson, who was recommended by Mr Blacket, be pardon’d provided Mr Blacket will answer for his future Behaviour And that Mr Blacket be wrote to and acquainted therewith.

‘ That Robert Wright be pardon’d on Condition of His giving Security not to return to Scotland.

'That Mr Murray (Brother to the Earl of Dunmore) who has received His Majesty's Pardon on Condition of His remaining in Confinement during Life be remov'd from the Tower to Carisbrook Castle in the Isle of Wight.

'That the Earl of Traquair have Permission to walk in the Tower, attended by an Officer.

'II. The Lord Advocate's Letter to the Duke of Newcastle relating to the Method of discharging Prisoners in Scotland who are entitled to the Benefit of the Act of Grace, And the Attorney General's Letter relating thereto, were considered, And the Lords were of opinion, That Directions should be sent to the Lord Advocate, pursuant to Mr Attorney General's Opinion.

III. 'That the Lord Advocate be directed to bring on the Tryal of Mr Archibald Stewart, as soon as possible, And to prosecute Him with the utmost vigour.'

The Privy Council, then, on 20th August 1747, having considered 135 cases, agreed to advise the King to adopt the following measures in regard to them :

- 93 Common men, to be pardoned and transported.
- 21 'below gentlemen but above common men,' to be pardoned and transported.
- 6 Gentlemen, to be given a free pardon.
- 9 Gentlemen, to be banished.
- 6 Gentlemen, to receive conditional pardons.

135

One of the most striking features of the lists submitted by Mr. Sharpe is the classification of the prisoners in four groups, as follows :

- a* 'really gentlemen.'
- b* 'not properly gentlemen, but above the rank of common men.'
- c* 'a lower degree than the preceding.'
- d* 'common men.'

It is not easy to deduce exactly, from the information given, on what system the classification was based ; it appears, however, to have been on a combination of landed property and social position. There cannot have been a very well marked line separating the classes, as two brothers, Henry and Robert Moir, are shown in different

classes, the only essential difference between them being that the former was a surgeon and the latter an 'under tenant' farmer.

The important point in connexion with the classifications, however, was that on them depended largely the type of pardon recommended by the Privy Council. Of the 21 'gentlemen' 9 were simply banished, 6 received a free pardon, and the same number a conditional pardon; on the other hand, the whole of the 93 common men, and 21 belonging to the intermediate class, were transported.

These State Papers show also that, at this stage at least in their prison career, the prisoners depended for their classification and consequently for their disposal on Mr. John Sharpe, Solicitor to the Treasury; he was the man whose advice was taken, apparently without criticism, by the Council; and his recommendations ultimately materialised in the pardons already stated.

CHAPTER II

PARDONS

1. TRANSPORTATION WITH INDENTURE

WHATEVER the policy of Cumberland may have been, and it was not likely to err on the side of leniency, it must have been early apparent to the English Government that they could scarcely carry out the trial and the inevitable sentence of death on some 3500 prisoners, even though technically found guilty of High Treason. A similar difficulty had occurred before, in previous troubles of the same sort. Cromwell had deported Royalist prisoners; and Sir George Mackenzie, in his *Vindication of Charles II.'s Government*, says :

‘As to sending people away to the plantations, none were sent away but such as were taken at Bothwell Bridge or in Argylles rebellion; and the turning capital punishment into exile was an act of clemency not cruelty.’

Mackenzie, in fact, anticipated—if he did not coin—the euphemistic expression ‘the King’s Mercy,’ of which so much was heard in the years following Culloden.

After the Rising of 1715/16, also, the policy of transportation was carried out, and some 700 prisoners taken at Preston were sent abroad and sold as slaves to the West Indies merchants. Commenting on this, even the Whig historian Burton says :

‘It is painful to see on the Lists the many Highland names, followed by “Labourer.” Implicit obedience had been their crime, and in many instances they had been forced into the service for which they were punished, as absolutely as the French conscript or the British pressed seaman.’

The simplest solution of the difficulty in dealing with the even larger number of prisoners in 1746 was to follow these

precedents. But experience in 1716 had shown that it was not always easy to make certain that transported individuals would reach their destination, or that, having reached it, they would not find their way home, especially if they had the command of money.

To prevent such miscarriages the Crown Solicitor, Philip Carteret Webb, writing on 4th September 1746, said :

‘As to the prisoners that have escaped the lots, if they are to be transported, you may be assured that most of them will return again in a short time. It happened so in 1716. Suppose a law was made for transporting them, and marking them on the face with a hot iron and making it felony if they return ; without such a mark, every law will be ineffectual.’

This proposal was apparently too much for even the English Government of 1746, and no more was heard of it. The forecast, too, of the probability of most of the transported persons escaping was completely stultified by events, for only about half-a-dozen are known to have done so.

By the end of 1746 the process of lotting the prisoners in the English prisons and in the transports in the Thames had been carried out, and the names of those on whom the ‘justice’ lot had not fallen had been submitted to the Privy Council, along with the petition of each individual ‘to be pardoned on such conditions as His Majesty shall think fit.’

Moreover, the Commissions had completed the farcical proceedings of trying prisoners on whom the lot had fallen, as well as those who had been specially selected for trial. The large majority of these individuals had been convicted and sentenced to death ; but, in most cases, the sentences were commuted to transportation.

Finally, there were considerable numbers of ‘French’ prisoners, who, having failed to substantiate their claim to be French subjects in the technical sense, were regarded as British subjects convicted of High Treason and were mostly sentenced to transportation.

Taking all these classes together the number of applicants for the ‘King’s Mercy’ amounted to at least 866 men, women and children.

To them in due course that ' Mercy ' was extended ; and the Letter Patent (Patent Roll 3621/3) of 24th February 1747 shows exactly the significance of that term. The relevant portions are as follows :

' George the Second, by the Grace of God, etc. . . . being moved with compassion of our especiall Grace, certain Knowledge, and meer motion, Have pardoned, Remitted, and released, and by these presents for our Heirs and Successors Do pardon, Remitt, and Release

(Here follow 744 names.)

All . . . Treasons, Misprisions of Treason, High Treason, Insurrections, Rebellions, Murders, Homicides, Killings . . . and Felonies . . . perpetrated by themselves alone or with any other persons . . . before the 23rd day of January 1746/7 by reason of their being concerned in the late Rebellion. . . .

' Provided nevertheless, and these our Letters Patent are and shall be under this express Condition, that, if they . . . upon request to be made to them for that purpose, shall not seal an Indenture to be made between them of the one part and Richard Gildart of Liverpool, Merchant, or Samuel Smith of London, Merchant, of the other part, . . . by which Indenture they shall bind and put themselves An Apprentice and Servant to the said Richard Gildart and Samuel Smith . . . to serve them or their Assigns in our Colonies in America during the term of their natural lives . . . together with a Covenant in such Indenture truly and faithfully to serve such their Masters or their Assigns in such our Colonies for and during the Term of their respective Lives according to the Laws and Customs thereof,

' And if they . . . shall not consent and submit themselves to be Transported by such their Masters or their Assigns into our Islands or Colonies in America . . . or shall not remain and continue in the said Islands or Colonies . . . or shall, at any time after this our Pardon and before their Arrival in any of the said Islands or Colonies, be without some lawful cause at large in our Kingdom of Great Britain or Ireland or elsewhere,

' Then, this our Pardon as to such of the Persons . . . who shall not perform or fulfill our Express Conditions shall be altogether void and of no force. . . .'

This, speaking generally, was the form of pardon that applied to the rank and file of the prisoners; and, in substance, it was nothing less than the legalised selling of

the individual men to perpetual slavery in the West Indies and in the colonies of North America.

Again, on 20th August 1747, the Council decided on the cases of prisoners under sentence of death in Southwark, York Castle and Carlisle :

‘That all Common men . . . viz 46 at York and 47 at Carlisle be pardon’d on condition of Transportation for Life.

‘And that the following Persons should be pardoned on the like condition of Transportation for Life.’ (Here follow 49 names.) (*S.P.Dom.*, 100-65/68.)

In all cases of transportation official notification was sent to the Governor of the colony concerned. Thus, on 18th April 1747, referring to a batch of 19 prisoners, Newcastle informed the Governor of Barbadoes :

‘You are to take notice that such of the prisoners as shall refuse to enter into Indentures are not to be set at Liberty, but obliged to serve in the same manner as if they had really entered into Indentures pursuant to the Terms of the said Pardon.’ (*S.P.Dom.*, 96-101.)

Although the King’s Pardon clearly laid down that the prisoners were bound to serve Samuel Smith or Richard Gildart ‘during the term of their natural lives,’ it is possible that the actual indentures only covered a period of seven years. Thus, in an undated petition, Thomas Johnson, probably the American agent of one of the contractors, complains that several prisoners refuse to sign the indentures, and desires that an order be sent to the ‘Governors of such plantations they shall come to that said prisoners shall serve seven years.’ (*S.P.Dom.*, 159-294.)

2. SIMPLE TRANSPORTATION WITHOUT INDENTURE

Another form of the ‘King’s Mercy,’ *i.e.* transportation pure and simple, is shown in the following example (*S.P.Dom. Entry Book*, Bk. 85, p. 84), in which the Duke

of Bedford on 9th November 1748 addresses the High Sheriff for the County of Cumberland :

' Whereas His Majesty has been pleased to extend his Mercy to several Rebel Prisoners remaining in your Custody, vizt. :

(Here follow 13 names.)

upon Condition of Transportation during their natural lives into the Colonies of America or some of them, there to serve and remain during their lives. And a Pardon having passed the Great Seal for that purpose. These are to authorize and require you to deliver into the hands of the Bearer hereof . . . the Bodies of all the said Prisoners, he having my Warrant to receive and conduct them to Liverpool, there to be put on board a ship, in order to their being Transported to some of His Majesty's Colonies in America. . . .'

Similar warrants were issued to the High Sheriffs of York and Surrey, and the total number of persons to whom this form of pardon was granted on this occasion was 33 ; it is probable, however, there were more.

In the case of these men also, there is no reference to their being called upon to ' bind and put themselves an apprentice ' to Messrs. Smith and Gildart ; and it is perhaps fair to conclude that, though transported under Government arrangements to America, they were not under the definite sentence of slavery which was imposed on the earlier group. It would, however, be equally possible to regard the term ' to serve ' as another form of what had come to be regarded as common practice.

3. BANISHMENT TO AMERICA

Yet another slightly different form of pardon appeared in September 1748, in the case of prisoners still awaiting a decision in regard to their disposal. This is contained in Patent Rolls 3625 of 24th September, the essential clauses of which are as follows :

' George the Second, etc. . . . know Yee that Wee . . . Do Pardon, Remitt, and Release

(Here follow 37 names.)

the High Treason of which they stand convicted and all other Treasons . . . before the thirteenth day of April 1748 . . .

under this express Condition that, if they . . . do not forthwith depart out of this our Realm and transport themselves into our Colonies in America and there serve and remain during the term of their respective natural lives, or shall at any time hereafter return into any part of our Kingdoms of Great Britain or Ireland, That then this our Pardon . . . shall be altogether void and of no force.'

This particular variety of pardon differs from the last-mentioned and from the original 'King's Mercy' of 24th February 1747. The wording suggests that these 37 persons were left to make their own arrangements to 'transport themselves,' and might be read as merely a sentence of banishment to America, with penalties attaching to return. This, however, is probably an entirely incorrect reading of the document. Some of the individuals were prisoners of some distinction, though not leaders of the '45. Several were officers and others had been excluded from the privilege of 'lotting,' had been tried, sentenced to death and reprieved. Banishment to America may, in those days of privilege, have been regarded as a euphemistic expression of the brutal proviso contained in the 'pardon' of the rank and file.

4. BANISHMENT 'OUT OF THIS OUR REALM'

A different type of pardon was introduced in 1747, and was originally applied to some of the 'French' officer prisoners who were British subjects, and to certain others who, in the previous year, would almost certainly have been transported. The proviso in such cases amounted merely to perpetual banishment 'out of this our Realm,' and as an example may be taken the 'Letters Patent' of 2nd July 1747 in favour of 81 prisoners, which proceeds:

' . . . and these our Letters Patent shall be under this express Condition that, if they or any of them do not forthwith depart out of this Our Realm, or shall at any time hereafter return into any part of such Dominions, That then this our Pardon . . . shall be altogether void and of no force.' (*P.R.*, 3622-12.)

Another example appears in the *Docquet Book* of the Privy Seal Office of September 1748, in which a pardon is granted to Sir David Murray, Bt., Alexander and Charles Kinloch, James Stormonth, Allan Cameron and John Burnet. In this case the proviso runs :

'On condition they forthwith depart the Realm and never more return into any part of His Majesty's Dominions.' (*S.P.Dom.*, 107-75 ; *P.S.*, 6763.)

5. CONDITIONAL PARDONS

There were a few conditional pardons granted to individuals who, directly or indirectly, had influence at Court.

The circumstances of each case differed, and it is not possible to say what determined the form adopted.

In all alike the pardon carried an irksome condition, and did not prevent the forfeiture of the estate of the prisoner.

A good example is that of the Hon. William Murray of Taymount, brother of John, second Earl of Dunmore. Murray surrendered in Angus soon after Culloden, and was sent to London and committed to the Tower. At his trial at Southwark he pleaded guilty to high treason, but the official report of the proceedings states that 'no sentence was pronounced against him.' Meanwhile great interest was brought into play on his behalf, and a Royal Pardon (*P.R.*, 3621-10) was granted to him on 1st February 1747—

'for the High Treason of which he stands convicted . . . and all other Treason Felonys and Crimes by him committed before the 22nd December 1746. . . . Provided . . . that, if the said William Murray shall not be and remain a Prisoner during his life in such Place or Places as We . . . shall be pleased from time to time to direct, Then this our Pardon shall be altogether void and of no force.'

The pardon itself was dated 1st July 1746, but only passed the Great Seal on 1st February ; some months later Murray was removed from the Tower and sent to Carisbrooke Castle. Subsequently he was sent to Beverley in Yorkshire, and then to Lincoln, where he died in 1756.

On the death of his brother in 1752, he inherited the title and estates as third Earl of Dunmore (*Scots Peerage*, iii. 387 ;

S.P.Dom., 100-65). The only explanation appears to be that he had not been sentenced. Blackstone says that pardon before sentence stopped attainder and prevented the corruption of the blood. (*Blackstone*, book IV. cap. 26-4.)

After his reprieve (see *Trial of Peers*), George, Earl of Cromartie, was kept for a long time in the Tower and then transferred to the house of a messenger, Mr. Cowell.

As 'George Mackenzie, Esq., late Earl of Cromartie' he was granted a pardon in September 1748 upon condition of 'confining himself during his life to such part of England as His Majesty shall from time to time direct.'

He was sent to Devonshire, where for many years he lived in great poverty; ultimately he was allowed to go to London, where he died in September 1766. His forfeiture was not affected by this conditional pardon (*Privy Seal Docquet Book*, 6763, of Sept. 1748).

The case of Francis Farquharson of Monaltrie was peculiar, as he was first pardoned on condition of 'departing out of these realms and never returning into any part of His Majesty's Dominions.' This pardon, dated 21st July 1748 (*S.P.Dom.*, 107-81), was subsequently modified, and he was ordered to confine himself in England 'at the King's pleasure,' and was sent to Berkhamstead (*Privy Seal Docquet Book*, 6763, Sept. 1748).

On 20th July he submitted a petition to Government (*S.P.Dom.*, 114-10) for alleviation of his misfortunes, stating that 'for several years he had been abundantly miserable, and suffered everything but death.' He begged for pardon, and for money to pay for his subsistence. The appeal was not granted at the time, and, in 1775, he again appealed to the Commissioners for Forfeited Estates to be allowed to rent a part of his ancestral estate. This petition was ultimately acceded to, and he was still alive in 1784, when, under the Restoration of Estates Act, he was allowed to resume his property on payment of £1613, 0s. 9d.

The lot of these persons was not a happy one, chiefly, no doubt, because of poverty. The pittances allowed by Government for their support were not even paid regularly.

Occasionally their complaints appear in contemporary correspondence. Thus, writing in 1759, the Earl of Cromartie says :

' I am afraid we shall be put to the utmost extremity soon, perhaps not to have house to go into or a bed to lie on, and no hopes of any amendment in this our very distressed situation.' (*Scots Peerage*, iii. 80.)

The Countess, ' Bonnie Bell Gordon,' was given a pension of £200, which was afterwards raised to £400, out of the forfeited estates (*Royal Warrant*, 23 Feb. 1749); but it was very irregularly paid (*ib.*).

There are a few types of pardon which, for some reasons unstated in the Records, were received by individuals. Thus the proviso in the case of John Sanderson was that a Mr. Blacket should go bail for his future good behaviour; in the case of another, Robert Wright, the proviso was that he must find security never to return to Scotland. Both these cases appear to be unique of their kind (*S.P.Dom.*, 100-65).

6. PARDONS ON CONDITION OF ENLISTMENT

Pardons subject to enlistment in the army form a most interesting class.

Historians have repeatedly stated that many of the prisoners accepted enlistment in the army to escape death or transportation. In his *Jacobite Gleanings* (p. 58), Macbeth Forbes estimates that more than one-third of them did so. This statement completely lacks confirmation in the State Papers; and it must be dismissed as unfounded.

It might be supposed that, having regard to the military exigencies of the time, in India on the one hand and America on the other, this obvious source of recruitment would have been taken advantage of to the fullest possible extent; and, in searching the State Papers for evidence, special attention has been paid not only to the Domestic papers, but to those of the War Office and the Admiralty, and the Colonial papers of the day. It may be said at once that this search has been almost, but not quite, unfruitful.

Shortly before the Commission commenced operations at Carlisle, the Duke of Newcastle had received a letter, dated 24th June 1746, in which Sir William Pepperell, Governor of Massachusetts suggested :

‘ Could it not be thought expedient that 200 of the rebel prisoners, who may have been unwarily seduced, should be sent over for Mr. Shirley’s and my regiment, it might be a means of making good subjects of them, which I mention to Your Grace with all submission.’

His regiment at that time was in Louisbourg with a strength of 417 men, and Shirley’s with 517 men ; both were at half strength, and the Governor reported that men were dying at the rate of eight or ten a day from fluxes caused by bad water supply (*Forbes*, 44).

‘ When the Carlisle and York prisoners were tried in October 1746, batches of them were detailed for execution on days fixed at intervals to allow for revision of the sentences. A good many of these men were reprieved at the last moment subject to enlistment in the army, and they numbered 26 at Carlisle, and 30 at York ; there were probably 20 or more pardoned on the same conditions after the Southwark trials in London, though no reference to the fact appears in the lists of pardons. Meanwhile a fresh application for 750 recruits for units in America had been received (*S.P.Dom. Military*, vol. xvi., 31.7.1746).

The first definite reference in the Records to the carrying out of this scheme is in a letter from Henry Fox, Secretary at War, to Andrew Stone, Under Secretary of State, on 18th September 1747 :

‘ H.M. having been pleased to consent to the enlisting as many of the Rebels now at Carlisle as are fit for the service into the Independent Companys going under the Command of Admiral Boscawen, who will send an officer forth with to Carlisle, I am to desire you would move his Grace to give such orders as may be necessary for the delivery of the said Prisoners to the said officer.—H. Fox.’ (*S.P.Dom.*, 101-29.)

Mr. Fox evidently had grave doubts as to the likelihood of speedy action being taken between the civil and military

authorities, as, on the same day, he wrote again to Mr. Stone as follows :

' If we cannot have as many as are serviceable of the Rebels at Carlisle it will cause the drafting of so many more out of Regiments here—And you know that we dont abound in Regiments, nor those Regiments with men.'

Having thus indicated that, in 1747, as in the twentieth century, politicians rarely troubled about military considerations, he enquires whether the prisoners cannot be handed over direct to the officer without wasting time waiting for the official conditional pardons. He says that Mr. Thomas Ramsden, another Under Secretary of State, ' says it can't be done,' and asks Mr. Stone to ' expedite this matter ' (*S.P.Dom.*, 101-27).

Whether Mr. Fox or Mr. Stone succeeded in expediting the affair it is not possible to say.

In October 1747 a ' secret ' expedition under Rear-Admiral the Hon. Edward Boscawen was sent out to the East Indies, including two ' Independent Companies,' which appear subsequently to have been increased to Battalions (*Ad.*, 160 of 7th August 1748).

The opportunity of raising recruits for these units among Jacobite prisoners was taken ; and an account of the procedure adopted is given in the ' Diary of James Miller, 1745-50,' published by the *Journal of Army Historical Research* (vol. iii. 208) from the Chetham MS. (No. 8029) in Chetham's Library, Manchester.

James Miller, of the Manchester Regiment, was captured at Carlisle, and was tried for high treason and sentenced to death. On the day before that fixed for his execution he was reprieved. To use his own words :

' We remain'd in confinement at Carlisle till the Duke of Newcastle sent one of the King's messengers and Lieut. George Corden [Gordon] to inlist as many as were fit and able, acquainting us that we were oblig'd to go to the East Indies upon a secret Expedition against the French.'

The Carlisle prisoners who had accepted enlistment in lieu of transportation were marched to York, where several

more joined them, and on 20th October 1747 they reached Portsmouth and embarked. Trouble occurred on the march down through the refusal of some of the prisoners to implement their agreement, and one Taylor, formerly a Captain in Perth's Regiment, and six others were withdrawn for trial. The remainder embarked on the *Royal Duke*, an East Indiaman.

Among the pardons detailed in the Patent Rolls (*P.R.*, 3625-21, of 22nd July 1747) is one in favour of 72 prisoners, in which the following proviso occurs :

' these our Letters Patent are and shall be under this express condition that if they, or any of either of them, do not Inlist himself or themselves to serve in our Independent Companys of foot now going upon an expedition under the command of . . . Edward Boscawen Esq, Rear Admiral of the Blue Squadron of our Fleet, That then this our Pardon . . . shall be altogether void and of no force. . . '

Regarding them the following further correspondence exists :

WAR OFFICE, 6 October 1747.

' Sir,—I have wrote to His Grace the Duke of Newcastle desiring a Pardon may be obtained for such Rebels as shall inlist into the independent companies, And am just going to send a Messenger to the Commanding Officer of the Party that escorts them, with an Order for his going Direct to Portsmouth, so must desire you to write to Mr Money, your Messenger, who has care of the prisoners, to comply with this Order,—and am, etc.,

H. Fox.

' Andrew Stone Esq.'

(*W.O.*, 4/44, p. 84.)

On the following day Fox addressed the General Officer Commanding in Chief at Portsmouth as follows :

' *W.O.*, 7th October 1747.

' SIR,—A detachment belonging to Lieut.-Genl Bland's regt of Dragoons being under orders to be assisting to Mr Money, one of H.M. Messengers, in safely conveying the Rebel prisoners in His Custody to Portsmouth, where the sd Prisoners are to be delivered to the Commanding Officer of that Garrison,

' I am commanded to signify to you it is H.M.P (*pleasure*) that, upon the arrival of the detachment & Prisoners, you do admit them into the said garrison under your command, and give the necessary Orders for the sd Rebel prisoners being kept

in safe Custody till Rear Admiral Boscawen, or Major Monpessor who commands the 12 independent Companys ordered upon Foreign Service, shall give directions for their being dispos'd in the said Companies.—I am etc
H. Fox.
(W.O., 4/44-93.)

Finally, on 22nd October, Fox wrote :

‘ Some of the Rebell Prisoners sent from York and Carlisle to Portsmouth having refus'd to Enlist in the Independent Companies of Foot ordered to the East Indies, upon which Condition alone they were to be pardoned, which pardon is not yet pass'd,

‘ I am commanded by H.M. to signifye to you it is His Pleasure that you do give the said Messenger all Assistance in ordering a sufficient Guard, to keep such of the said Rebel prisoners as shall be delivered to him by Admiral Boscawen, on account of their refusing to Enlist, in safe and Close Custody, and well Iron'd, with Orders to let no Body have Access to them, under any Pretext whatsoever.’ (W.O., 4/44-118.)

The recalcitrant prisoners were ultimately returned to Carlisle, but no further action was taken against them, and Robert Taylor, the ringleader, William Home, and Robert Forbes were released.

The list of the 72 prisoners pardoned on 22nd July 1747 on condition of enlistment referred to above does not, however, indicate the total number who were handed over to the military authorities.

On 22nd September 1747 Newcastle directed the ‘ Keepers of the Castle or Prison ’ at Carlisle and York (*S.P.Dom. Entry Book*, 84) ‘ to deliver to John Money, one of His Majesty's Messengers in ordinary, the Bodys of . . . ’ 46 named individuals from each prison. The names on these lists coincide approximately with the 72 shown in the July list ; but a few contained in the latter do not appear in the September lists, which, moreover, contain an additional 20 names.

There is thus evidence that 92 Jacobite prisoners were handed over by the prison authorities for enlistment in Boscawen's force, and that most of these were drawn from Carlisle and York. No evidence has been found of other enlistments.

7. PARDONS OF DESERTERS ON CONDITION
OF ENLISTMENT

On 7th July 1747 Mr. Fox, Secretary at War, wrote to Captain Forbes (*W.O.*, 4/43-343)

'notifying His Majesty's pardon to Non Commissioned Officers and Privates who deserted from Lord Loudon's & Lord John Murray's Regiments and joined the Rebellion, that shall enlist in any of the six Independent Companies now raising in Scotland, without being claimed or molested by officers of their former regiments.'

It is necessary in the first place to consider here certain peculiarities of these two regiments.

Lord John Murray's

'Lord John Murray's' was the old 'Black Watch,' which was formed into a regular regiment in May 1740, under a Letter of Service dated 25th October 1739. In due course it went abroad and took part in the battle of Fontenoy, and in October 1745 was one of eleven regiments ordered to England in connection with 'the Rising. It arrived in London on 4th November, and, unlike the others which were sent north, it was sent to a Division assembled on the Kent Coast to repel a threatened invasion. It must be remembered that, as General David Stewart of Garth has shown, not a man in the regiment at that time had been born south of the Grampians, and that 'more than three hundred had fathers and brothers engaged in the Rebellion.' (*Stewart*, i. 288, 289.)

Earlier in the year, however, three additional companies had been raised, largely from the Atholl, Breadalbane and Braemar countries; these units remained in Scotland and took part in the operations against the Jacobites. One Company was at Prestonpans where the entire unit, officers and men, were killed or captured.

General Stewart says (*ib.* 291) that, in spite of the utmost efforts to induce them to join the Jacobite army, these men refused absolutely to do so. The other two companies did not appear at Falkirk or Culloden, but were employed in the policing and harrying of the Highlands. In spite of Stewart's statements there can be no doubt that, while on such unpleasant duty, there must have been desertions among them; on the other hand, the number shown in the Lists of Prisoners was very small compared with those of deserters from Loudoun's regiment.

At this time the regiment was commanded by Lord John Murray, son of the first Duke of Atholl and half-brother of that gallant Jacobite leader Lord George Murray; in accordance with custom, the regiment was called after him.

The Earl of Loudoun's Regiment

This regiment was raised on 8th June 1745 by the Earl of Loudoun, and consisted of twelve companies. Of the men 750 were assembled at Inverness, and 500 at Perth. According to General Stewart the regiment never acted as a combined unit throughout the operations, but rather as independent companies in every area. Three weak companies were present at Prestonpans, where they were captured *en masse*; and three companies at Culloden. A large number of them operated in the northern counties.

The lists of prisoners contain many references to deserters from this regiment having joined the Jacobite army, which is not surprising, as the composition of the regiment coincided very closely with that of their opponents.

Search through the War Office papers has failed to show what response there was to the invitation to deserters from those two battalions, to enlist in the Independent Companies.

Although it is impossible to show any enlistment of Jacobite prisoners on more than an exiguous scale, there is occasional reference to Jacobites serving in the British army in America.

The Hon. John Fortescue, whose knowledge of the history of the Army is unique, has kindly written as follows:

'I know by inference that Jacobite prisoners entered the British Army. There was one of them who, after the defeat of General Murray at Ste. Foy outside Quebec in April 1760, ejaculated: "From April battles and Murray Generals, Good Lord deliver us." He could not have been the only one, though I can recall no specific instance of another.'

8. UNCONDITIONAL PARDONS

Finally there were a few unconditional pardons such as that granted to John Murray of Broughton and Hugh Fraser, at one time Secretary to Lord Lovat (*P.R.*, 3623, No. 2, 7th June 1748), which reads as follows:

‘GEORGE THE SECOND ETC.—Know ye that We, being moved with Compassion, of our especiale Grace . . . do pardon, remit and release John Murray of Broughton Esquire and Hugh Fraser Gentleman . . . all treasons . . . committed before 6th May 1748, although they be not indicated. . . . This our general pardon to be a firm discharge.’

In both cases the pardon was the reward of treachery. Having revealed every secret in connection with the Jacobite movement and brought Lord Lovat and others to the scaffold, they escaped as common informers.

At a meeting of the Privy Council on 20th August 1747, a few more free pardons were recommended (*S.P.Dom.*, 100-65).

After dealing with the disposal of certain prisoners in York and Carlisle,

‘Their Lordships agreed humbly to recommend to His Majesty the following Six persons for a free pardon, viz :

‘1. Roderick M’Culloch, earnestly recommended by Sir Henry Munroe.

‘2. William Sharpe, recommended by His Majesty’s Councill (sic) who attended the Tryals.

‘3. James Gordon, suppos’d to have been forced into the rebellion by His Father who was try’d condemned and executed at Carlisle.

‘4. James Gad recommended by the Master of Trinity College in Cambridge, on account of his having discovered a new method of printing.

‘5. William Home recommended by the Earl of Home. His brother was executed at Carlisle.

‘6. Robert Forbes, certified by the Earl of Findlater to be of a very loyal family and earnestly recommended by His Lordship.’

9. ANALYSIS OF PARDONS AND TRANSPORTATIONS

Summarising the different types of the ‘King’s Mercy’ which appear in the *State Papers* we arrive at the following results :

1. Transportation with Indenture, 24.2.1747.
 (*P.R.*, 3621-3. *S.P.Dom.*, 96-101,
 100-65) 866 names.

2. Simple Transportation without Indenture, 9th November 1748. (<i>S.P.Dom. Entry Book</i> , 85-84 ; 100-65/68)	33 names.
3. Banishment to America, 24th September 1748. (<i>P.R.</i> , 3625-14)	37 names.
4. Banishment 'outside our Dominions,' 2nd July 1747. (<i>P.R.</i> , 3622-12)	121 names.
5. On enlistment. (<i>P.R.</i> , 3625-21, 22nd July 1747 ; <i>S.P.Dom. Entry Book</i> , 84, 22nd Sept. 1747)	92 names.
6. Conditional Pardons. (<i>P.S. Docquet Book</i>)	7 names.
7. Unconditional pardons. (<i>P.R.</i> , 3623-2 ; <i>S.P.Dom.</i> , 100-65)	8 names.
	<u>1164 names.</u>

The first three classes, numbering 936 persons, represent those who were transported.

An examination of the *State Papers Domestic Entry Books* renders it possible to arrive at a conclusion as to how these 936 persons compare with those who, on the dates mentioned, were still shown on the rolls awaiting transportation, and were actually detailed by name to be handed over to messengers for delivery to Smith and Gildart, the transportation contractors.

These are summarised in the following table :

Date of Warrant in <i>S.P.D. Entry Book</i> .	Prison.	Numbers of Individuals.	Port of embarkation.
20.3.47	Tilbury & Transports	331	Thames
20.3.47	Southwark	16	Thames
24.3.47	Carlisle	161	Liverpool
24.3.47	Lancaster	73	Liverpool
24.3.47	York	71	Liverpool
24.3.47	Lincoln	53	Thames
24.3.47	Chester	34	Liverpool
9.11.48	Carlisle	13	Liverpool
9.11.48	York	9	Liverpool
9.11.48	Southwark	11	Thames
22.11.48	Lancaster	22	Liverpool
		794	

The two figures, it will be seen, tally very fairly, for 936 persons received one form or other of the ' King's Mercy,' and 794 were ordered to be removed from the prisons in which they were confined for embarkation. The difference of 142 persons would be accounted for partly by deaths between the date of ' pardon ' and that of transportation, partly by unexpected unconditional pardons obtained at the last moment by political pressure or other means, and partly by individuals turning King's Evidence and ultimately obtaining their release ; it is possible also a few were transported after November 1748.

On the whole, it is probably safe to say that the number of Jacobite prisoners transported and banished to America was about 936, more or less ; and that this figure takes no account of 382 French prisoners discharged and exchanged as prisoners of war, of 92 prisoners enlisted, or of 121 persons banished ' outside our Dominions.'

CHAPTER III

TRANSPORTATION

I. CONTRACTS FOR TRANSPORTATION

THE first reference to contracts with shippers for the transportation of Jacobite prisoners to the West Indies and North America appears in the Minutes of the Treasury Board of 18th September 1746 (*T.B.P.*, 320, of 18th Sept. 1746). Preliminary agreements had been negotiated between Mr. Sharpe, the Treasury Solicitor and the two individuals who tendered, Mr. Sam Smith of Cateaton Street, London, and Alderman Richard Gildart of Liverpool.

The Minutes of the Board are as follows :

‘ WHITEHALL, TREASURY CHAMBERS, 18 Sept. 1746.

‘ Read a report from Mr Sharpe informing My Lords (Mr Sharpe also attending) that Alderman Gildart and Mr Smith propose to Transport the Rebels at £5.10. per Head to any of His Majesty’s Plantations.

‘ My Lords agree to the proposal at £5 per head, and the persons to be taken at the respective Ports appointed by My Lords.’

On 26th May of 1747 the Board received a Memorial from Gildart

‘ praying payment of the 1st payment of £2.10.0. per head for 157 Rebels transported by him pursuant of his Contract ; and for providing for 14 others that were discharged by the Duke of Newcastle’s Order.’ (*T.B.P.*, 29/31, page 18.)

A warrant for payment was prepared accordingly, but only for the persons actually transported.

On 21st January 1748 Gildart again petitioned the Treasury

'for full allowance of 14 persons discharged by warrant from Duke of Newcastle, after they were shipped for transportation.' (*T.B.P.*, 29/31, page 69.)

To this petition the Treasury replied :

'Lords can not allow it. Would make a bad precedent.' (*T.B.P.*, 29/31, page 81.)

This shows that, even at the last moment, when placed on board the contractors' ships, a certain number of prisoners were released by warrant from Newcastle without any record being kept of the fact. The names of the fortunate individuals cannot be traced now, but they probably consisted principally of persons who had sufficient private interest behind them to secure the Duke's favour. This practice undoubtedly accounts, in part at least, for the discrepancy which exists between the numbers to whom the 'King's Mercy' was extended and the numbers actually transported.

2. ORDERS FOR TRANSPORTATION

At the beginning of 1747 (New Style), after the Commissions had disposed of the trials of prisoners, orders for the application of the 'King's Mercy' were in process of being issued ; and it was necessary to take action towards carrying out the provisions of that iniquitous instrument.

A meeting of the Privy Council held on 21st January 1747 considered the question of expediting the process of transportation (*S.P.Dom.*, 93-233).

Mr. Sharpe attended and

'was directed to get all the common highlanders who are pardoned on condition of transportation, exclusively of the Gentlemen and officers, transported forthwith, and to get the Pardon for the French Officers passed, and the said Prisoners sent away to France as soon as possible.'

3. THE PROCESS OF TRANSPORTATION

In order to indicate the course of events after the

lotting and pardon of these individuals the following documents may now be considered.

On 19th March 1747, Newcastle wrote (*S.P.Dom.*, 96-100) to the High Sheriff of the County of Surrey, regarding lotted prisoners in Southwark prison, in the following terms :

' His Majesty having been pleased to extend his Mercy to several Rebel Prisoners remaining in your Custody (here follow 16 names) upon condition of transportation during their natural lives, and a Pardon having passed the Great Seal for that purpose, I am commanded to signify to you His Majesty's pleasure, that all the said Prisoners should be deliver'd to Mr Samuel Smith, Contractor for transporting the said Rebels, or to his Agent, in order to their being carried accordingly to some of His Majesty's Colonies or Plantations in America, and you will take a receipt for all the prisoners you shall deliver, and transmit the same to me.'

A letter couched in similar terms (*S.P.Dom.*, 96-68) was sent to ' Robert Barker Esq, Commanding Officer on Board the Transports lying off Tilbury Fort ' ; to ' Gilbert Caldecot Esq, High Sheriff of the County of Lincoln ' ; and to ' Francis Cayran Esq, Commanding Officer at Tilbury Fort.' In each case the prisoners to be handed over were detailed by name.

The military authorities arranged for the escorting of the prisoners to the waiting transports.

A formal receipt was given for them by Robert Leigh, agent to Mr. Samuel Smith (*S.P.Dom.*, 96-124), in the following terms :

' Received . . . the Bodys of the Rebell Prisoners within mentioned, with intention to have them conducted with all possible expedition to Liverpool, where ships are provided by Mr Samuel Smith to transport them . . . agreeable to his contract with the Government.

' RT LEIGH,
' Agent to MR SAMUEL SMITH.'

It was obviously necessary, on each occasion on which a ship left for the colonies with prisoners, to inform the Governor of the colony concerned of the plans regarding

these convoys ; and one communication (*S.P.Dom.*, 96-100), typical of the whole, dated 26th March 1747 and signed by Newcastle, is as follows :

‘ His Majesty having been pleased to extend his Mercy to a great number of persons who were concerned in the late rebellion, upon condition of being transported to some of His Majesty’s colonies or plantations abroad during their natural lives, and as many of them are now shipped on board transports for that purpose and will be landed in Barbadoes by Mr Samuel Smith, the Contractor for transporting the said Rebels or his agent, I am commanded to signify to you His Majesty’s pleasure that you should, with all convenient speed transmit to me an exact list of all such as shall arrive and be landed there, and I am at the same time to recommend it to you to give Mr Samuel Smith or his Agent all possible assistance in the prosecution of this affair.

‘ To the Governor of Barbadoes.’

4. THE CAPTURE OF THE TRANSPORT *Veteran*

A most interesting document (*S.P.Dom.*, 106-90) dealing with this subject is the correspondence between Samuel Smith and the Duke of Bedford regarding the capture by the French of the ship *Veteran* carrying 150 prisoners to Antigua. The details are given below, and throw light on the insecurity of ocean travel when the seas were infested by foreign privateers.

‘ List of 150 prisoners shipped at Liverpool on board the *Veteran* (John Ricky, Master) for Antigua, St Kitts & Jamaica.’
(Here follow the names.)

On 8th July 1747 Francis Hamilton of Belfast, merchant, appeared before Patrick Wilson, J.P. and Collector of Customs at Basseterre in St. Christophers, and swore that the above ship left Liverpool about the 8th May 1747 ; that on 28th June, when ‘ in or about the latitude of Antigua,’ she was attacked by the *Diamond*, of Martinique (Paul Marsal, Commander), and, after a short engagement, was carried into Martinique ‘ and the prisoners then set at liberty by the Governor ’ (*T.B.P.*, 327-109).

On 27th April 1748, Sam Smith reported the above to

the Duke of Bedford and said that he had obtained from the Duke of Newcastle an order to Governor Mathews of the Leeward Islands to reclaim the prisoners from the French. They were claimed in January 1748 by an agent, who presented a letter from the Governor to the Marquis de Caylus, the French Governor, demanding their surrender. The latter refused to comply, without instructions from France. Sam Smith accordingly asked that 'when any sea cartel or exchange of prisoners is to be agreed on with France these rebel prisoners now at Martinique may be included specially in such cartel, to be delivered to Mr. John Chalmers his agent at Antigua.'

The French Government, however, declined to consider the return of these prisoners in any circumstances, and these fortunate individuals thus escaped the fate that was in store for them when they left the Mersey. It would be interesting to know what happened to them, as they could never have been sent back to their native land; no further reference to them has been found.

Another interesting report, dated 21st May 1747, by Richard Gildart, transportation agent, addressed to the Treasury appears in the *Treasury Board Papers (T.B.P., 328-7)*.

Gildart states that in the night of 5th May he was embarking prisoners from Carlisle and Chester on two ships, the *Johnson* and *Gildart*, at Liverpool. Most of the prisoners were in a boat, handcuffed together in pairs, and were being towed out to the ships by a small yawl. When they got alongside the *Johnson* the boat fouled her cable and upset, drowning eight men.

Gildart's letter to the Treasury was of the nature of an appeal on account of the 'large expence in providing Provisions, Bedding and Cabbins in the ship' for the said prisoners. Whether the Treasury ever compensated him for the loss of these men, on each of whom he expected to get £7 on the other side of the Atlantic, is not recorded.

A reference to the Prisoners' Lists will show that in the carrying out of the transportation orders no discrimination was shown in regard to age or sex. Men of seventy as well

as boys of thirteen (*vide* William Clapperton) and women shared this fate. This is the more remarkable, especially in the case of old men, as the demand for them as 'servants' in the New World cannot have made their transportation a financial attraction to the contractor.

The carrying out of the transportation programme was a lengthy one. The journey itself, as shown in the case of the *Veteran*, had lasted from 8th May to 28th June 1747, when she was picked up by a French cruiser a day's run from her destination. When a ship arrived there were formalities to be completed regarding the registration of the prisoners and their disposal; and the round voyage out and home must have been a matter of months.

At intervals, from 8th May 1747 to the end of the following year, ships left the Thames and the Mersey with prisoners. References to the matter, however, cease to appear in the State Records after the spring of 1749.

CHAPTER IV

SPECIAL LEGISLATION REGARDING PRISONERS

I. GENERAL REMARKS ON THE POSITION OF PRISONERS

It is necessary to consider here the position of the Jacobite prisoner under the Laws of Treason.

By the law of Scotland, prior to the Union, treason was either 'proper' or 'statutory.' 'Proper' or high treason included such acts as contriving the death of the sovereign, or laying him under restraint in his person or the exercise of government; levying war against him; endeavouring to alter the succession; impugning the authority of the Estates of Parliament; making of treaties, either with subjects or with foreign states.

'Statutory' treason included such crimes as theft by landed men, murder under trust, setting fire to coal heughs, houses or corns; and these were punishable with the pains of proper treason, viz. death and the forfeiture of the traitor's estate, both real and personal, to the Crown; and the extinction of all heritable dignities, honours, or privileges that the King had conferred upon him.

By the Treaty of Union, however (Article 18), and by Act 7 Anne, cap. 21, it was enacted that the crimes of high treason and misprision of high treason were to be ruled and decided according to the Law of England. This involved not only the application of the English laws of treason to Scotland in respect to the facts which constituted that crime, but in relation to the forms of trial, the corruption of blood, and all other penalties.

Thus was introduced into Scotland the English doctrine of 'corruption of blood' which had formerly applied only when specially imposed by the sentence; and the effect was to confiscate to the Crown all estate belonging to or

accruing in any way or descending to the person. In Erskine's words :

' He forfeits also all his honours or dignities ; for he becomes ignoble by his conviction or attainder. The corruption which his blood thereby suffers renders him incapable of succeeding to any ancestor ; and the estate, which he himself cannot take, falls, not to the Crown by forfeiture, but to the immediate superior as escheat, *ob defectum heredis*, without distinguishing whether the lands hold of the Crown or of a subject.'

Again, as regards the legal heirs of the traitor :

' Seeing his whole estate falls to the Crown his heirs cannot inherit upon his death.' (*Erskine*, iv-iv-24.)

The Act 7 Anne, cap. 21, also extended to Scotland the English law of Misprision of Treason, *i.e.* the concealing of that crime. Misprision is inferred from a bare knowledge of treason and not discovering it to a magistrate. The punishment of this crime is imprisonment, with forfeiture of the offender's movables and of the profits of his heritable estate during his life, or, in Scots parlance, single and liferent escheat. (*Erskine*, iv-iv-28.)

Another point which emerges in regard to the trials of Jacobite prisoners was the adoption of the English form of procedure.

Peers accused of high treason must be tried either in Parliament by the House of Peers, or by a special court made up of the whole body of the Peers, of which one is named by the King for Lord Steward, who is the judge ; the rest are considered as jury.

Commoners can either be tried by a Criminal Court or, as in the case of the prisoners of the '45, by a special Court 'of Oyer and Terminer.' To this latter court a Grand Jury is appointed, before whom all bills of indictment must be laid. The jury, after judging the evidence offered in support of the indictment, may return the bill endorsed *billa vera*, on which a warrant is directed to seize the person and bring him to trial ; if, however, the jury considers the evidence does not amount to a charge of high

treason, the back of the bill is endorsed *Ignoramus*, upon which, if the person be in custody, he is discharged.

Prior to the Act 7 Anne, the Lord Advocate could, of himself, bring any person to trial for high treason, and he was the sole judge whether the evidence was sufficient to warrant a criminal prosecution.

The best instance of the operation of a Grand Jury is that dealt with below in considering the case of the 85 persons 'excepted' from the provisions of the Act of General Pardon of 1747.

Their 'exception,' however, did not of itself operate as an attainder; in fact their individual cases were re-considered by the Attorney-General from the point of view of the likelihood of sufficient evidence being obtainable against them to justify further action, if and when the opportunity arose. A year later Sir Dudley Ryder drew up an amended list of 55 names, which, in his opinion, satisfied all requirements, and these cases were submitted in October 1748 to a Grand Jury in Edinburgh (*infra*, page 56), a procedure which had only once before been adopted, after the '15. The Grand Jury found true bills against 42 persons and a verdict of *Ignoramus* in the case of the remainder. So that, had they been available in the country, only 42 persons concerned would have been brought up for trial.

Similarly, as shown in the review of the trials at Southwark and Carlisle, the English procedure was adopted, and the case of each prisoner was submitted to a Grand Jury before being dealt with by the Commission of Oyer and Terminer.

2. SUSPENSION OF HABEAS CORPUS ACT, ETC.

At an early stage special legislation was found necessary, as had been the case after the '15, in order to authorise exceptional measures for the arrest and imprisonment without trial of suspected persons.

By the Act (19 Geo. II., cap. 1) it was enacted *inter alia* that :

‘Every person that shall be in prison within Great Britain at or on 18th October 1745 or after . . . for suspicion of high treason or treasonable practices . . . may be detained in safe custody without bail or mainprise until 19th day of April 1746, and that no judge . . . shall bail or try any such person . . . without order from . . . the Privy Council till the 19th day of April 1746.’

It was further enacted, as there was no Habeas Corpus Act in Scotland, that :

‘The Act made in Scotland in the year 1701 Entitled Act for preventing wrongous imprisonment and against undue delay in trials, until the 19th day of April shall be suspended, and no longer, as to all cases of treason or suspicion of treason.’

This Act was extended first to 20th November 1746 and again to 20th February 1747. Thereafter the ordinary law came into operation.

On 14th October 1749 the Lord Advocate wrote to Newcastle that :

‘on 11th instant Alexander Earl of Kellie, John M'Donald of Glengarry, Alexander M'Donald of Glencoe, Alexander Cameron of Dungallon, and Robert Murray (alias M'Gregor) of Glencarnock were discharged out of Edinburgh Castle by a Judge of the Court of Justiciary, in pursuance of their several applications made beginning of August in terms of our Habeas Corpus Act of 1701.’ (*S.P.Dom.*, 111-38.)

3. ACTS REGARDING PLACE OF TRIAL OF PRISONERS

Two other Acts were passed dealing with the question of where prisoners charged with high treason should be tried. Treason being normally triable in that county alone where it is committed (*Erskine*, 734-84) it was deemed expedient to give power for the trial of all such cases in any county the King might appoint ; and this was enacted 19 Geo. II., cap. 9. Later another special Act was passed, 21 Geo. II., cap. 19, by which treason committed within certain counties of Scotland might be tried by the Court of Justiciary, wherever it should sit.

4. ACT ENABLING THE LORD ADVOCATE TO COMPEL PERSONS TO GIVE BAIL

Another Act, applicable to Scotland (19 Geo. II., cap. 25), empowered 'the King's Advocate' to apply to the Lord Justice General, the Justice Clerk, and Commissioners of Justiciary for the issue of letters commanding persons having their estates or ordinary residence in Scotland to appear before the Court of Justiciary, and to find sufficient bail for loyal and peaceable behaviour.

This Act was obviously aimed at the considerable number of persons of property who were known to be 'lurking' or 'skulking' throughout the country after Culloden.

5. ATTAINDERS

The First List of Attainders

Throughout the '45 certain individuals rendered themselves particularly obnoxious to the Government for the part they had taken either in the inception or the conduct of the Rising. To deal with these, an Act of Attainder was passed in June 1746 (19 Geo. II., cap. 26), which provided as regards 41 named individuals that, if they

'shall not render themselves to one of His Majesty's Justices of the peace on or before 12th day of July 1746 and submit to justice, they shall from and after 18th day of April, stand and be adjudged attainted of High Treason, and shall suffer and forfeit as a person attainted of High Treason.'

The names, which are shown in Appendix A, are set down as they appear in the Act; their subsequent fate is also shown, where possible.

The list was carelessly drawn up, as it overlooked the fact that some of the individuals mentioned had been killed at Culloden, e.g. Robert Mercer of Aldie, Alexander M'Gillivray of Dunmaglass, Lachlan M'Lachlan of Castle Lachlan, and the Viscount of Strathallan. Curiously enough, some of them are given their Jacobite titles.

Thus James Drummond, who, but for the attainder of 1688, would have been sixth Earl of Perth, is styled 'Duke of Perth,' a dignity which would certainly not have been normally recognised by the English Government.

James Graham, Viscount of Dundee, too, was only the titular Viscount, a decree of forfeiture having passed against the third Viscount in 1690. An obvious inaccuracy appears in the case of 'Lord John Dunmore.' This entry refers to the Hon. William Murray, who surrendered in April 1746 and only became Earl of Dunmore on his brother's death in 1752. Another inaccuracy is the reference to 'James Drummond eldest son of Alexander, Lord Forbes of Pitsligo.' The only son of the latter was John Forbes, Master of Pitsligo. The person referred to was really Alexander Lord Forbes of Pitsligo himself, who escaped capture. In 1749 he appealed against the attainder as being wrongly worded in describing him, and won his case in the Court of Session; this decision, however, was reversed by the House of Lords.

The list of persons must, indeed, have caused as much surprise to those whose names were omitted as it did to the officials in Scotland.

The Second List of Attainders

The original list of attainders being so obviously incomplete the Council, on 9th July 1746, directed Mr. Sharpe to prepare Bills of Indictment 'Against persons proper to be inserted in a second Bill of Attainder, in order to their outlawry in case they do not surrender.' (*S.P.Dom.*, 85, 7.7.46.)

One of the agents employed for this purpose was Harry Edwards, an excise officer.

In an undated statement of evidence against George Robertson of Fascally, Perthshire, Edwards says :

'I was taken prisoner by him and carried before Lord Strathallan, the rebel Governor of Perth, who orderd me to do duty as Excise Officer for them, which I excused myself from,

having been in His Majesty's service. He searched all my house for the Excise Books, which were put out of the way.' (*T.B.P.*, 1/328-64.)

Edwards subsequently gave evidence against officers at the Southwark trials.

His illiterate and badly spelt 'List of Gentlemen concerned in the Late wicked and unnatural Rebellion not contained in the first Bill of Attainder,' comprised 25 names. From such sources, a lengthy list of individuals of 'distinction' was compiled and submitted to the Attorney-General and the Solicitor-General on 30th April 1747 for an expression of their opinion in regard to them and the action to be taken against them.

This list, endorsed 'Rebels of Distinction,' contained the names of no less than 157 persons, all of whom owned estates in Scotland. It was stated in the heading of the list that they

'would escape Punishment if there is not a second Bill of Attainder, as they have either made their Escape beyond seas, or are lurking in Scotland till they can with Safety appear, and again take possession of Their estates in Scotland.'

A second long list consisted of more individuals against each of whom appear the names of witnesses who are in a position to give evidence against them; and a third, containing seven more, was added by the Solicitor of the Treasury.

The two law officers reported to the Duke of Newcastle on 22nd May 1747 (*S.P.Dom.*, 97-101) that 48 persons were guilty of treason (*see* Appendix B). As regards the remainder they found that evidence against them was insufficient.

They then recommended the following procedure to be adopted :

'As to the Method of Proceeding, None of those against whom the Evidence is sufficient being in Custody, the only way in the Ordinary Course of Law, unless they cou'd be apprehended, is by Outlawry upon Indictments in the respective Countries, where Acts of Treason were committed by them. The same Evidence upon which they may be outlawed, would

be a sufficient Ground for attainting them by Act of Parliament, Unless they surrender by a time to be limited for that purpose, in case that should be thought the more Eligible Method, and it is the Easiest and lest Expensive.'

But the decision to pass an Act of General Pardon had either been actually arrived at or was in process of being considered; and the simplest way of dealing with these 48 persons was to include them in a special list of 'Persons Excepted,' who would not benefit by the provisions of the Act of Pardon.

This was the procedure which was adopted; and it accounts for the fact that no second Act of Attainder was passed.

6. 'ACT FOR THE KING'S MOST GRACIOUS GENERAL AND FREE PARDON'

The Act of Grace

The most important of the special Acts dealing with the '45 was the Act 20 Geo. II., cap. 52, which is often shortly, and somewhat humorously, styled 'The Act of Grace.'

'The King, having already showed his Royal Inclination to Mercy by many particular instances of grace to such as had rendered themselves obnoxious to the Law and subject to the highest penalties . . . has resolved to grant his General and free Pardon in a large and bountiful manner, not doubting but that . . . it will raise a due sense of gratitude in all who have been artfully misled into treasonable practices against his person and government. . . . Therefore he desires it to be enacted by this Parliament that all his subjects . . . be acquitted, pardoned, etc. of all manner of treasons, felonies, seditious words, scditions, etc., all riots, offences, contempts etc. committed before 15th June 1747 . . . with the exception of those excepted.'

The Act then excluded from its beneficial provisions the following classes:

- a. 'All persons in the Service of the "Pretender" on 15th June 1747.'
- b. 'All persons who had served the King of Spain since 19th December 1739.'

- c. 'All persons in the service of the French Crown since 29th April 1744.'
- d. 'All persons who were concerned in the Rising itself or in conspiring or assisting it.'
- e. 'All persons, who, in connexion with the Rising, have been beyond the Seas between 20th July 1745 and 15th June 1747.'
- f. 'All persons of the name and clan of Macgregor.'
- g. 'All persons attainted of high treasons before 15th June 1747.'
- h. Finally 85 named individuals. (See Appendix C.)

7. INDICTMENT OF THE EXCEPTED PERSONS AT EDINBURGH

Many of these persons had already escaped, and some had been captured, while a few were known to be in hiding in the country. The Act, indeed, was practically a dead letter as far as they were concerned, and, in July 1748, the Attorney-General was directed to analyse the list of 'Excepted' persons and to decide whether there was sufficient evidence to find individual Bills of Indictment against them.

On 9th August 1748 he submitted a report (*S.P.Dom.*, 108-6) selecting 52 out of the 85 excepted persons; and Bills were then ordered to be prepared against them and against 3 others for submission to a Grand Jury in Edinburgh.

Inferentially, the Attorney-General decided that no conviction could be secured against 33 who had been excepted by the 'Act of Grace.'

The decision to bring the cases of these excepted persons before a Grand Jury in Edinburgh was communicated to William Grant, the Lord Advocate, on 11th August 1748, and elicited a reply (*S.P.Scot.*, Series ii. 39-55), dated 18th August, in the following terms:

'I have received Your Letter of the 11th instant inclosing a Copy of a Report of his Majesty's Attorney General, on the several Cases of certain Persons excepted out of the Act of Grace . . . and signifying to me the pleasure of their Excellencies the Lords Justices, that I should take the proper methods for preferring Bills of Indictment in the Justiciary Court against them. . . . For answer to which . . . I must set forth

the Difficulties with which at present the going about this Service must be attended, to the End that their Excellencies may give the proper orders for removing them as far as possible.

‘And first of all the Account of this Evidence sent me gives the names of witnesses . . . but without the Designations, as we call it, of any of them, or any Account where they now live or are to be found; so that I am entirely at a Loss, being ignorant both who and where they are.

‘A Second Difficulty, is that the Officers of the Court of Justiciary . . . are unacquainted with the forms and methods of procedure necessary to be observed on such an Occasion, The Clerks of Justiciary do not know how to make out a writ for summoning a Grand Jury or any other step of procedure in Case of high Treason, which must be made out agreeable to the Law and Practice of England; for, altho’ that has been the Law of Scotland ever since the Act of the 7th of Queen Anne, there has been no occasion to put it in practice here, so far as I can learn, excepting that after the Rebellion Anno 1715. And I think in the year 1718, there was an attempt made, which did not prove very successful, against certain of the then Rebels, which was made by a Commission of Oyer and Terminer; and . . . there were then sent hither from London Mr Paxton to act as Solicitor for the Crown, and another Gentleman to act as Clerk of the Crown, and, besides these, Mr Serjeant Hanbury, and Mr Willis to be assisting to his Majesty’s Council here; This last article I do not mention to pray for the like assistance to myself, and my Brethren here at this time, tho’ it would be very acceptable, But the former articles of an expert Solicitor and Clerk of the Crown acquainted with the forms and methods of procedure, I conceive with great Submission, to be absolutely necessary for his Majesty’s service, to carry on with Effect what their Excellencies have directed.

‘There is a third Difficulty in Respect to several of the Persons mentioned in Mr Attorney’s Report that I do not yet see how it can be obviated, I mean such of them whose overt acts of Treason were committed at Edinburgh . . . in the latter end of September and October 1745, or at any time before that period, for as I am not ready now to proceed against any of them . . . for want of Evidence . . . thus I apprehend it will be hardly practicable to get any Bills of Indictment found sooner than the beginning of November, and, by that time, the three years will be elapsed from the Commission of the act of Treason. . . .

‘These things, I thought it my Duty humbly to submit to their Excellencies Consideration, And shall be ready to receive their farther pleasure thereupon.—I am, &c.

‘WILLIAM GRANT.’

The proceedings are contained in three letters by the Lord Advocate (William Grant) addressed to the Lord President. (*S.P.Scot.*, Series ii. 39-70, 39-72, 39-73.)

The Court met on 10th October 1748, three judges being present with Lord Tinwald as Preses. The Grand Jury consisted of twenty-three gentlemen,

'many of them persons of figure, and fortune, all of them known or reputed to be well affected to the King's Government.'

The proceedings lasted three days, and the cases of 55 persons were considered.

The Grand Jury brought in true bills against 42, and threw out the charges against the remainder.

As most of these persons were out of reach of the arm of the law it might have been expected that an Act of Attainder would have been passed against them. This was not done, and some appear to have been overlooked. Thus Gregor M'Gregor of Glengyle (*alias* James Graham) was left unmolested in his native glen, as was Alexander Robertson of Struan.

It is probable, however, that under the Act 7 Anne, cap. 21, all these persons were outlawed for contumacy.

Third List of proposed Attainders

Finally, in 1752, a fresh list was prepared

'of rebels omitted in the first Bill of Attainder and left out also in the list of those excepted in the General Indemnity.'

(*S.P.Dom.*, 120-52.)

This list contained 29 names. (Appendix D.)

There is no evidence that any action was ever taken against them.

8. RETURN OF ATTAINTED PERSONS

Some of the 'excepted persons' who had escaped abroad attempted to return to this country.

One of these was Ranald M'Donald of Clanranald who was arrested in June 1752 as he passed through London

from Paris on his way north. On 19th June Holderness reported to the Attorney-General that :

‘ Mr Macdonald of Clanranald, an attainted rebel, who hoped to evade the effect of his attainder on account of a misnomer in the Act of Parliament, attempting to pass through London was taken into custody. Desires the Attorney & Solicitor General’s opinion whether he can be kept in custody.’

(S.P.D., 119-13.)

The answer must have been in the affirmative, as Clanranald was kept in a Messenger’s house until 1754, when he was released.

Coll M’Donald or Macdonell of Barisdale was also caught and was kept in Edinburgh Castle until his death in 1750.

9. THE ESTATES OF ATTAINTED PERSONS

An Act of 1747 (20 Geo. II., cap. 41) vested in the Crown the estates of attainted persons.

The disposal of some of the forfeited estates under this Act has formed the subject of a volume published by the Scottish History Society (*Forfeited Estates Papers*) and need not be considered here.

CHAPTER V

PRISONERS IN SCOTTISH PRISONS

1. THE DISPATCH OF PRISONERS TO CARLISLE

To understand the disposal of Jacobite prisoners in Scottish prisons it must be appreciated that those who were captured at Inverness are not included among them, for the reason that practically the whole town formed one large prisoners' camp, the administration of which was carried out entirely on military lines. Moreover no returns for Inverness appear in the Records. No comparison is possible, therefore, with the position of other prisoners who were confined in the ordinary burgh and county tolbooths in Scotland.

As the prisons filled, before and after Culloden, it became necessary to enquire into the charges against the individuals confined in them. The Records give scanty information in regard to the procedure adopted, except in the case of Perth; but this may be regarded as a sample of the whole. When the English followed up the retiring Jacobite army Cumberland halted at Perth on 6th January 1745/6, and found that a good many Jacobites had been captured and were confined there. At his request James, Duke of Atholl, Sheriff of Perthshire, granted a special commission to Patrick Haldane, Advocate, and George Miller, Town Clerk of Perth, to report on these individuals.

On 10th February and the following days the commissioners reported on 13 prisoners. In this they were assisted by David Bruce, Judge Advocate of the English army, who it is said 'took down in writing declarations and confessions of many French and other rebel prisoners,' for the information of the Duke. (*Addl. MSS.*, 24900.)

On 5th May the Lord Justice Clerk informed Newcastle

(*S.P.Scot.*, 32-3) that he had no news from the Army later than 30th April, but that :

‘ we are dayly picking up more of the Rebels and committing them prisoners, severals of South Brittain, some of Ireland, some French . . . By several Examinations of rebels taken it appears that one of their wayes of trying to make their escape to France, is by the Isle of Man, from whence they lay their account to get to France by help of the smugglers.’

It was in consequence, no doubt, of the rapid influx of prisoners into the prisons after Culloden that Cumberland decided to appoint his own Judge Advocate General to undertake their identification and to decide which could be sent up for trial with a reasonable prospect of securing convictions against them. The instructions to that officer are dated 5th July 1746 and are quoted at length elsewhere. (Chapter VII., ‘Evidences against Prisoners,’ p. 119.)

On 11th July Newcastle sent orders that all persons in Scottish prisons against whom ‘Prooffs and Evidence’ could be brought, and all those who had been taken in arms, should be sent to Carlisle for trial, in communication with Philip Carteret Webb ‘Solicitor on H.M. behalf.’ He also directed the preparation of lists of the prisoners to be sent to him in due course with the names of witnesses who could vouch for the commission of ‘hostile acts’ or ‘marching with the rebel army.’ (*Albemarle*, i. 7.)

The Lord Justice Clerk replied that he had already had local lists prepared by the Sheriffs and Magistrates all over the country, but that these are ‘very bulky and imperfect ; against many no evidence but their own confession.’ These lists he had handed over to the Crown Solicitors in order that they should be in a position to make up the combined list asked for. He then says :

‘There is a difficulty as to the witnesses, who are very numerous, and few will be willing to make journey to Carlisle.’

He doubted whether he had authority to take them into custody, ‘but without this, proof must be very defective.’ Finally he said, ‘I am not acquainted with English Law,’ but hoped that Cumberland’s Secretary, Sir Everard

Fawkener, who was collecting evidence, ' would be able to judge what prisoners should be sent ' and that ' he will not have the same difficulty in making unwilling witnesses go.' (*S.P.Scot.*, 32-46.) It is clear from this letter that the Lord Justice Clerk recognised that Newcastle's order that ' all such persons be sent to Carlisle ' was impracticable.

On 26th July he again wrote to the Duke and reported that he proposed to send 126 prisoners to Carlisle from Edinburgh,

' whereof there are 34 that were either considered here as in the rank of Gentlemen, or were employed as officers.'

The names of these were shown on an attached list.

He further pointed out that there were 134 witnesses against the prisoners, regarding whom he again asked for directions. (*S.P.Scot.*, 33-55.)

It must be inferred that the decision was against the taking of unwilling witnesses into custody, as, in a letter dated 7th August, the Lord Justice Clerk said he would do what he could, and hoped that some of the prisoners who had acknowledged their own guilt would be induced to give evidence against their fellows ; at the same time he proposed sending up for trial all those who had signed their confessions. (*S.P.Scot.*, 34-3.)

On 9th August he reported the departure to Carlisle the previous day of ' about ' 140 prisoners, of whom 25 had agreed to give evidence ; and with them 30 other witnesses (*S.P.Scot.*, 34-6). Besides this party, drawn from the Edinburgh prisons, others were being dispatched from Perth on 9th August, from Stirling on the 10th, and from Montrose and Dundee later. This, he added, ' will be a very expensive affair.'

It is interesting to observe, that the prisoners were to be allowed counsel, viz. ' two Lawyers of great practice, Mr. Alexander Lockheart and Mr. James Fergusson,' and three solicitors. That the prisoners sent to Carlisle were provided with counsel for their defence at the expense of the State is interesting in view of the fact that, in the case of

officers tried at Southwark, no such provision was made, and that the only concession granted to them was that, if an individual could afford to employ counsel, he might do so. (*Case of Nicholas Glascoe*, p. 171 *infra*.)

Finally, on 14th August, the Lord Justice Clerk reported that 270 prisoners and 160 witnesses were already at or are on their way to Carlisle. (*S.P.Scot.*, 34-12.)

It is probably impossible now to ascertain exactly what determined the selection of individuals to be sent to Carlisle. Some of them were certainly picked out by the authorities in London; these were men who, from their social and official positions, might be regarded as, at least, instigators even if not themselves guilty of levying war. Others had held commissioned rank in the Jacobite army; and in regard to them the Privy Council had already issued orders that they were to be sent to London for trial.

But making allowance for both these classes, it is evident that many of the 270 prisoners who were sent to Carlisle were selected by David Bruce and the Lord Justice Clerk, or his representatives.

Meanwhile, on 7th May 1746, a General Order had been sent to the Commissioners and Supervisors of Excise throughout Scotland to prepare lists of all persons, whether prisoners or still at large, who had been concerned in the Rising.

These lists, prepared for twenty-six districts, and sent up to the Lord Justice Clerk, comprised 2590 names, of whom only 300 were shown as prisoners. Additional information was called for later in the form of lists of 'evidences to prove the different facts.' These two sets of lists have been published by the Society in the form of 'Persons concerned in the Rebellion 1745-46' (Scottish History Society), and they were utilised in selecting prisoners for trial.

2. DISPOSAL OF REMAINING PRISONERS IN SCOTLAND

After the dispatch of the 270 prisoners to Carlisle, the disposal of the 600 persons remaining in the Scottish

prisons had to be further considered, especially as the period of suspension of the Scottish Act against 'wrongous' imprisonment was on the point of expiring.

On 8th November 1746 Albemarle wrote to Newcastle as follows :

' I am ashamed that I have not been able to send Your Grace the names of the prisoners in this Kingdom, that now amount, as I am informed, to near six Hundred.

' The Lord Advocate has informed me that he is very apprehensive that, if the suspension of the Habeas Corpus Act is not prolonged at the first meeting of Parliament, numbers of those prisoners must be set at liberty. . . ' (*S.P.Scot.*, Series ii. 34-17.)

As shown elsewhere (*see* Chapter IV., ' Special Legislation ') an Act (20 Geo. II., cap. 1) was passed extending the period of suspension of the Habeas Corpus and the Scottish Act until 20th February 1747 ; and again on 22nd November 1746 Albemarle writes :

' I shall acquaint the Lord Advocate of the suspension of the Habeas Corpus Act being prolonged.' (*S.P.Scot.*, Series ii. 35-29.)

The promised lists were not sent in to the Duke until about the end of 1746. And, even then, of the 600 prisoners actually stated to be in the Scottish prisons, only 255 names were submitted. The remainder were regarded as merely under suspicion.

State Paper Domestic, 93-44, dated 12th January 1746/1747, gives an interesting analysis of these 255 prisoners ' in custody for Treason,' drawn up by the Attorney-General and the Solicitor-General, on informations sent to them by the Lord Justice Clerk. The annexed tables giving the names of individuals have been lost, but the classes into which they were divided are as follows :

1. ' Those against whom an account of Evidence is set forth which, on the face of it, appears sufficient to convict them of treason. Of this sort there are not a great many.'
2. ' Those against whom there is some, but not sufficient, evidence.'

3. 'Those against whom there is no Evidence but their own confession, which is often qualified.'
4. 'Those against whom there is no Evidence of Treason, but only of treasonable Expressions.'
5. 'Those against whom there is no Evidence at all.'
6. 'Irish subjects who came over with Corps in the French Service.'
7. 'Subjects taken prisoners by the French, who, having enlisted beyond Sea in their service, came over with the French picquets.'
8. 'French and Spanish subjects, officers & soldiers.'
9. 'The Master of Lovat, who is attainted by Act of Parliament.'

A note is added to the effect that the Lord Advocate has the names of 20 persons, not included above, against whom they have proofs.

This document shows that the combing out of the Scottish prisons in the summer of 1746 which had resulted in the dispatch of the more important prisoners to Carlisle in August had been well done, and that there were few left in Scotland whose conviction could be reckoned upon with any degree of certainty.

On 13th February 1747 the Council considered the question of the disposal of the prisoners in Scotland, and decided as follows :

'The List of the Scotch prisoners to be made perfect.

'These Lists, with the Attorney and Solicitor Genl's report upon them, to be sent to Scotland, with Directions to Lord Albemarle and Major General Huske, Lord Advocate, and Lord Justice Clerk to meet together to consider the said lists, to return forthwith the Names of those against whom there is sufficient Evidence, the Persons whom they think most Guilty, and most material for the Government to bring to Justice.

'As for those against whom no Evidence is had, nor can be procured, that they should be discharged.

'As for those whom they think most culpable and most material for the Government to bring to Justice, to transmit their Names hither, and such Proceedings to be had against them as may prevent their being Discharged on the Expiration of the Act for the Suspension of the Habeas Corpus Act.' (*S.P.Dom.*, 94-41.)

There is no evidence that any further general action was

taken on those instructions, except as regards the discharge of persons against whom 'no Evidence can be procured.' The authorities in Scotland may have heard of the possibility, ere long, of a General Pardon.

From February 1747 onwards, however, the Jacobite prisoners in Scotland were gradually released.

3. THE SCOTTISH PRISONS

It is practically impossible to arrive at the number of prisoners in the Scottish prisons on any particular date. Although the returns were intended to be submitted monthly, this was either not carried out, or only some of them have been preserved. Again, many of the returns covered three or four months, during which period prisoners had either been released or were under transfer.

It is therefore necessary, in order to determine the number of prisoners in Scotland at one time, to select a longer period, and to ascertain the numbers shown as 'remaining' on some date within that period on which each prison happened to submit a full return. This obviously takes no account of discharges during that period, and therefore underestimates the whole.

During May-June 1746 these prisons contained 725 prisoners, with a tendency to increase as the combing-out process throughout the country was carried on until there were about 900. In August 1746 there was a sudden drop owing to the dispatch of 270 prisoners to Carlisle for trial.

The numbers then began to fall as individuals were released for want of evidence against them, or to avoid further expense of maintenance, and only about 600 remained at the end of November 1746 (*S.P.Dom.*, 89-272 ; 90-65) ; these fell to 309 in December.

Including suspected persons detained for short periods, the total number in the Scottish prisons at different times (excluding Inverness) cannot have been less than about 1000.

The information given below regarding the Scottish

prisons is drawn from the periodical returns in the possession of the late Dr. Walter Blaikie, and in the Charter Chest of Seton of Touch.

Aberdeen (Jailer : William Murdoch)

Aberdeen became a Jacobite prison immediately after the withdrawal of the Prince's troops from that town on 23rd February 1746. The Burgesses with Hanoverian sympathies, who were in the majority, immediately started arresting all those who had assisted the Prince; and, when Cumberland went north to Nairn in April 1746, he left twelve prominent citizens as 'Governors' to carry on the work, under a military commandant and a garrison of 200 men.

On the 8th April there were 16 prisoners and the number had risen to 50 on 23rd May, when the 'Governors' forwarded a list of these men, and add :

'In this excessive hott weather the Prisoners here are in a dismal situation, the Jaol [*sic*] being full.'

In August 24 prisoners were sent to Edinburgh *en route* for Carlisle.

By December 1746 there had been many discharges for want of evidence, but fresh arrests were still being made, and in March 1747, the Jail Returns show that there were still 5 officers, 2 gentlemen, and 27 'common men' in confinement.

No returns later than March 1747 have survived.

Arbroath (Jailer : William Mann)

This prison began to be used for Jacobite prisoners in March 1746. One of the earliest was a Chelsea pensioner, John Webster, accused of having 'disciplined the rebels'; there were also two shipmasters who had piloted French ships. In June the numbers rose to their maximum of 26, after which they fell by releases and transfers to other prisons.

Blackness Castle (Governor : Captain Macleod)

Six men who had surrendered to General Handasyde, after deserting the Prince at Carlisle, were admitted to Blackness Castle on 29th November 1745; and on the same day the Bailies of Bo'ness sent in 5 other deserters caught on their way home.

A letter to Captain Macleod from Colonel Guest, the Governor

of Edinburgh Castle, which is included in the Jail Returns, gives some interesting information.

Colonel Guest informed him that, in Edinburgh Castle, they allowed prisoners three pence a day, and that he should draw upon his agent for money on this scale. (*Jail Return*, Blackness.) He also said he had heard that 'an old blind man' had been sent to Blackness as a prisoner, and that Macleod should discharge him after searching him and all the others for papers, etc. Dougal M'Lachlan, who was leading the blind man, appears shortly afterwards in the Edinburgh Tolbooth return. There is no later return of prisoners confined in Blackness. They were probably transferred to the Edinburgh prisons.

Dumbarton Castle (Jailer : Gunner William M'Dowall)
(Lieutenant-Governor : Mr. Robert Turnbull)

This prison is conspicuous for the number of successful escapes of prisoners. On 2nd February 1746 nine men of Glengyle's regiment got away, and were followed by Hugh Stirling, younger of Keir, James Stirling of Craigbarnet, and James Miller. (See ESCAPES, p. 73.)

Prisoners were first received in the Castle in September 1745, and the total number soon mounted to thirty, including James Stirling of Keir and his son Hugh, 'William Murray, late Marquis of Tullibardine,' Aeneas Macdonald the banker, and Sir James Campbell, Bart., of Auchinbreck, one of the 'Associates.'

The numbers gradually fell, until, on 5th September 1747, only one 'gentleman' remained in custody.

It is possible that Gunner M'Dowall was relieved of his charge on account of the escapes, as, on 11th August 1746, Robert Turnbull, 'Lieut Governor of this Castle in the Governor's absence,' informed Lord Albemarle that he had vacancies for 6 privates in the garrison and begged that honest men be sent to fill them. He adds that, latterly, vacancies had been filled with

'the drags and scum of the army, mutineers, pardoned deserters and native Irish men, justly suspected Papists.' (*Albemarle*, i. 17.)

Perhaps the character of the personnel of the garrison accounts for the escapes.

Dumfries (Jailer : John Donaldson)

This prison was only in use from June 1746 until 4th April 1747 and never had more than 7 prisoners. Of these 4 were

deserters from the English army who had been serving with the Prince, and were handed over to the military authorities. None remained after 4th April.

Dundee (Jailer : John Mather)

The first return shows that 7 prisoners were sent in by the local magistrates during February 1746, and by October the number had risen to 39, mostly on suspicion.

By 21st March 1747 the whole had been discharged or transferred to other prisons.

Dunfermline (Jailer : Robert Meldrum)

Dunfermline, from April 1746, had an average of 5 prisoners. Of these three English merchants and John Whyggam, a Hussar Ensign, escaped. No prisoners remained after April 1747.

Edinburgh Castle (Governor : Colonel Guest)

The Castle was not reserved for prisoners of importance, as the returns show that from October 1745 many of the rank and file were incarcerated there, pending transfer to the Tolbooth and Canongate prisons. On 31st March there were 59 prisoners, including 3 women, 44 common men and 12 gentlemen. Between 23rd April and 31st May 1746, there had been 48 prisoners of whom 2 had escaped, one had died, 2 had been released, and 10 remained. The rest had been transferred. All these were shown as 'subsisted from the Sutlary,' which indicated that they were without means and had to be supplied with Government rations.

A return of the 3rd October 1746 shows that there were in the 'Main Bridge and Sally Port Guards' a considerable number of distinguished prisoners, some of whom had been there for eight months. These included Lady Strathallan, Miss Jean Cameron of Glendessary, the Duchess of Perth, Lady Ogilvy, the Earl of Kellie, M'Donald of Kingsburgh, John MacDonald of Glengarry, William Moir of Leckie and Thomas Ogilvy of Eastmill. John Murray of Broughton had also been brought in there after his capture on 29th June 1746, pending transfer to London.

The accommodation was very limited, and the health of the rank and file suffered accordingly. 63 were transferred to the Tolbooth in January, but, on 14th April 1746, 43 'common men' remained in the 'Black Hole,' of whom 19 were sick. Cameron of Glenevis describes how when Kingsburgh was brought in there he had to share a room with Glengarry, Leckie,

Thomas Ogilvy and others. (*Lyon*, i. 126.) The treatment of these superior prisoners, however, seems to have been quite reasonable, and there is no doubt they were allowed to receive visitors and, within limits, to take exercise. Lady Ogilvy's escape (*vide ESCAPES*, p. 73) shows that she had no difficulty in escaping without the fact being discovered for several hours.

In August 1746 23 prisoners were sent to Carlisle. In 1749, long after the Indemnity, there were at least two Jacobite prisoners in the Castle, Thomas Ogilvy of Eastmill and Coll Macdonell of Barisdale.

Few of the prisoners were discharged from the Castle directly. They were, except the ladies, mostly transferred to other prisons. Thus the Earl of Kellie, M'Donald of Glencoe, M'Donald of Glengarry, Alexander Cameron of Dungallon and Murray of Glencarnock were transferred to the common prison of Edinburgh, the Tolbooth.

Edinburgh Tolbooth (Jailer : James Robb or Rob)

In this, which was generally styled 'Edinburgh Prison,' many of the prisoners in Scotland were confined. Many were sent there directly after capture, and others were transferred from other prisons, to facilitate the classification of individuals, and to collect in one spot those of them who might be of value as evidences at the trials in England.

The returns show that between 22nd November 1745 and the 22nd January 1746, 30 'common men' were received. These had been captured in the neighbourhood of the city, and included many deserters from the Jacobite army. In February 1746 several were sent in from Perth, and James Robb states that during the winter many more were sent in on suspicion, causing great overcrowding, and that during March there had been a severe epidemic of what may have been influenza.

By the end of March there were 119 prisoners, of whom 63 had been sent in from the Castle. There was one woman among them, and one 'Madman.' There were also 3 'gentlemen' from Jamaica, a French lieutenant, a captain, two lairds and two merchant drovers, who subsisted themselves. Of these 45 were sick, but no deaths or escapes are shown. By the 26th May 1746, though 20 had been discharged, the numbers had risen to 120. One interesting group consisted of 12 deserters from the English army, who had joined the French service abroad and were found among the prisoners taken at sea. Of these some were tried and 4 were hanged in Edinburgh.

On 8th August 1746 the numbers were reduced by the dispatch of 38 prisoners to Carlisle, but rose again to 112.

During the following months the numbers gradually fell by the discharge of 70 persons against whom no further evidence could be procured; on 7th February 1747 there were still 54 inmates, most of whom were discharged under the Indemnity; but as late as September 1749 the Earl of Kellie, Glengarry, Cameron of Dungallon, Murray of Glencarnock, Barisdale and Ogilvy of Eastmill were still awaiting disposal. The last two were ultimately sent back to the Castle.

Edinburgh Canongate Prison (Jailer : Andrew Purdie)

The Canongate prison was largely used as an overflow institution to which other prisons sent their surplus inmates. It only had 8 prisoners in January 1746, and was not very full until August 1746, when there were 280. Although the numbers had been small there was much sickness amongst them; on 31st March 10 prisoners were sick out of 11 present.

On the 8th August, 76 prisoners were sent to Carlisle; but 190 still remained.

Among the 40 on the roll in October 1746 was the unidentified individual 'Keppoch's Dumbie,' the dumb man who was wounded in action at Prestonpans. Another was James Gib, 'clerk to the pretender's son's kitchen,' whose diary and accounts throw so much light on the domestic side of the Prince's campaign (*Lyon*, ii. 115-132), and who was one of the eye-witnesses of the battle of Culloden (*ib.*, 158-171). There were also 9 prisoners who had been under treatment in the Royal Infirmary for wounds they had received at Prestonpans, and had been discharged cured.

Fraserburgh (Jailer : George Brown)

This prison only submitted one return, showing 3 prisoners, all of whom were discharged in September 1746.

Glasgow (Jailers : James Henderson and Robert Colquhoun)

The first return, dated February 1747, showed 27 prisoners, all of whom had been taken in the Western Highlands and Islands. The whole were discharged in July 1747.

Haddington (Jailer : William Pringle)

The returns show an average of 4 prisoners from June 1746 to May 1747.

Irvine (Jailer : James Wylie)

There were only 4 prisoners, three Irishmen, all of whom escaped, and a Frenchman.

Kinghorn (Jailer : Robert Hamilton)

There was a solitary prisoner, in May 1746, on suspicion of 'treasonable practice.'

Leith

The return, for March 1746, shows that there were 48 prisoners. A petition by 6 prisoners to the Sheriff of Midlothian dated July 1746 complains that they were not getting their subsistence allowance, and that arrears were due from 1st May, amounting to nine pence for each man. Moreover, the jailer had detained the bedding allowance of a penny a week.

Montrose (Jailers : Samuel Nisbet and William Jaffreys)

From 2nd February to 31st May 1746, 104 prisoners were admitted. Of these 40 belonged to Lord Ogilvy's regiment. As might be expected there were several seafaring men amongst them, some of whom were suspected to be deserters from the Navy and others to have piloted French ships.

Many of these prisoners, being on suspicion, were liberated after a few weeks, and, by the end of July, only 40 remained.

There are no returns later than July 1746, but from other sources it is known that several prisoners were sent from Montrose to Edinburgh in August for dispatch to Carlisle.

There were 3 escapees from the prison.

Musselburgh

This prison had 9 prisoners between February and September 1746.

Perth (Jailer : James Sibbald)

Only one return appears to have been submitted, covering the whole period from 6th February 1746; but from it the gradual influx of prisoners can be traced. In February 33 were brought in, only half of whom were known to have carried arms; and of these 10 belonged to Lord John Drummond's regiment. 36 came in during April, 25 in May, and 25 in June; during the rest of the year a few more were admitted. Altogether there were 148 prisoners.

Of their disposal it is recorded that 7 died and 4 escaped, Walter Pattie and Alexander Watson enlisted in the army, and 2 were hanged as English deserters. At different times 43 were discharged. Numerous transfers took place; thus 21 were sent to Stirling, and several of the 'French' prisoners were taken north with the English army, and 49 were sent for trial to Carlisle.

Stirling Castle (Jailer : Major Dick-Cunningham)

Prisoners were being taken in small parties by the English garrison even before the Prince's departure from Edinburgh on his way south, and, by the end of the year 1745, they numbered 23. They had mostly served in the Prince's army, and were probably deserting when caught. After Culloden, however, the numbers rose rapidly until by the end of May they reached 140. Among them were 40 men of the French Service. The returns do not show systematically how individuals were disposed of.

By February 1747 the numbers had fallen to 33, and there were none left on the 18th July.

Stirling Prison (Jailer : Thomas Blackader)

Stirling Tolbooth began to receive prisoners immediately after the departure north of the Prince's army, and it was used as an overflow from Montrose and Dundee. By the end of March 1746 there were 66 prisoners. The returns were inaccurately kept, and do not show the disposal of the prisoners.

4. ESCAPES

The prisoners' lists show that 58 prisoners escaped, and a comparison of the *locale* in each case suggests a difference, as regards stringency of treatment, that obtained in imprisonment in Scotland and in England respectively.

Of the whole number only 13 escapes occurred in English prisons, although the number confined in the latter was about four times as great as in Scotland.

The most obvious reason for this was, no doubt, the structural superiority of the English as compared with the Scottish prisons of the day, many of the latter being merely

Burgh tolbooths, not well adapted to retain persons who had no desire to stay.

In the case, for example, of Dunbarton Castle, its condition was notoriously unsatisfactory as far back as 1690. A contemporary report on it states that the Wallace Tower was

'verie much ruined be reason of ane intacke in ye easter wall . . . and ye sclaitte roofe is verie faultie. . . . A slapp (*i.e. gap*) falln out of ye wall of ye half moon qh will dayly increass unless it be speedily helped . . . with the scarping and cutting of peers of ye Rock, where there is a rode to ye foot of the wall.'

Repairs were carried out at the time at a cost of '930 lb. Scots or £77, 10s. sterling' (*Fraser Papers*, 268-270).

In the course of years the condition of the Castle may have again deteriorated; whether that be so or not, however, at different times during the '45, no less than twelve out of a total of thirty escaped from this place.

On 2nd February nine men of 'Glengyle's MacGregors' got away; on 14th April James Miller, and on 20th May Hugh Stirling, younger of Keir, and James Stirling of Craigharnet were equally successful.

Another possible explanation of the escapes from Scottish prisons, though no definite evidence has been found, is that the Scots jailer may have been more inclined to connive at the escape of his Jacobite charges than an English one. A Scotsman, Rob, bought blankets for the sick prisoners in Edinburgh Tolbooth out of his own pocket; and Thomas Blackader at Stirling invariably called in the only surgical assistance obtainable for his sick prisoners at a time when, under the English régime, in Inverness and Carlisle, men were dying of hospital gangrene, because their wounds had not been dressed.

Obviously, too, the proximity of homes and friends and the widespread Jacobite sympathies of the population were causes contributory to escapes to a greater extent than they would have been in England.

Even from Edinburgh Castle, in spite of a particularly

stern governor and a strong garrison, five of its prisoners escaped, one of whom was Lady Ogilvy.

From the Tolbooth and the Canongate only four escapes took place, one from the former and three from the latter. Montrose lost three, of whom two got away together on 24th October 1746; three broke out of Musselburgh on 26th July 1746; and four from Dunfermline between November 1746 and the following March.

A particularly interesting instance of the escape of Jacobite prisoners from an English prison was that of a number of them who had been picked up as stragglers and were confined in Lancaster Castle in December 1745. From the Earl of Cholmondeley's letter of 4th January 1745/46 and its enclosure given below (*S.P.Dom.*, 80-42), it is clear that the ease was really one of the forcible recovery of prisoners by a party under the Duke of Perth, when the Jacobite army was in the neighbourhood, rather than of ordinary prison-breaking. The letter is an interesting commentary on the pro-Jacobite feeling in that part of the country, and the ineptitude of the Justices of the Peace and 'Gentlemen of Estate.'

In the Calendar the position is summarised briefly in the following terms :

'owing to the negligence of the gaoler the rebels have escaped from Lancaster Castle.'

The letter from Lord Cholmondeley to the Duke of Newcastle is as follows :

'CHESTER, Jan 4th 1745/6.

'MY LORD,—What has happened in regard to the Prisoners in the Castle of Lancaster is the very thing I was apprehended of, and . . . endeavoured to prevent, and suggested the very Method mention'd in the inclosed Letter; but as, long before the Rebels enterd that County, I found that Despair, Fear, and Confusion had seized the minds of every One, so, when the Danger came nearer, not a Justice was to be found or Gentleman of Estate to do any one act for the Safety or Protection of it: And the very means of Defence (had a proper Resolution bin shewn and those measures pursued which Prudence ought to have suggested, in Consulting and Uniting with this County and

the adjacent Ridings of Yorkshire) became not only of no Service or Protection, but, on the Contrary, proved the very means of Arming many of the Rebels by the arms found in that County.—Your Grace's etc, CHOLMONDELEY.'

In this communication is enclosed a letter by Henry Braeken, Lancaster, 29th December 1745, in which he says :

' . . . I am now to acquaint yr Lordship that the prisoners are, thro' the obstinacy and illmanagement of our Keeper of the Castle of Laner, released by their Brethren ; and again have taken up Arms with them. I have got my house severely plundered for my zeal to his Majesty. . . .

' When I heard that the Rebels were returning from Derby & got to Manchester, I apply'd to our Justices of the peace to have the Rebel prisoners removed out of the way, and accordingly they agreed to hire a small sloop of mine to carry them off, with a Guard of Militia & keep them about twenty miles west of Laner till such time the Scots shd be gone towards their own country ; but, when they came as far as Preston, a panick seized the Justices, and they durst not meddle, pretending that they had found an act of Parliament by wch Justices were debar'd doing anything abt prisoners of war as they called those in our Gaol ; so upon this, my Lord, I demanded the prisoners myself from the Gaoler & took a file of Muskateers to guard them to the sloop, not doubting but he would deliver them to me, because they were not committed by any warrant from the Justices ; yet, he denied doing it, pretendg his house would be plundered if he had not those Fellows ready when the Rebels called ; so I was obliged to ride out of the way, and at my return I found the Gaoler had told the Duke of Perth (as he 's called) all I had done ; and after the Duke had turn'd the prisoners out of the Castle they came and plunder'd me as above. . . .'

The incident referred to presumably took place on the return march of the Jacobite army from Derby, when they passed through Lancaster on 13th-14th December and halted for a day.

The escapes of Jacobite prisoners were accompanied by remarkable adventures, but only a few can be noticed here.

Stewart Carmichael of Bonnyhaugh was captured on suspicion along with Sir James Stuart, Bart., of Burray,

on 25th May 1746, and was sent to London, where he was confined for several months in the transport *Pamela*. He escaped by jumping overboard with some bladders to support him, and managed to get ashore, where he remained *perdu* until the Indemnity. No other prisoner is known to have escaped from the transports.

Lady Ogilvy succeeded in escaping from Edinburgh Castle on 21st November 1746, just after dark, by the simple device of disguising herself as her own maid, and walking past the sentries. Her absence was not discovered for over twenty-four hours, through the cleverness of her sister, Barbara Johnstone, who had been allowed to visit her in prison. Reporting the fact (*S.P.Scot.*, 35-30) to Newcastle on 25th November, Albemarle says :

‘in the day time and till ten at night she had the liberty of the Castle, at which time she was to be locked up.’

The officer responsible for this duty had omitted to see her, as she feigned sickness. After many adventures she reached London and thence went to France.

Another less fortunate Ogilvy, Thomas Ogilvy or Ogilvie of Eastmill, Glenisla, was in the Castle long after the Indemnity, having been taken there from the Tolbooth on 27th April 1749. Having no money he had to be rationed, at the rate of a shilling a day. On 21st May 1751 he escaped over the Castle wall, but lost his footing on the rocks, and was killed. The Castle accounts shortly afterwards show an expenditure of ‘eight shillings to a coffin to the said Thomas Ogilvy.’

George Mills, who pleaded guilty at his trial, escaped from York Castle on 10th August 1747. The jailer did not report the matter until eighteen months later, on 17th January 1749, when Lord Stanhope wrote to the Sheriff of the County and asked where the prisoner was. It was then reported that, during the Assizes of August 1747, the outer gate of the Castle was left open, in accordance with the invariable custom. Mills had been allowed to go to the ‘House’ in which debtors were confined ‘to drink with a

person discharged from prison.' Seeing a coach driving out of the prison yard ' he got behind it . . . and, having a new coat on, passed out unrecognised ' (*S.P.Dom.*, 110-11). Nothing more was heard of him.

Captain James Davidson of Lord John Drummond's regiment broke out of Perth on 30th June 1746, and remained in concealment until after the Indemnity. His was a remarkable case, as on 15th December 1747 the Lord Justice Clerk informed the Duke of Newcastle that this man, whom he styles ' a deserter and a rebel,' had been recaptured after having committed sundry burglaries and robberies with violence. Accompanying the letter is a certificate from the Officer Commanding his old regiment, the ' Scots Fuziliers,' giving his military history, from which it was evident he was not technically a deserter, but was a prisoner taken by the French and forced or induced to serve in their army. The fate of this man is unknown (*S.P.Scot.*, 38-47).

Aeneas Macdonald, the Paris banker, brother of Kinlochmoidart, was sentenced to death in London, but was recommended to mercy. On 28th May 1748 he was in Newgate prison, but escaped temporarily by throwing snuff in the turnkey's eyes and running down Warwick Lane. Being shod with loose slippers, however, he was easily recaptured (*Origins*, 83, note). He was ultimately banished and returned to France.

Two officers of the Manchester regiment, Captain William Moss and Ensign John Betts, escaped from Newgate prison during the course of the Southwark trials. How this was effected is not stated. About the same time Ensign George Hay got away from Southwark prison.

William Sharpe (or Sharp) and Robert Wright escaped from Carlisle in August 1747. They appear to have thought they had been excepted in the General Indemnity. Having money they lodged in the jailer's house, and, probably with his connivance, got over the wall and escaped. They were subsequently pardoned.

The report of Richard Jackson, in regard to their escape, is as follows :

'CARLISLE, 19th August 1747.

'SIR,—I presume to continue writing to you when anything extraordinary occurs in Relation to the Rebel Convicts, and the following is to acquaint you that, on Saturday last in the Evening, Sharpe and Wright made their escape, but was not missed till the next morning.

'When I heard of it in town I went up to Enquire into the particulars, that I might be capable of giving you, Sir, a better account. I found they were laying Irons on all the rest for their better security, and were dispatching People different roads in pursuit of the prisoners Escaped.

'The only account I could there gett was that they were seen at Nine O'clock in the Evening, and that they had certainly gone out at the Door; and further that there had been a great Crowd of persons in that day (it being Fair Day) to see the Prisoners.

'I went up this morning again, but Carruthers had gone on the search himself; therefore I could get no further particulars.'

In forwarding this to Newcastle on 23rd August, Philip Webb wrote:

—'Sharpe was very strongly recommended to His Majestie's Mercy by the King's Council, and Wright was a young man, the son of a writer in Edinburgh.

'Their attempting to escape, when they had reason to expect the effects of His Majesty's clemency, is very strange.'

(*S.P.Dom.*, 100-71.)

Major Alexander M'Lachlan of the Atholl Brigade escaped on 22nd October 1748 while awaiting transportation, in a manner which suggests connivance on the part of his turnkey. The official report of Downes Twyford, sworn by him at the Guildhall, on 19th December 1748, is as follows:

'Downes Twyford . . . one of the Turnkeys of Richard Jones, Keeper of H.M. Gaol for the County, makes oath, and says on 22nd October last, by order of the said Keeper, he went as guide with Alexander M'Laughlan, one of the rebel prisoners confined in the said gaol, into the city of London as M'Laughlan wanted to meet friends to obtain some money, he being needy. Being a person in years and always been well behaved he was allowed to go.

'They went to the Swan Tavern in Finch lane, near the Royal Exchange, where M'Laughlan met 2 or 3 gentlemen and

dined with them. After they had been there an hour, conversing in Scotch dialect, which deponent does not understand, M'Laughlan desired to be shown the necessary house, and deponent accompanied him up three pairs of stairs, and finding there was no place of escape left him there and went down.

'Pretending a violent looseness he went up a second time, then a third, and at this latter did not return.

'On enquiry, found he had left by the back door in a great hurry, and despite all deponent's efforts he could not trace him. Denied absolutely that he or the keeper received any reward for letting him go.' (*S.P.Dom.*, 108-78.)

One of the most remarkable escapes was that of Donald MacLaurin of Wester Invernentie, Balquhidder, Captain in the Appin regiment. The contemporary accounts in the *Scots Magazine* do not quite tally with the family records in the possession of his descendant, Normand MacLaurin, Esq. He was certainly taken prisoner in the Braes of Leny, but whether this was shortly after Culloden or, as the family tradition has it, a year later is not certain. He was wounded at Culloden, and again when captured, and was taken to Carlisle for trial strapped to a dragoon on horseback. It is not certain whether he cut the strap—which seems unlikely—or whether he got loose in some other way. In passing the Devil's Beef Tub near Moffat, however, he got away and hurled himself over the edge. There was a mist at the time and he reached the bottom without being discovered. For some days he remained in a morass in which he immersed himself with a turf on his head, and supported life by eating a dead sheep which he discovered.

He ultimately made his way home and lived in concealment in Balquhidder, disguised as a woman, until the Indemnity.

For a long time the site of his exploit was known as 'Maclaurin's Leap,' and is still so called by some of the old inhabitants of the neighbourhood.

On 20th August 1746 the jailer at Whitehaven reported to the Duke of Newcastle that :

'On the 13th *inst.*, at night, the Rebel women had made their escape by undermining the foundation and so getting out.'

These were Margaret Straiton, Jane Matthewson, and one whose name is not stated.

Attempts at escape were not always successful.

On 16th November 1748, Thomas Dixon, 'Gaoler for the County of Cumberland,' reported :

'That Alexander Anderson, James Campbell alias M'Gregor, John Poustie, Thomas Lawson and Daniel Mackenzie, on their being Inform'd by me that the King's Messengers were come with an order to carry them to Liverpool from hence (Carlisle) to be Transported, They on 14th instant in the night time broke and dugg out a great Hole in the inner Wall of the Goal with an Intent to break the said Goal and make their Escape.' (*S.P.Dom.*, 108-57.)

Another case was that of Major Donald Macdonald of Tirnadreich of Keppoch's regiment, who was imprisoned in Carlisle. He succeeded in bribing the guard and getting his fetters off; but the attempt was discovered and he was executed.

There were doubtless many other unrecorded attempts which failed.

Escapes and Attempted Escapes of Jacobites who had not been arrested

The successful escape of Lord Ogilvy, David Graham of Duntroon, and about ten others, in May 1746, from Scotland to Bergen is referred to owing to the fact that Captain James Wemyss, the Master of the ship, and his crew, were incarcerated on their return. They pleaded duress.

Among attempted escapes must be included a few individuals who tried to leave Scotland and go abroad, and were captured at the point of departure.

A good instance of this is the arrest on 22nd January 1747 of five persons who had taken passage at Leith in a small ship called the *Fortrose*, M'Kenzie, Master, with the object of going to Holland. These consisted of Ogilvy of Pool, Mungo Graham, Bruce of Clackmannan, Cameron, and Boswell; when arrested they were found to be in possession of passes under assumed names granted by the

Lord Advocate and Lord Justice Clerk. Whether these officials were really party to the attempt is not known; Albemarle, in reporting the case to Newcastle, obviously suspected that they were. The prisoners were committed to Edinburgh Castle as being 'rebels of note,' and appear to have remained there until the Indemnity (*S.P.Scot.*, 36-23).

Names of Persons who escaped from Prison

Name.	Regiment.	Prison.	Date of Escape
William Ashley	—	Dunfermline	15.11.46
Alex. or Andrew Beattie	Ogilvy's	Montrose	24.10.46
John Betts	Ensign, Manchester	Newgate	July 1746
John Campbell	—	Musselburgh	26.7.46
Stuart Carmichael of Bonnyhaugh	—	H.M.S. <i>Pamela</i> , Tilbury	Sept. 1746
Charles Cellars	Roy Stuart's	Perth	7.3.47
Peter Chalmers or Cameron	—	Canongate	25.12.46
James Clerk	Ogilvy's	Montrose	13.2.47
James Cook	Glengyle's	Dumbarton	2.2.46
10 James Davidson	Lord John Drummond's	Perth	30.6.46
Archibald Douglas	—	Stirling	June 1746
William Farrier	Manchester	York Castle	1747
Donald Ferguson	Glengyle's	Dumbarton	2.2.46
John Ferguson (1)	Glengyle's	Dumbarton	2.2.46
John Ferguson (2)	Glengyle's	Dumbarton	2.2.46
Alexander Fraser	Ensign, Lord Lovat's	Culloden House	19.4.46
Thomas Fraser	Glenbucket's	Stirling	1746
George Hay	Ensign ? Lord Lewis Gordon's	Southwark	—
Thomas Hickey	—	Irvine	19.7.46
20 John Holker	Lieut., Manchester	Newgate	June 1746
James Hull	—	Dunfermline	27.12.46
Charles King	Perth's	Musselburgh	26.7.46
James M'Donald	Clanranald's	Culloden House	17.4.46
Donald M'Gregor	Glengyle's	Dumbarton	2.2.46
Gregor M'Gregor	—	Inverness	1747
John M'Gregor	Glengyle's	Dumbarton	2.2.46

Names of Persons who escaped from Prison—continued

	Name.	Regiment.	Prison.	Date of Escape
	Malcolm M'Gregor	Glengyle's	Dumbarton	2.2.46
	George Mills	—	York Castle	10.8.47
	James Mackay	—	Edinburgh Castle	30.5.46
30	Aeneas M'Donald	—	Newgate	25.5.48
	William Mackenzie	Kilmarnock's	Perth	30.6.47
	Alexander Mac- lachlan	Duke of Atholl's	London	22.10.48
	Duncan M'Lachlan	Glengyle's	Dumbarton	2.2.46
	Donald M'Laurin or M'Laren	Capt. Lord Geo. Murray's	On the way to Carlisle	Aug. 1746
	Finlay M'Laren	—	Leith	May 1746
	Duncan M'Neill	Glengyle's	Dumbarton	2.2.46
	Alexander Mather	Ogilvy's	Montrose	24.10.46
	William Maxwell of Carruchan	—	Carlisle	30.12.45
	James Miller	Baggot's Hussars	Edinburgh Tolbooth	14.4.46
40	James Money	—	Dunfermline	27.12.46
	William Moss	Capt., Manchester	Newgate	July 1746
	Walter Mowlony	—	Irvine	19.7.46
	Robert Nairn	Perth's	Inverness	19.4.46
	David Ogilvie of Pool	Elcho's	Canongate	25.12.46
	Thomas Ogilvie of Eastmill	Ogilvy's	Edinburgh Castle	21.5.51
	Margaret Lady Ogilvie of Airlie	—	Edinburgh Castle	21.11.46
	Alexander Reid	Pitsligo's	Edinburgh Castle	16.4.46
	Peter Reid	—	Edinburgh Castle	16.4.46
	William Sharpe	Life Guards	Carlisle	Aug. 1747
50	John Smith	—	Perth	7.3.47
	James Stark	—	Musselburgh	26.7.46
	Hugh Stirling of Keir Yr	—	Dumbarton	20.5.46
	James Stirling of Craigbarnet	—	Dumbarton	20.5.46
	John Whiggam	Baggot's Hussars	Dunfermline	18.3.47
55	Robert Wright	—	Carlisle	Aug. 1747
56-	Margaret Straiton	}	Whitehaven	13.8.46
58	Jane Matthewson			
	A third woman			

Attempted Escapes

Alexander Anderson	}	All at Carlisle	14.11.48
James Campbell, alias M'Gregor			
John Poustie			
Thomas Lawson			
Daniel Mackenzie		Edinburgh Castle	21.5.48
Thomas Ogilvy of Eastmill			

CHAPTER VI

PRISONERS IN ENGLAND

1. NUMBERS OF PRISONERS IN ENGLISH TRANSPORTS AND PRISONS IN 1746

It is a fact, which is of infinite credit to the little Jacobite army, that very few prisoners were taken during the march to Derby and back to Scotland.

Even Henderson, who never lost an opportunity of belittling Jacobite military achievements, only claims that 16 stragglers were captured at Warrington, 2 Hussars at Kendal, and 70 prisoners at Clifton (*Henderson*, 181, 184, 188). The latter figure is certainly an over-estimate.

Jacobite sources on the other hand show that only 40 or 50 men were missing after the English adventure, of whom some were admittedly taken at Clifton, while most of the remainder were stragglers of the Manchester regiment.

The English prison returns make few claims to captures in England itself.

The first large batch of prisoners to fall into the hands of the English army consisted of the garrison of Carlisle when that place capitulated on 30th December 1745, and of the considerable number of women and children who, for some unexplained reason, had been left behind there. The troops taken on this occasion numbered 41 officers and 354 men; and most of them were rapidly distributed among the Castles of Chester, Lancaster and York (*S.P.Dom.*, 79-26).

Meanwhile the activities of the English navy were resulting in an influx into England and Scotland of French troops captured at sea.

Excluding Carlisle, the returns for which are not given, the position in the English prisons on 7th February 1746 was as follows :

Prison.	Men.	Women.	Total.	Remarks and Authority.
Hull . . .	150	..	150	French <i>S.P.Dom.</i> , 81-29, 81-70
Greenwich . .	10	..	10	French Officers
Coventry . . .	9	..	9	<i>S.P.Dom.</i> , 81-29
Derby	2	..	2	<i>S.P.Dom.</i> , 81-29
Durham	5	..	5	<i>S.P.Dom.</i> , 81-29
Chester Castle	94	22	116	<i>S.P.Dom.</i> , 81-29
Lancaster Castle	146	19	165	<i>S.P.Dom.</i> , 81-76
York Castle . .	241	8	249	<i>S.P.Dom.</i> , 81-88
Stafford . . .	13	1	14	<i>S.P.Dom.</i> , 81-76
Marshalsea . .	17	..	17	French <i>S.P.Dom.</i> , 81- 80
Tower Liberty	1	..	1	<i>S.P.Dom.</i> , 81-76
	688	50	738	

These numbers rapidly increased by arrests of individual Jacobites or suspected persons in England.

The next large batch of prisoners consisted of 564 Culloden prisoners from Inverness, who arrived in transports in the Thames early in June 1746 (*S.P.Dom.*, 84).

Finally, throughout the remainder of 1746, and well on into the following year, small numbers of persons, who had either surrendered or had been captured in Scotland by military search-parties, were being sent to England for disposal, chiefly in warships such as *H.M.S. Furnace, Hound, Bridgewater, Eltham* and others.

The numbers who, at one time or another, were incarcerated in English prisons, in the absence of such periodical returns as were drawn up in Scotland, cannot be estimated with any degree of accuracy. The List of Prisoners shows, however, that there must have been not less than 2500 persons in confinement at different times during the years 1746-47.

2. THE ENGLISH PRISONS

Carlisle (Keeper : — Carruthers)

The earliest of the State Papers dealing with the Carlisle prisoners (*S.P.Dom.*, 79-26) is undated, but was compiled shortly after the surrender of that town on 30th December 1745. It is divided into tables of officers and men, by nationalities.

The 'List of English Rebel Officers' comprises 21 names and is made up of Colonel Francis Townley, 5 captains, 6 lieutenants, 7 ensigns, Thomas Syddall the Adjutant and Coppoch the Chaplain of the Manchester regiment.

A companion list of the Scots officers taken at the same time comprises 17 officers, including John Hamilton, 'late Governor' of Carlisle, and James Stratton, Surgeon to the Garrison. The remainder were officers of six units of the Jacobite army, viz. the Atholl Brigade, Duke of Perth's, Lord Lewis Gordon's, Lord Ogilvy's, Keppoch's and Roy Stuart's. Of these a captain, 3 lieutenants, 2 ensigns belonged to the Duke of Perth's, and most of the remaining units had two each.

There were also 3 French officers.

Of the English rank and file the names are given of 93 men, all belonging to the Manchester regiment, consisting of 3 sergeants, a drummer and 89 privates. With the exception of a Welshman and 8 Irishmen and a man from 'Annandaleshire' these men were mostly from Lancashire, and a few came from Northumberland and Yorkshire.

The list of Scottish rank and file, numbering 256 men, is interesting as throwing light on the strength and composition of the garrison left behind in Carlisle when the Prince's army retired north. It is evident that besides the organised units as a garrison under their own officers there were, in military parlance, 'details' of others who may perhaps have been on the sick list. This is shown by the following figures of strength : Duke of Perth's, 66 ; Roy Stuart's, 37 ; Ogilvy's, 37 ; Glenbucket's, 46 ; Artillery, 16 ; Colonel Grant's, 15.

These accounted for 217 rank and file ; they had their own officers and may be regarded as organised fighting units forming part of the garrison.

The remainder were made up as follows : Lord George Murray's, 8 ; Lochiel's, 6 ; the M'Donald units, 11 ; M'Pherson's, 1 ; Pitsligo's Horse, 1 ; and a few men, numbering 14 in all, who were not shown as having any regiment or who appear to have been officers' servants. In addition there were 5 men of the French service.

The following table summarises the information now available regarding the Carlisle garrison at the capture of the place by Cumberland on 30th December 1745 :

	Officers.	Other ranks.
Townley's or Manchester Regiment	21	93
Duke of Perth's	2	66
Glenbucket's	6	46
Roy Stuart's	2	37
Ogilvy's	2	37
Grant's	2	15
Artillery . . . . .	..	16
French (Lally's)	1	5
French, other units	2	..
M'Donald units	1	11
Lord Geo. Murray's (Atholl)	1	6
Lochiel's . . . . .	..	6
M'Pherson's . . . . .	..	1
Pitsligo's . . . . .	..	1
Unattached men . . . . .	..	14
Surgeon to the garrison	1	..
	<u>41</u>	<u>354</u>

Information from other State Papers, however, shows that the number of prisoners actually taken at Carlisle was larger than is indicated in the above list. In the interval between the capitulation and the compilation of this return, moreover, some prisoners—including 47 women and 15 children—had been transferred ; and others, especially men of the Manchester regiment, were being picked up and incarcerated in other prisons.

The immediate disposal of the Carlisle prisoners consisted in the transfer of most of them to Chester, York Castle and Lancaster Castle. A month after their capture there were 255 men and women in York, and 162 men, women and children in Lancaster. Allowing for some of these having been fresh arrivals—stragglers and suspects picked up by Cumberland's troops as they advanced in pursuit of the Prince's army—the total in these prisons approximated to the whole of the Carlisle capture.

By the time the Commission of Oyer and Terminer met at Carlisle, however, in August 1746, there were 385 prisoners in Carlisle, including 270 from Scottish prisons.

A few French prisoners were kept in Carlisle until the issue of orders on 7th February 1747 ordering their return to France (*S.P.Dom.*, 94-20). Many of these were officers on parole.

Chester Castle

In January 1746 (*S.P.Dom.*, 81-29) there were shown in Chester 84 men of the Carlisle garrison, 20 regimental women, and 11 children ranging from infancy to fifteen years old. In addition 10 men apprehended in the county had been confined on suspicion; some of them were stragglers from the Jacobite army, others were English Jacobites.

On 13th February 1747, the Duke of Newcastle gave orders that all the prisoners then remaining in Chester, 'most of these women and children,' were to be discharged (*S.P.Dom.*, 94-41).

Lancaster Castle

On 7th February 1746, 138 'rebels,' with 19 women and 4 children, were shown as confined in Lancaster Castle 'taken in actual rebellion'; there were also 8 persons committed on suspicion (*S.P.Dom.*, 81-76).

The Commission tried 46 Lancaster prisoners at York, to which place they were transferred.

York Castle

The number of prisoners in the Castle on 7th February was 249, including 8 women. These were principally transfers from the capitulated Carlisle garrison (*S.P.Dom.*, 81-88); but 23 men and one woman were shown as 'on suspicion.' Of this latter class one was styled 'Papist,' and there were 7 'Popish priests.'

Coventry, Derby, Durham

A few Jacobite prisoners were confined in these prisons, some shown as 'taken in actual rebellion,' others on suspicion. Periodical reports appear to have been sent regarding them to the Commissioners for Sick and Wounded. But no lists have been preserved.

At Coventry, on 7th February 1746, there were two 'rebels' of whom one, Daniel Fraser, was tried at York and hanged; seven on suspicion, three of whom were English deserters (*S.P.Dom.*, 81-29).

In Derby there were two prisoners, both of whom were subsequently sent up for trial to York. One, James Sparks, was hanged, and the other, Charles Webster, was acquitted (*ib.*).

Five were confined in Durham on suspicion; they were released (*ib.*).

Newcastle

The only reference to this place as a Jacobite prison is contained in a letter to the Duke of Newcastle, dated 4th January 1745/46 from the Mayor of the town, Mr. Cuthbert Smith (*S.P.Dom.*, 80-48). The letter, which is given below, is interesting as perhaps explaining how it came about that the original order that the Inverness prisoners should be sent to Newcastle was departed from, and the convoy sent to the Thames instead :

'NEWCASTLE, January 4th 1745/6.

'MY LORD,—The Cause of addressing this to your Grace is on Account of the prisoners . . . and for that purpose I send your Grace a List of their Names, and also of such others as have been taken prisoners in our Goal, Many of whom being necessarily kept in Apartments separate from each other, it is with great difficulty they are secured, and I hope that your Grace will, as soon as you conveniently can, dispose of them in such manner as your Grace shall judge most proper.

'My Lord, Your Grace's most obedt & most humble servt,

'CUTHBERT SMITH, Mayor.'

Morpeth

Eight Jacobite prisoners were imprisoned in Morpeth during January 1746 pending transfer to Carlisle for trial (*S.P.Dom. Entry Book*, 84).

Whitehaven

One list contains the names of 3 women and 22 men on suspicion. They appear to have been fugitives from the Carlisle garrison, as they were arrested in the neighbourhood of that town. Some of them belonged to the Manchester regiment, others to the Scots units (*S.P.Dom.*, 92-201).

The women escaped on 13th August 1746 by digging their way out. (*See ESCAPES*, p. 73.)

Penrith

French prisoners, principally officers, were sent to Penrith and remained there until the issue of orders for their return to France, in February 1747 (*S.P.Dom. M.S.*, 94-20).

Stafford

On 7th February there were 13 men and a woman in this prison on suspicion. One of these, Michael Brady, a Serjeant of the Manchester regiment, was tried at York and hanged (*S.P.Dom.*, 81-86).

Hull

Hull was another of the places to which prisoners of the French service were sent. The earliest reference to it for this purpose is a Warrant dated 10th July 1746 to the Commanding Officer there, directing him to detain Nicholas Morris and 145 other officers and men who had been captured at sea in the *Lewis XV.* and *Esperance.*

Berwick

Berwick was also selected for the custody of French officer prisoners. The first batch was sent there under a warrant, dated 10th July 1746, to the Commanding Officer to detain 35 individuals in custody.

They remained there, on parole, until the issue of orders on 7th February 1747, that they should be allowed to return to France (*S.P.Dom.*, 94-19).

Tower of London (Commandant and Deputy-Lieutenant : General Adam Williamson)

Accommodation in the Tower of London, generally speaking, was found only for the leaders of the '45.

Thus, in January 1747 the prisoners included William, titular Duke of Atholl, the Earl of Cromarty and his son Lord Macleod, the Earl of Traquair, Lord Lovat, John Murray of Broughton, the Hon. William Murray of Taymount, Archibald Stewart late Provost of Edinburgh, Dr. Peter Barry, Sir John Douglas of Kelhead, 8 'French' officers, viz. Captains M'Gennis, Seton, Kennally, and Grace, and Lieutenants Edmond and John Reyley, Devant and Donn (*S.P.Dom.*, 93-28).

At other times there were 'Alastair Ruadh' Macdonell ('Pickle the Spy'), eldest son of Glengarry, and Lords Balmerino and Kilmarnock, besides several other prominent men of the '45.

On 14th December 1745, 17 men of the French service were admitted to the Tower, but were transferred to the Marshalsea prison on 25th January 1746/47 (*Williamson*, 120).

Although themselves not shown as prisoners, the wives of persons imprisoned in the Tower were sometimes permitted to reside there. Examples of this were Lady Traquair and Lady Cromarty.

A very full account of the Jacobite prisoners in the Tower has already been published as *The Official Diary of Lieut.-General Adam Williamson, 1722-1747*, edited by J. C. Fox (*Camden*, 3rd series, vol. xxii., 1912).

*Marshalsea Prison, London**(Keeper : Mr. Darby)*

'The Prison of the Marshalsea of His Majesty's Household' was normally used for debtors and Admiralty prisoners, and was in King St., Southwark (*Williamson*, 201).

Writing on 7th January 1747 to Mr. Ramsden, Mr. Sharpe, Solicitor to the Treasury, said that there were 'no prisoners in the Marshalsea that I know of but French Officers or those who claim to be such' (*S.P.Dom.*, 93-24).

At that time the List of Prisoners showed that there had been 63 prisoners consisting of 17 officers and 46 men, but of these 3 had died, 3 were in the Hospital ship, and 5 had been discharged (*S.P.Dom.*, 93-30).

*Southwark Prison or 'The New Prison'**(Keeper : Richard Jones)*

This prison was largely used for the prisoners who were tried by the Commission of Oyer and Terminer at St. Margaret's Hill, Southwark, and they consisted for the most part of officers.

No records of the prison have been preserved, but contemporary accounts show that the treatment of prisoners was barbarous.

3. PRISONERS IN MESSENGERS' HOUSES

There are frequent references to 'messengers' in the State Papers. They were officials of Court, and, in that capacity, were employed in fetching prisoners and witnesses from one place to another. Several of them were constantly engaged on this duty, between Edinburgh and London. Some of them also kept what were to all intents and purposes private prisons, and themselves acted as jailers in the case of certain classes of prisoners, and of Crown witnesses.

That they feathered their nests, in the same manner as did the ordinary prison jailers of the time, is certain; and there are many petitions in the Records from prisoners and witnesses in their custody complaining of neglect, cruelty, insanitary conditions, stoppage of the money allowance for the food of their charges, and the like (*see* PETITIONS, p. 189).

As the prisoners sent to their houses were selected ones,

personal restraint, in the form of irons, does not appear to have been often resorted to; on the other hand, the Records show that, if a messenger suspected an attempt to escape from his house was intended by one of his charges, he had power to commit the individual concerned to a ' Bridewell ' or to prison. An example of this is the case of Charles Fitzgerald, who submitted a petition as late as 28th February 1748/49, saying that he had been brought prisoner from Holland on suspicion of being concerned in the later rising, and had been confined for sixteen months in the house of Carrington, messenger, without examination (*see* PETITIONS, p. 189). He adds that the latter ' out of malice ' has committed him, without obtaining Lord Chesterfield's orders, ' to a common Bridewell ' under pretext that he was endeavouring to escape to France and that his house was not strong enough to keep him (*S.P.Dom.*, 110-40).

The messengers whose names are most frequently mentioned in the capacity of jailers are Dick, Carrington, Munie, Vincent and Chandler. Carrington was perhaps the least amiable of the group, and his employers thought well of him. Writing on 15th January 1747 to Thomas Ramsden (*S.P.Dom.*, 93-147), John Sharpe suggested that Carrington should be sent to bring three prisoners, John Simpson, Allan M'Donald, and Neil M'Aulay, up to town from Tilbury, to be examined as likely evidences against Lord Lovat. The reason he gives for the selection of this particular messenger is,

' because I think he will manage the prisoners, and get out of them what they know better than any other.'

Dick catered for a class different from those in the custody of Carrington. His clients included Flora M'Donald, Acneas M'Donald the banker, and many of the most distinguished Jacobite ladies as well as men; and residence under his custody, though irksome no doubt, generally meant ultimate unconditional release. He also had the custody of some of the more important witnesses for the Crown, *e.g.* Richard Morrison.

CHAPTER VII

TRIALS OF PRISONERS

1. PRIVY COUNCIL ORDERS

ON 15th May 1746 the Privy Council decided :

‘ All the rebel Prisoners in Scotland to be tried at Carlisle or Newcastle ’ (*S.P.Dom.*, 83-108).

The English Government probably recognised that trials in Scotland would have been a farce, as juries would not have convicted. In order, therefore, to make an example of the leaders, the only course to adopt was to send Jacobite prisoners to England for trial.

For reasons not stated, Newcastle was found to be impracticable for the trial: perhaps the Duke of Newcastle, who was both ‘ on Tyne ’ and ‘ under Lyme,’ exercised his personal interest in changing it to London, although at the time it was expressly stated that there was ‘ no room for them in any jayls in England ’ (*ib.*).

2. TRIALS AT SOUTHWARK

In accordance with this decision a ‘ Commission of Oyer and Terminer ’ under the Great Seal was directed to the Privy Councillors, the Judges, and others, to deal with prisoners in the London area.

The Patent Roll Calendar (*P.R.Cal.*, pt. II., Nos. 1 and 2) of 5th June 1746, notified the appointment of Frederick, Prince of Wales; William, Duke of Cumberland; John, Archbishop of Canterbury; Philip, Lord Hardwicke,

‘ and many others His Majesty’s Justices and Commissioners, to deliver the Gaols of the County of Middlesex and of the County of Surrey of the prisoners therein on account of High Treason in levying War against the King within these Realms.’

London was the first place in which the trials were held, and precedents created there were followed later at Carlisle and York.

On 23rd June 1746 the proceedings commenced at the Court-house, St. Margaret's Hill, Southwark, and, during that and the following few days, true bills were found by a Grand Jury against 36 officers captured at the surrender of Carlisle, and against David Morgan who had taken an active part in the raising of the Manchester regiment. Copies of the indictments were furnished to the individuals concerned. The Court then adjourned until 3rd July, when the prisoners were arraigned. Appeals were at once made by their counsel for postponement of trials until material witnesses could be obtained. It was then decided to adjourn the trials until 15th July in the case of prisoners whose witnesses were in England, and until 25th July when they were in Scotland.

The Bill of Indictment against the prisoners was as follows :

' Not having the fear of God in their hearts, nor having any regard for the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false traitors and rebels against our said sovereign Lord the King, their supreme, true, natural, lawful and undoubted sovereign lord, entirely withdrawing their cordial love, true and due obedience, fidelity, and allegiance, which every subject of right ought to bear towards our said present sovereign Lord the King ; also devising (and as much as in them lay) most wickedly and traitrously intending to change and subvert the rule and government of this Kingdom, and also to put and bring our said present sovereign Lord and King to death and destruction, and to raise and exalt the person pretended to be Prince of Wales—during the life of the late King James the second of England—to the crown and royal state and dignity of King, and to the imperial rule and government of this Kingdom.'

In the printed official account of the trials the wording is slightly different, the charge running that they did ' traitorously levy a public and cruel war against the King, and perpetrate a miserable and cruel slaughter of the King's faithful subjects ' (*Baga*, lxix. 172).

Sir William Lee, who presided over the Commission, was Chief Justice of the Court of King's Bench. His colleagues were Sir John Wills, Sir Martin Wright, Sir James Reynolds, Sir Thomas Abney, Sir Thomas Burnett, Baron Charles Clarke, Edward Clive, and Peter Theobald.

Sir John Strange was leading counsel for the Crown, and, fortunately, his papers, including the depositions of witnesses and some of his own speeches, are preserved among the Egerton MSS. in the British Museum. These have been reproduced, in a somewhat abbreviated form, in Colonel Allardyce's *Historical Papers* (vol. ii.) which throw much light on the proceedings, unobtainable from any other source. His colleagues were Sir Dudley Ryder, Attorney-General; the Hon. William Murray, Solicitor-General; Sir Richard Lloyd and Mr. Yorke.

Before considering the trials it is well to notice here certain rulings by the Chief Justice in regard to four important points of law during the course of the proceedings. These rulings undoubtedly determined the fates of many of the prisoners tried not only in Southwark but in Carlisle and York. Briefly, they were as follows :

1. A Commission in the army of a foreign State does not entitle the holder, being an Englishman, to be treated as a Prisoner of War.

The term 'Englishman' here was, no doubt, intended to include Scotsmen and Irishmen. This decision at once disposed of the belief, universally held among the 'French' troops of the Jacobite army, that the worst that could befall them was temporary incarceration as prisoners of war, followed by exchange under the Cartel of Frankfort of 10th July 1743. That instrument stated that the prisoners taken on both sides, whatsoever their nationality or wherever they were taken, should be mutually exchanged without reservation. The result of this decision, as far as the 'French' prisoners were concerned, was that the onus of proving that they really were French subjects rested on them.

2. No compulsion, short of present fear of death, will excuse participation in a rebellion.

This ruling too had far-reaching effects, for one of the commonest pleas put forward was that the individual had been 'forced' to serve. In some cases the forcing would merely imply the carrying out of the obligation of a vassal to his superior as a condition of his tenure of land; in others it would include actual duress.

In one of his opening speeches at St. Margaret's Hill, Southwark, Sir John Strange dealt at some length with this very common plea.

While admitting that it might be a defence, he said :

' in point of law it must be proved in the clearest manner, in order to answer the open acts of treason that are proved. . . . There must be in point of law a total disinclination to the cause, a laying hold of the first opportunity to desert from it ' (*Allardyce*, ii. 381).

In the case of Alexander M'Growther, who had been carried off from his home bound with ropes, the Chief Justice, dealing with the defence of force and of allegiance to his superior, the Duke of Perth, said :

' It does not clearly appear what relation he has to the Duke ; but no tenure can be created between two subjects to justify rebellion against their mutual Sovereign. The law as to force, rightly laid down by Sir John Strange, must be a joining for fear of death, and returning the first opportunity. He might have redeemed himself for money. He has not proved any attempt to leave them. It must be a continuing force to mount to an excuse ' (*ib.*, 386).

M'Growther was accordingly convicted and sentenced to death, but he was reprieved later.

Again, in the case of Roderick Mackenzie of Lord Cromarty's regiment, who was acquitted, the Chief Justice ruled :

' It is not only necessary that the party have a will to get away, but he must also be at liberty to exert that will. If the force continues, and there be no opportunity to desert, it will excuse ; but, if an opportunity occurs, and that be not taken,

the original force will not excuse. Strictly it must be such a force as a man can't resist' (*ib.*, 415).

In the case of John Hunter of the Manchester regiment a note states :

' Prisoner was forced, he escaped, being pursued for eleven miles, and threatened with death unless he returned ' (*ib.*, 452).

On this he was acquitted.

3. Scotsmen born in Scotland are not entitled, under the Act of Union, to be tried in Scotland.

This ruling, which referred presumably only to cases of High Treason, was given when Captain Alexander Kinloch pleaded that, under that Act, the Commission had no jurisdiction over him ; the ruling of the Chief Justice was in accordance with the law, and, although there can have been no valid objection to offer to it, there is little doubt the position was not appreciated by the rank and file of the Jacobite army. (*See* SPECIAL LEGISLATION, ch. iv.)

4. The acceptance of, and acting under, a Commission of Excise from the Pretender was an overt act of Treason.

This ruling was given on the case of Sir John Wedderburn, Bart., against whom witnesses deponed that he had been concerned in levying the Excise for the use of the Prince's army, in Dundee and elsewhere. Mr. Justice Wright, after hearing the evidence, considered ' the collecting is proper evidence of the overt act laid.' Sir John was convicted, sentenced to death and hanged (*Allardyce*, ii. 457).

Collecting the Excise was the charge brought against several prisoners, and was generally treated with great severity (p. 141 *infra*).

Trials of English Officers

The proceedings commenced on 15th July 1746 with the trial of seventeen officers of the Manchester regiment, and lasted three days.

Of the Carlisle group of officers of this regiment the Chaplain, the Rev. Thomas Coppoch, was left behind to be tried in Carlisle, Robert Deacon died while being conveyed to London, and Peter Moss and Samuel Maddock turned King's Evidence and saved their own skins.

The remainder stood their trial, and the whole of them were convicted and sentenced to death, with the exception of Ensign John Hunter, who was acquitted after having produced evidence of duress and of having deserted.

The most distinguished of the group was Francis Townley or Towneley, an English Roman Catholic, who was Colonel of the regiment, and had in his possession a Commission from the Prince as Commandant of the town of Carlisle, besides one from the King of France as Colonel in the French army.

His counsel pleaded that as he held a French commission, he should be treated as a prisoner of war. This plea was repelled, and it was probably on this occasion that Sir William Lee gave the ruling above mentioned.

Another remarkable man was Thomas Chaddock or Chadwick, the musician, who added to his crimes of 'levying war' by playing 'The King shall enjoy his own again' upon the Church organ in Derby. After his execution he was honoured by having his head placed on the English gate at Carlisle.

Two of the convicted officers, John Holker and John Betts, escaped from Southwark Prison after trial.

The death sentence was carried out on Kennington Common on 30th July with the usual barbarity, in the presence of great crowds. Reprieves reduced the number to nine, viz. Francis Townley, George Fletcher, Thomas Chaddock, James Dawson, Thomas Theodore Deacon, Andrew Blood or Blyde, Thomas Syddall, John Berwick, and David Morgan.

The remaining five, viz. John Saunderson, Christopher Taylor, James Wilding, Charles Deacon, and Thomas Furnival, were transported.

With the execution of the officers of the Manchester

regiment commenced the revenge taken by the Hanoverian Government on the English Jacobites who had taken up arms for the Prince. The turn of the non-commissioned officers and men came almost immediately afterwards at Carlisle and York. This unit indeed was treated with a ferocity which indicated that its degree of culpability was held to be higher than that of any other in the Jacobite army.

The Commission having completed the first part of the programme adjourned on 18th July.

Trials of Scots Officers

The trials were resumed on 23rd August 1746 and lasted at irregular intervals over a period of months; in fact they did not come to an end until the trial of Aeneas Macdonald in December 1747. Bills of Indictment had been found meanwhile against fourteen more persons, including John Murray of Broughton and Lord Macleod. Murray turned King's Evidence against Lord Lovat and many other Jacobite leaders, and was never brought to trial; Lord Macleod pleaded guilty, but no sentence was pronounced against him, and he obtained a conditional pardon later and went abroad. (*See* CONDITIONAL PARDONS, p. 30.)

The panels consisted of two groups, viz. eighteen Scots officers captured at Carlisle and fourteen others, mostly of a somewhat superior position in the Jacobite army or administration, who had been specially selected for trial, in accordance with the decision that officers and persons of importance should be sent to London for trial.

The trial of the Scots officers taken at Carlisle (*S.P.Dom.*, 79-26) proceeded on the usual lines. Five were acquitted, a few pleaded guilty; the remainder were convicted, either of specific acts of rebellion, or on the general ground of having been seen in the company of rebels, or of having been captured in the possession of arms. The immediate result was the same—conviction and sentence of death.

But, as compared with the officers of the Manchester

regiment, taken at the same time as themselves, they were treated with remarkable leniency. Only four were actually executed; of the remainder two were pardoned, six were transported, five were acquitted, and one died.

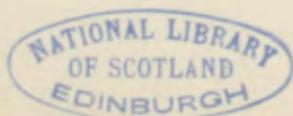
The executed were Colonel John Hamilton who, in the autumn of 1745, had raised a considerable number of men in the Gordon country, and was Governor of the Castle of Carlisle at the time of its surrender; Donald M'Donald or M'Donell, a Captain in Keppoch's regiment; James Nicolson, who had kept a coffee-house in Leith, and held a commission as Lieutenant in the Duke of Perth's regiment, and was stated at his trial to be an uncle of Donald M'Donald; and Walter Ogilvie, a Lieutenant in Lord Lewis Gordon's. All these withdrew the plea of 'Not Guilty' during their trials. Hamilton was hanged on 28th November 1746 and the others on 22nd August 1747.

A fifth prisoner, Alexander M'Growther, senior, a man of seventy-six years of age, one of two Scots officers of that name taken at Carlisle, was reprieved at the last moment. The reasons for his reprieve and the commuting of the sentence to transportation are not known, especially as he had been out in the 1715 and had been imprisoned then for two years. When the time came for his removal he was too ill to be moved, and, through the efforts of his friends, it is said he was bought off by payment of a sum of ten guineas to the contractor, Mr. Smith. Subsequently, through the influence of the Sardinian Ambassador, the Countess of Newburgh, and others, he was given a free pardon. (*Lyon*, ii. 372 note.)

Alexander Abernethie died in prison shortly after being sentenced. George Abernethie was pardoned on the evidence of Sir John Cope that he had been of assistance to him during the early days of the Rising, when he provided him with horses.

Finally, six officers were transported; these were Alexander M'Growther, junior; George Ramsay; Charles Gordon, younger of Binhall; John Comerie; John Burnet of Campfield; and Walter Mitchell.

Of the other fourteen Scots tried at Southwark, eight



were condemned to death, and the date of their execution was fixed for 28th November 1746. Of the remainder, three were condemned but reprieved and transported, and three were acquitted.

Sir John Wedderburn, Bart., of Blackness, was captured in arms at Culloden. He had also acted in the capacity of Collector of Excise for the Jacobites in Perthshire and Forfarshire. He appealed for mercy at the end, but without success, and he was hanged on 28th November.

James Bradshaw, although serving in Elcho's Life Guards when captured, had originally been in the Manchester regiment; and it was perhaps this fact that was responsible for his suffering the extreme penalty.

Alexander Leith, Captain in Glenbucket's regiment, was said to be an 'old and infirm man'; he was, however, executed.

Andrew Wood, a Glasgow shoemaker, was a Captain in Roy Stuart's regiment, who, in the speech he made on the scaffold, said he had raised a company at his own expense.

The execution of these four and of Colonel John Hamilton took place on 28th November 1746.

On the morning of that day four others of the condemned prisoners were reprieved at the last moment. These included Thomas Watson, Lieutenant in Ogilvy's regiment, who was subsequently transported; and Francis Farquharson of Monaltrie, who raised the unit called after him; he was conditionally pardoned, and remained in England as a prisoner on parole.

In this group was one of the most distinguished Jacobite prisoners, Major Nicholas Glascoe of Dillon's French regiment, who had commanded at the brilliant night action at Keith on 20th March 1746. He successfully proved that he was a French officer, and was acquitted of the charge of rebellion, but was detained as a prisoner of war.

Alexander Grant, brother of Glenmoriston, who had served throughout the campaign in Glengarry's regiment, succeeded in proving that he had surrendered voluntarily under the Duke of Cumberland's proclamation, and was acquitted 'by Mr Attorney's consent' (*Allardyce*, ii. 414).

The results of the trials at Southwark in 1746 may be summarised as follows :—

	English Officers, Manchester Regiment.	Scots Officers, Carlisle Garrison.	Other Scots Officers.	Total.
Hanged . . .	9	4	4	17
Acquitted . . .	1	5	2	8
Escaped . . .	2	..	..	2
Transported . . .	5	6	6	17
Died . . .	..	1	..	1
Pardoned . . .	..	2	2	4
	17	18	14	49

The above figures do not tally with those in the *Baga de Secretis*, in which the total number of prisoners indicted at Southwark is shown as seventy-one, of whom eleven were acquitted; moreover, against eight names it is stated that 'no further proceedings were taken.' These latter included escapes and deaths before trial, and two or three individuals, such as Lord Macleod and Hon. William Murray, against whom the case was withdrawn or on whom no sentence was passed. Fifty-two prisoners were found guilty, or pleaded guilty, and were sentenced.

The explanation of the discrepancies is simple. The different authorities deal with different periods in the proceedings. Most of the prisoners were dealt with by the end of 1746, and these are the ones referred to above; but six cases came up for hearing in January 1747 and the last was not disposed of until 18th December of that year.

The official lists contained in the *Baga de Secretis* contain some interesting additional information. Of the individuals whose names appear in the list of arraignments, thirty-six had the additional charge of 'taking and retaining possession of the City and Castle of Carlisle'; of these only three were acquitted. Only three pleaded guilty, and six changed their plea from not guilty to guilty.

3. TRIALS AT CARLISLE

The Commission, consisting of Lord Chief Baron Sir Thomas Parker, Sir Thomas Burnett, Sir Thomas Denison and Baron Charles Clarke, met at Carlisle on 12th August 1746.

At this time there were 385 persons in the Castle and the County Jail, including transfers from Scottish prisons.

The process of lotting had already been carried out, and some of those who were eligible to draw for the 'King's Mercy' had declined to do so and had elected for trial. 251 persons had however drawn favourable numbers, leaving 134 to be dealt with by the Commission. Against all the latter true bills on the charge of High Treason were brought in by a Grand Jury, and the trials lasted from 9th to 27th September (*Scots. Mag.*, viii. 438).

The following table summarises their disposal :

Acquitted	36
Pleaded guilty	42
Convicted upon evidence	49
Not indicted	4
Too ill to be tried	2
	<hr/>
	133

The missing one was Lord Mordington, regarding whom the Court reported as follows (*S.P.Dom.*, 88-16) :

'There is one person here who, though indicted, could not be tryed, and that is Charles Douglas, who pleaded in abatement that he was a Peer of Great Britain by the style of Lord Mordington, which Plea is as yet unreplied to by the Council for the King, and therefore has never come before us for our Determination.' (*See TRIALS OF PEERS*, p. 110.)

An interesting difficulty arose in regard to the administration of the Oath to Scots witnesses. On 18th August the Lord Justice Clerk reported to the Duke of Newcastle as follows (*S.P.Scot.*, 34-12) :

'Some of them were so scrupulous that they would not kiss the book, which they looked upon as a sort of Idolatry ; and

the Court doubted of administering the Oath in the Scotch form. . . . The Judges have at last got over that difficulty.'

The Judges had to give way on this matter.

At the close of the trials Sir Thomas Parker sent Newcastle a report (*S.P.Dom.*, 88-16) which is a good example of the procedure adopted in dealing with the prisoners :

'In our List No. 1, here enclosed, We have inserted the names of the 49 prisoners tryed and convicted before Us by Verdict, distinguishing them under three Classes. The first, of those who appeared to Us to be the most guilty ; the second, of those who were involved only in the general guilt of being seen with the Rebels in Arms ; and the third, of those whom the Jury (We think with great reason) recommended as objects of His Majesty's Mercy.

'In our List No. 2 We have inserted the names of 42 persons who, either upon their arraignments or after, confest the Indictment.

'In our List No. 3 there are the name of 36 persons acquitted by the Jury, of 4 others not indicted, and two more who through sickness could not take their Trials. . . .

'In our List No. 4 Your Grace will see that We have appointed the execution of all the 91 Convicts, it being our duty so to do, Though it may be His Majesty's pleasure hereafter that this Execution should not take Effect as to many of them.

'The Persons who . . . appeared to Us the most guilty, with others who, from the representation of Mr. Webb, we were assured were the most Criminal of those who confest their Indictments, in all amounting to 30, have been first ordered for Execution, in the three principal Towns in Cumberland, in which they acted their Treasons ; which we thought might have a better effect in the Country than if all the Executions had been confined to one place. . . . In this list Your Grace will find the name of Robert Lyon who, . . . at His Trial, seemed an object of compassion, but, upon further enquiry, We think him not worthy of our Interposition on his behalf.

'If any of these should appear in a better Light above than they have done to Us, there is time sufficient for Your Grace to respite their Execution.

'We have appointed 50 other persons for execution on the 15th November. . . .

'We have fixed the 29th November . . . for the execution of the 11 prisoners recommended by the Jury to His Majesty's Mercy, Hoping that long before that Time it may appear that they are worthy objects of Royal Clemency.'

The execution dates were fixed, in groups of ten prisoners for Carlisle on 19th October, Brampton on 21st October, Penrith on 28th October; and in each case the words 'being a market day for that town' are added.

The most interesting feature of the tables attached to the letter is the column of remarks against the names of individual prisoners; these remarks were the work of Mr. Philip Webb, the Crown Solicitor.

William Home, who was in the 'most Guilty class,' 'bore the Pretender's standard at Falkirk and Culloden, but was at that time only 14 years old';

James Innes was placed in the list for early execution on the ground that he 'had been an officer in the Rebel Army, and had been so before in 1715';

Ronald M'Donald 'was one of the City Guard of Edinburgh who voluntarily joined the rebels';

Peter or Patrick Lindsay or Lindsay 'had been Wardrobe Keeper at Holyrood House';

Thomas Parke, Philip Hunt and Andrew Swan had been sergeants in the Manchester Regiment;

Alexander Anderson 'had been in the rebellion of 1715';

Robert Randal had been in Government employ as an officer of Excise;

James Harvey was a 'quartermaster amongst the Rebels';

James Campbell was 'piper to a Highland Regiment.'

Among those whose executions were deferred was William Hargrave 'of a distemper'd brain';

Robert Murray, who 'appeared very young';

Andrew Porteous, 'a lame miserable object on crutches.'

One of the few who were acquitted was Thomas Barton of the Manchester regiment, who was captured at Carlisle and charged with 'having carried letters from the rebels to the magistrates of Carlisle requiring the town to be surrendered.' The letters were not produced in court, and the judges refused to accept parole evidence in lieu thereof; Barton was accordingly acquitted.

The Duke acknowledged this communication on 3rd October 1746 as follows:

'I have laid your letter before the King. . . . Nothing could be more proper than the Directions you have given. . . . I am in hopes of receiving the account you promise of the 91 persons condemned with a short state of the case of each person and of any favourable circumstances that might appear

in the Behalf of any of them. . . . No final determination will be taken upon the Applications made in favour of any of the prisoners till it can be seen in what light their Cases shall have appeared to You upon their trial.'

In due course the executions were carried out ; and they deserve notice as showing the increasing tendency towards reprieves and commutations.

Of the first batch of ten prisoners sentence was carried out on 19th October in Carlisle on nine; James Ancrum was reprieved and died in prison. These prisoners were :

Major James Brand.	Donald M'Donald of Tiernadrish.
Francis Buchanan of Arnpryor.	Edward Roper.
Hugh Cameron.	John Henderson of Castle-mains.
Donald M'Donald of Kinlochmoidart.	Rev. Thos. Coppoch.
James M'Naughton.	

Of the second batch to be hanged at Brompton on 21st October, sentence was carried out on seven. They were :

Peter Taylor.	Col. James Innes.	Thomas Parke.
Michael Dellard.	Patrick Lindesay.	Donald M'Donald.
	Ranald M'Donald.	

Of the remaining three Richard Morrison the Princee's barber was sent to London as a witness, Alex. Hutchinson and James Forbes accepted enlistment in lieu of execution.

The third batch was to have been hanged at Penrith on 28th October, but three, Alexander Anderson, Piper James Campbell (or M'Gregor), and Robert Randal, were reprieved. Those hanged were :

Valentine Holt, Manchester Regt.	Rev. Robert Lyon.
Philip Hunt, " "	James Harvey.
Andrew Swan, " "	Capt. David Home.
John Rowbotham " "	

Finally, of the fifty appointed for execution at Carlisle on the 15th November only ten were hanged. They were :

Patrick Keir.	Alexander Stevenson.
Sir Archibald Primrose, Bart., of Dunipace.	Patrick Murray of Dollaray.
	Thomas Hayes.

Charles Gordon yr of Terpersie. Barnaby Matthews.
 John Wallace. James Mitchell.
 Robert Reid.

Three of this batch died in prison while awaiting execution, viz. Henry Clarke, Lawrence Mercer of Lethenty, and James Smith. Of the remainder nineteen were pardoned on condition of enlistment; William Sharpe escaped; James Hay and Robert Forbes were pardoned; and fifteen were transported.

The following table summarises the disposal of the eighty prisoners appointed for execution:

Hanged	33
Died in prison	4
Withdrawn as King's Evidence	1
Pardoned on enlistment	21
Escaped	1
Pardoned	5
Transported	15
	<hr/>
	80

As at Southwark, the additional charges of 'taking and retaining possession of the City and Castle of Carlisle,' or the City of Edinburgh, or Perth, as the case might be, were added to the general one of levying war.

4. TRIALS AT YORK

On the opening of the Commission at Carlisle on the 11th August 1746, after bills of indictment had been found against the prisoners there, the Court adjourned until the 9th September. In the interval the Commission went to York, and the Grand Jury found true bills against 75 prisoners. The judges then went back to Carlisle for the trials there, and finally returned to York, where the trials lasted from 2nd to 7th October 1746 (*Scots Mag.*, viii. 482).

On 7th February 1746 the official lists (*S.P.Dom.*, 81-88) showed 249 men and 8 women confined in the Castle, described as having been 'taken in actual rebellion.' On 27th July, when Philip Webb went there to carry out the

'lotting' of the prisoners, he found only 109 men and women awaiting trial. The discrepancy is inexplicable in the absence of mortality tables for the prison, but it throws a lurid light on the health conditions in York Castle.

From Webb's analysis of these prisoners it appears that eight men had been set aside for King's Evidences, and twenty-five had been expressly earmarked for trial by the Duke of Newcastle. Deducting these there remained seventy-six prisoners who were lotted. The lots fell on four individuals, who were accordingly put up for trial (*S.P.Dom.*, 85-122).

Only twenty-nine prisoners from York itself were on the list to appear before the Commission, but forty-six came from Lancaster Castle, which was not visited by the Commission.

On 8th October 1746 Lord Chief Baron Parker submitted a report on the trials (*S.P.Dom.*, 88-42).

The disposal of the persons indicted may be tabulated as follows :

Confessed the indictment	54
Convicted upon evidence	16
Acquitted	5
	<hr/>
	75

The seventy persons who confessed or were convicted were sentenced to death, and execution days were appointed for groups in accordance with the estimated gravity of their offence.

Of the first batch of thirteen prisoners to be executed on 1st November only ten were hanged. They were :

Edmund Clavering.	Lieut. Charles Gordon.
William Connolly.	Capt. George Hamilton of
James Main.	Redhouse.
Benjamin Mason.	David Fraser.
William Dempsey.	James Sparks.
	Angus M'Donald.

Of the remainder John Jellens and William Barclay were allowed to enlist, and William Crosby was transported.

Of the second batch of fifty-five prisoners due to be executed on 8th November only thirteen were hanged. These were :

Michael Brady.	John Walker.
William Hunter.	David Rowe.
Archibald Kennedy.	John Endsworth.
John M'Gregor.	Simon Mackenzie.
John M'Kellar.	James Thomson.
Thomas M'Innes.	Alexander Parker.
	John M'Lean.

John Barnaghy and Angus Campbell died, and William Fraser escaped, twenty-seven enlisted, and eleven were transported, and Sir David Murray, Bt., was ultimately conditionally pardoned and banished.

Finally a third batch of four men was ordered to be hanged on 15th November. Only one, Piper James Reid, suffered ; David Ogilvy died, and Daniel Duff and David Wilkie enlisted.

The results of the trials were as follows :

Acquitted	5
Convicted but escaped	1
Convicted but died	3
Hanged	23
Pardoned on enlistment	31
Transported	11
Banished	1
	<hr/>
	75

5. TRIALS OF PEERS

The peers who fell into the hands of the English Government were treated as such, and must be considered as a class apart from the remainder of the Jacobite prisoners.

The Earls of Kilmarnock and Cromartie, and Lord Balmerino

William, Earl of Kilmarnock, was taken immediately after Culloden. He is said to have been taken prisoner in consequence of a mistake he made in supposing a troop of

English cavalry to be one of Fitzjames' Horse (*S.P.*, v. 177). In his own account of what happened (*Allardyce*, i. 322, 323) it appears, however, that he deliberately left his companions who were escaping and surrendered to Lord Mark Kerr's Dragoons 'of which some rid at me, and I was saved by Lord Ancrum.' His name appears in the earliest list of Culloden captures.

Arthur, Lord Balmerino, escaped from the field of battle, along with the Dukes of Perth and Atholl and Lord Ogilvy. The next day, however, he left them and surrendered.

Two days before Culloden the Earl of Cromartie was surprised and defeated at Dunrobin, and he himself was taken prisoner. On the 19th April he and his son, Lord Macleod, were brought into Inverness in H.M.S. *Hound*.

The Duke of Cumberland reported these captures, and, on 30th April, Newcastle conveyed to him the King's orders to send them to London. In a later letter (*S.P.Scot.*, 31-17) dated 12th May, after issuing general instructions regarding the disposal of prisoners, Newcastle refers as follows to the three peers :

'His Majesty concludes your R.H. will have sent the Earls of Kilmarnock and Cromarty, and the Lord Balmerino by the *Exeter*, Man of War, to London, pursuant to my letter to your R.H. of the 30th past ; and, as the House of Peers will proceed to the trial of those three Lords as soon as possible after their arrival here, Your R.H. will be pleased immediately to send to London such officers or other persons as are able to give positive and sufficient Evidence of their having been taken in arms against His Majesty, which will be necessary in order to prepare the Indictments.

'Your R.H. will also be pleased to direct as exact an account as possible to be sent of the Earl of Cromarty's case, and of the Evidence against him, because that seems to be particular, and may differ the Circumstances from the other cases.'

It may be noted, in passing, that the official spelling of the name of the Earl of Cromartie was at this time 'Cromarty.' In later documents the other form was sometimes used. In lists of prisoners belonging to his regiment that unit is almost invariably referred to, in Scotland as well as in England, as 'Cromarty's.'

On 22nd May 1746 Mr. John Sharpe wrote to Sir Everard Fawkener (*S.P.Scot.*, Series ii. 31-28):—

‘I believe my Lord Duke of Newcastle has already sent Orders to Scotland for some Witnesses to be sent from Scotland to give evidence against Lord Kilmarnock, Lord Cromarty and Lord Balmerino—such as saw them in Arms doing some hostile act, and as can know them to be the same persons when they see them again.

‘I have collected and digested all the evidence hitherto taken, as well in England as Scotland . . . and the enclosed is a copy of the Attorney General’s opinion thereon.

‘I really think we have evidence in London sufficient against Lord Kilmarnock and Lord Balmerino; but our evidence falls short as to Lord Cromarty.

‘You will therefore please to let the proper directions be sent to have the proper witnesses sent up against him, according to the Attorney General’s letter.’

The enclosure of this letter is as follows :

‘Mr. Attorney General’s Observation upon the state of the evidence against Lords Kilmarnock, Cromartie, Balmerino.

‘The witnesses against the Earl of Kilmarnock, mentioned to be in Town, are I think sufficient according to the account given of what they will say. . . .

‘As to Lord Cromartie, Gray being an unwilling witness, and Logie not speaking directly to any hostile act or his appearing in arms with the Rebels, their evidence must not be rely’d on; and it will be necessary to send for some witnesses from Scotland, two at least, who saw him in arms with the Rebell army marching or acting with them.

‘Before they are sent up they should know him now if they saw him, and can swear as to his being in arms with the rebels when in exercise or drawn up, or doing any particular act of hostility. And to send none that are unwilling witnesses.

‘As to Lord Balmerino the witnesses mentioned are sufficient.’

The three peers, on their arrival in London, were lodged in the Tower, and, on 28th July 1746, were brought up for trial in Westminster Hall before the House of Lords. There were 136 peers present, and the Court was presided over by Lord Hardwicke as Lord High Steward.

The Earls of Kilmarnock and Cromarty pleaded guilty, but Lord Balmerino pleaded not guilty and his trial pro-

ceeded. He was convicted by the unanimous verdict of the Court. On 1st August they were all sentenced to death by hanging, with the usual accompaniments of drawing and quartering. This was subsequently altered to decapitation, and the sentence was carried out, on Lords Kilmarnock and Balmerino, on Tower Hill on 18th August. The Earl of Cromarty was reprieved.

Lord Lovat

Spectacular to the last, Lord Lovat's history as a prisoner of the '45 was full of incident. Even after Prestonpans, when he decided to throw in his lot with the Prince, his attitude was so uncertain that, on 11th December 1745, the Earl of Loudoun induced him to come to Inverness—in other words, he had him arrested and brought in as a hostage for the fidelity of the clan. The intention presumably was to commit him to Inverness Castle, as is stated by Lord President Forbes of Culloden in a letter (*Culloden Papers*, 461) to the Marquis of Tweeddale.

He escaped, however, through the rooms occupied by Mrs. Anne Leith, who was a consenting party to his action if indeed she did not arrange it.

After Culloden Lord Lovat was hunted for everywhere. His capture was very nearly effected by the notorious Captain John Ferguson. He had taken refuge in an island on Loch Morar. Ferguson sent for a boat from his ship, carried it across country, and made for the island, but Lovat had again escaped up the Loch with his party in his own boat and had concealed himself. The infirmities of old age, however, decided him to surrender, and he did so three days afterwards to Captain Dugald Campbell of Achacrossan and the Argyll militia (*Origins*, 244 note).

He was taken to Fort Augustus on 15th June, and arrived in Edinburgh on 20th July. Two days later he was sent to London in a litter, and, on arrival there, was committed to the Tower, on 15th August.

Anxious and determined as the Government were to

secure the conviction of Lord Lovat (*see EVIDENCES*, p. 119), they would have preferred that the responsibility of having a bill of indictment brought in against him be imposed upon a Grand Jury in Scotland, and the suggestion was made by the Duke of Newcastle.

On 15th October 1746, the Lord Advocate and the Lord Justice Clerk wrote a combined letter (*S.P.Scot.*, 35-8) to the Duke, showing that the proposal was impossible, in the following terms :

‘ We have the honour of your Grace’s letter of the 7th inst. signifying to us His Majesty’s pleasures that we should report our opinion “ Whether in the present Conjunction there is reason to believe that a bill of indictment would be formed against Lord Lovat by a Grand Jury to be summoned in the County of Inverness for that purpose, upon producing sufficient Evidence to support the charge.”

‘ In order to give obedience to which we have been these two days making the best inquiries concerning the Freeholders of that County . . . and found these to be very few in number, inasmuch that hardly could a list of twenty four persons be made up of Freeholders well affected to His Majesty, exclusive of Peers, the Lord President of the Session, and five Gentlemen . . . who have estate in that County and are all members of the House of Commons; and, at the same time, of these twenty four our information suggested reasons of doubt to many concerning their readiness to find a Bill against Lord Lovat. For these reasons . . . we cannot forbear saying that there is too much ground to doubt whether a Bill of Indictment would be found against Lord Lovat by a Grand Jury in the County of Inverness, even upon providing sufficient evidence to support the charge.’

Lord Lovat was impeached by the House of Commons on 11th December 1746 and brought to the Bar of the House of Lords on the 18th to hear his impeachment read.

The trial, intended to take place on 23rd February 1747, was ultimately postponed twice, and began on 9th March. Lord Lovat was condemned to death on 18th March. Two of the chief witnesses against him were Murray of Broughton and Hugh Fraser, who, until 1744, had been his secretary.

The sentence was carried out at Tower Hill on 9th April 1747.

Lord Mordington

Charles Douglas, *de jure* fifth Lord Mordington, was the son of George fourth Lord Mordington, who appears to have lived principally in England, but to have been recognised as a Scottish peer as he voted at several elections of representative peers; he was evidently not well off, as he, or his wife, is said to have kept a gaming table in London (*Scots Peerage*, vi. 334).

On his death in June 1741, his son Charles did not assume the title, apparently on the ground that he had no estates. Nothing is known of him until the '45. From an appeal by him to 'The Lords Justices, Regents of the Kingdom,' dated June 1750, it is known that he was arrested on suspicion of treason and committed to Preston prison (*S.P.Dom.*, 115-50), whence he was transferred to Carlisle for trial along with the other Jacobites. His indictment was drawn up in the name of 'Charles Douglas Esquire,' and as such he appeared before the Commission of Oyer and Terminer. The charge was high treason, but the nature of his offence is not stated. He immediately pleaded his Peerage as heir male of the body of his great-grandfather, the second Lord Mordington. This plea, which was totally unexpected, stopped the proceedings as far as he was concerned, and Lord Chief Baron Parker, in his report to the Duke of Newcastle on the Carlisle trials dated 3rd October 1746 (*S.P.Dom.*, 88-16), made the following remarks:

'There is one person more, who, although Indicted, could not be tryed, and that is Charles Douglas, who pleaded in abatement that he was a Peer of Great Britain by the style of Lord Mordington, which plea is as yet unreplied to by the Council for the King, and therefore has never come before us for our determination.'

From this time onwards the case remains wrapped in mystery. On 11th September 1746 the Crown Solicitor

at Carlisle, Philip Webb, sent in by express to the Lord Justice Clerk a copy of the plea put forward by Lord Mordington, and asked

‘ whether by the Law of Scotland, if the patent of creation of peerage does not appear, it is presumed that the title descends to the male heir of the person first seised or first in possession, in exclusion of the heir female of the person last in possession.’

The Lord Justice Clerk replied as follows :

‘ I send enclosed return of the Lords of Session to an Order of the Rt. Hon. the Lords Spiritual and Temporal in Parliament assembled on the 12th June 1739, requiring the Lords of Session in Scotland to make up a List of the Peers of Scotland at the time of the Union whose peerages are still continuing, and you will observe that the peerage of Mordington is in that List. . . .

‘ . . . Whether the person now indicted under the name of Charles Douglas is Lord Mordington ?, the Court will judge upon the evidence that is offered.

‘ As to your last question, in point of law, all I need say is that in that case betwixt the heir male and the heir female of the Lord Lovat, where no patent appeared, the Court of Session were of opinion that, by the Law of Scotland, the peerage of Lovat did descend to the male heir of the person first seised or in possession, in exclusion of the heir female of the person last in possession ’ (*Albemarle*, ii. 420).

At the same time the Lord Justice Clerk sent a copy of the correspondence to Andrew Stone for the information of the Duke of Newcastle (*ib.*, ii. 417).

The *Scots Peerage* states that the plea appears to have been allowed without further proof of the limitation of the dignity being, as alleged, to the heir male (*S.P.*, vi. 335).

Meanwhile, instead of being sent to London for trial, Mordington was retained in Carlisle prison, ‘ in chains among the common prisoners . . . and almost famished to Death for want of the necessaries of life,’ as stated in his petition of June 1750.

That he was completely overlooked for the whole of this time is improbable ; it may indeed be that he was the ‘ Charles Douglas ’ who was included in the list of banishments ‘ out of this our Realm,’ dated 2nd July 1747

(*P.R.*, 3622, pt. i. 12). If this refers to Lord Mordington, his continued detention in prison is incomprehensible.

The *Dictionary of National Biography* (xv. 298) says he died in prison, though no date or authority for the statement are given. Of one thing, however, there is no doubt, Lord Mordington was never tried for high treason or any other crime.

It must, however, be stated that, in the opinion of John Riddell, he had no valid claim to the Barony of Mordington, as there existed at the time 'preferable heirs general and of line, namely Mary and Cambelina his cousins, the sole issue of George last Lord Mordington' (*Riddell*, 385, 866, 948).

This opinion is directly in opposition to that of the Solicitor-General, the Hon. William Murray. The subsequent treatment of the prisoner certainly suggests that the Government had decided not to treat him as a peer.

Earl of Derwentwater

Finally, there is the case of Charles Ratcliffe (or Radcliffe), *de jure* fourth Earl of Derwentwater.

His brother James had been executed on 24th February 1716 for his share in the '15; he himself was taken prisoner and was condemned to death, but had escaped from Newgate and gone to France. There he settled, assumed the title, and had a Jacobite pension.

In November 1745 he was captured at sea in the *Espérance* along with other French officers; on identification he was imprisoned, along with his son James, in the Tower. He was not brought to trial, but was placed at the bar of the Court of the King's Bench to have execution pronounced against him in terms of his original sentence of 1716, and was beheaded at Tower Hill on 8th December 1746 (*Williamson*, Appendix, 192).

6. LOCAL JACOBITE FEELING

The trial of the Jacobite prisoners was sometimes complicated by the political outlook of the local inhabitants.

As an example of this the following letter, dated Manchester, 27th April 1747, from Justice Robert Dukinfield to Mr. John Sharpe (*S.P.Dom.*, 96-157), is interesting, though it has not been found possible to ascertain the circumstances which led up to it.

'SR,—I wrot to you by last Monday's Post which I hear was robed (*robbed*), and, apprehending it was not probable it would be delivered to you, I thought proper to acquaint you with the substance thereof.

'The Judge refused continuing them upon their Recognizances, tho' it was proposed for no other design than to preserve the peace of the Town; the necessity thereof has since appeared, considering the Riotous manner they entered the Town upon their return, which I doubt not you will hear of more fully in a little time.

'I do not apprehend it to be practicable to convict a Rebel at Lancaster—for, what is deficient in the Evidence is frequently supplied by the Jury; were the most notorious Rebels who were convicted at Carlisle to have been Tried at these Assizes, not excepting Coppoch himself, they wo'd all have been acquitted.

'The disaffected in Town are such a United determined people that no Expence or other Method can be wanted to bring off their friends, as appeared in Foden's and Ogden's cases. Great numbers of persons to whom they were Strangers, associated on their behalf, which intimidated the Evidences, and they generally deviated somewhat from what they had before declared—and that in favour of the criminals. The Town was so crowded with their Friends to a party that it appeared more like to an Election for a Member than to hear the Trial of an Offender.

'As I was represented to the Rebels when in town to be one of their most dangerous Enemys in this Country, which occasioned them the more to pursue me to make a sacrifice of me, so the Disaffected in Town continue their Hatred, as appears from their groundless scandalous inveterate Reports they are continually spreading against me. Were it not for the Soldiers that are with us, I, with others would be in danger of being Dewitted.

'As I have hitherto endeavoured to forbear Severity lest I should make Enemys to His Majesty yet I am well satisfied that Levity doth not answer the End proposed, but rather encourages them than otherwise.

'Tho' the stupid, despicable, contemptable Ignorance of the Disaffected doth prevail at present yet it is a Mercy that

Manchester is but a trivial small place compared with the many others who are zealous and Firm for his Majesty's Interest and Government,—and am etc. ROBT. DUKINFIELD.

It is evident from his letter that Justice Dukinfield had a distinct animus against Jacobites generally and the Manchester regiment in particular. The explanation of this is made clear by the evidence of the informer Sam Maddock against David Morgan at the trial of the latter at Southwark. He stated that on the approach of the Prince's army Dukinfield had fled and 'had carried a great many arms with him.' Morgan informed the Prince and got from him a search warrant, which he handed over to Lord Pitsligo, ordering the latter to go and fetch the Justice, along with his horses and arms. A body of cavalry was sent to execute the warrant, but Dukinfield had fled (*Allardyce*, ii. 448).

7. THE COST OF TRIALS

Among the Treasury Board Minutes is one of 3rd July 1746, stating that Mr. John Sharpe applied for £2000 'towrds defraying the charges of the trials of the Lords and other rebel prisoners.' This sum was ordered to be paid out of Civil revenues (*T.B.M.*, 29/30, p. 301). On 31st July Mr. Sharpe demanded a further sum of £2000 'for expenses in trying rebels in the North. This was also paid (*T.B.M.*, 29/30, p. 312).

On 29th July 1746, Mr. John Scrope sent in a Memorial for an allowance to defray expenses of the Special Commissions of Oyer and Terminer at Carlisle and York (*ib.*, 1/323, p. 12).

8. EVIDENCES

The Procuring of Evidences against Prisoners

On 5th July 1746, Cumberland issued instructions to David Bruce, Judge Advocate of the King's army in Scotland, which throw much light on the procedure adopted in regard to the procuring of witnesses against prisoners with

a view to their being proceeded against by Bill of Attainder. These instructions open with a preamble showing the necessity of ensuring that 'each witness may have a clear and distinct knowledge of the Person and Facts he shall be called upon to give Evidence about.'

It then proceeds :

'You will accordingly . . . have a particular regard that a sufficient number of Witnesses against the Rebels taken at and after the Battle of Culloden be chose amongst themselves, it being difficult even for the Soldiers who took them prisoners to remember Persons before unknown to them. . . .'

Reference is then made to the prisoners confined in the prisons of Scotland, and Bruce is directed to enquire into the case of each individual with special reference to his crime and the evidence against him. All this information is to be communicated to the Lord Justice Clerk, and a complete list to be sent to Cumberland.

'A List has been communicated to you of Persons who notoriously have taken part in the Rebellion. . . . It is proposed they should be proceeded against by Bill of Attainder. You will therefore make Enquiry what Evidence can be found relative to the Treason committed by any of those Persons, of which you shall cause an account to be transmitted to H.R.H. . . . If any Prisoners shall have been accused and no persons appear against them, you shall not nevertheless discharge such Prisoners without taking sufficient Bail for their Appearance ; or, where there may be Foundation of Suspicion against them, Security for their good Behaviour.

'You will, for the same reason, take great Care of the two Servants of Lord Lovat, John Riddle and William Walker, who have made their Depositions in Presence of the Brigadier General Mordaunt and you. After finishing all your Business at Edinburgh you will repair immediately to London, where you will present yourself to His Grace the Duke of Newcastle.

'Given at the Head Quarters at Fort Augustus the 5th day of July 1746. By His Royal Highness the Duke's command.

'EVERARD FAWKENER.'

(*Sidelights*, 396-400.)

Writing from Stirling on 3rd August 1746, General Brand informed Albemarle that he had met Bruce there, and found that he had very full powers

‘to bail out anyone where evidence cant be found to convict them, and to prepare evidence for the most Criminal; however he has baill’d out none here, nor wont do it, but in concert with Lord Justice Clerk . . . so that the Order will be signed by both . . . without which I would not release any till I had an order from Your Lordship’ (*Albemarle*, i. 34).

In every instance of lotting of prisoners some are shown as excluded from that operation as witnesses; these were men who had volunteered or had been induced to turn King’s Evidence. Sometimes, however, witnesses were sought among the lotted, and some light is thrown on the procedure adopted in such cases by the same Alexander Stewart, whose account of the lotting is elsewhere quoted.

Stewart describes (*Lyon*, ii. 236) how, when he was in Perth prison, a prisoner, John Neish, was repeatedly taken out and examined by Miller, and was allowed ‘to go out to a roome in the toun because of his health.’ He himself was examined by Bruce, but rejected his advances, and was consequently sent to Carlisle for trial. Later, while in Carlisle, the prisoners were again visited by Miller and Patriek Campbell the interpreter, who questioned them individually regarding a list of prisoners already confined in the Castle

‘to see if we knew any of them . . . and it would be a great service done the Government, besides the releasement of ourselves, but they found non.’

Stewart was closely questioned regarding Sir John Douglas of Killhead and other well-known Jacobites; but he says he resisted all attempts to extract evidence from him, and closed the conversation by saying,

‘I did not value him . . . and for the feutor (*future*) I expected non from him, so that I would take my fate with the rest of my bretherin.’

Speaking generally, however, these informers were selected by the Duke of Newcastle or by the person conducting the lotting. In the proceedings at York, for example, three men are stated to have already been set

apart as witnesses by the Duke, and five more were selected on the spot by Philip Webb (*vide* TRIALS, p. 109).

A typical case of a man's own servants and tenants giving evidence against him is that of Sir James Stewart, Bart., of Burray, Orkney, which has hitherto been obscure. Documents, however, have been found among the State Papers of Scotland from which it is now possible to ascertain the charges against him.

On 28th August 1746 the Lord Advocate wrote to the Duke of Newcastle forwarding the examinations of certain Crown Evidences regarding 'treasonable practices' by the prisoner, taken and recorded by Andrew Ross, Stewart Depute of Orkney, in May 1746 (*S.P.Scot.*, 33-17).

One witness, Snidy [*sic*] Banks, stated he was ordered by Sir James to go as a pilot to a ship lying in the Panhope of Flotta, her destination being Peterhead. The vessel carried 12 guns, and every one on board was foreign, except the mate who came from Dublin. He also said Lady Stewart had forced him to wear a white cockade.

Another witness, John Cromarty, reported that he had seen the ship off Grimness Head, and that she fired guns as a signal; he went off in a boat with others and piloted her into S. Ronaldshay. He was asked about the politics of the inhabitants, and said:

'they were all King George's men, except Sir Jas. Stewart, who was a friend of Prince Charles.'

The gentlemen on board visited Sir James, who had with him John Sinclair of Scotscauder, Charles Sinclair, merchant of Thurso, and Henderson, a Caithness gentleman. He was told by an officer on board that the ship was Portuguese, and was carrying arms and money for the Prince.

James Sutherland of Guinness deponed that he saw Arthur Wildrage, Arthur Eason and James Lucklatter, servants of Sir James, wearing white cockades.

Arthur Wildrage, in his own defence, said he was forced out by Sir James and Lady Stewart and saw arms sent to the house of the Rev. James Taylor.

It was on this evidence that Sir James and Lady Stewart

and the Rev. James Taylor were arrested and sent to London. As regards the two latter, who were for a long time in confinement, the Attorney-General decided that there was no case at all; Sir James, however, died in Southwark prison on 24th June 1746.

In the case of these individuals the examinations were taken on the spot, and certified copies of their depositions were sent to London to the Attorney-General by the Lord Advocate, who considered that it would be desirable to have Sir James tried in London, if possible. He further suggested that the Law Officers of the Crown should

‘try and dispose of this prisoner in a way that he may not escape Justice’ (*ib.*).

The ship referred to was probably the Spanish ship which took arms to Peterhead for the Prince’s army.

The procuring of witnesses against Lord Lovat gave rise to a good deal of correspondence.

On 23rd February 1747, after receiving the orders of the Privy Council, the Lord Justice Clerk wrote as follows to the Duke :

‘I send Your Grace a list of the witnesses who sett out this morning from this for London, which contains the whole in the List Your Grace sent me except four, and, of these four, there are already two gone as witnesses in Defence for Lord Lovat, viz. Alexander Fraser, merchant in Inverness, and John M’James in Drenie or Red Bank near Beaufort.

‘The other two are James Fraser of Fenblair and Alexander Fraser of Tomvandin in Abertarf.

‘By a letter I had from Mr. M’Millan from Inverness the first of these had not only agreed to go up but had taken money from Mr. M’Millan for defraying his charges to Edinburgh. But notwithstanding thereof . . . he has given them the slip and absconded; and my Lord Loudon desires to know whether it is proper to use force, and, in that case, doubts not of finding him. But I should think that a man who is capable of such Roguery is as well away, as to be trusted with the other witnesses.

‘Hugh Fraser of Dumballoch, another of the witnesses who I believe will tell the Truth, though a Fraser, has a brother in the Train. Your Grace’s recommending him to the offices of the Ordnance is a favour I promised to beg of Yr. Grace.

'Thomas Fraser of Struie had very ill will to march, and begged to be off . . . and, though I believe he will be a very constipate witness, yet I did not think it advisable to gratifye him, because, if he had obtained leave to stay at home, most of them would have grumbled.

'After all the trouble and Expence I heartily wish they may come in time. . . . I prevailed upon such as could post to proceed with the utmost dispatch. Six have undertaken it, and the other six, mostly weak, old and infirm, with the help of good Chaises are to make what haste they can.—I have etc.

'ANDREW FLETCHER.'

(*S.P.Dom.*, 35-38.)

This letter shows the anxiety of the authorities in London to secure the conviction of Lord Lovat. Incidentally the rather broad hint given by the Lord Justice Clerk as to the favour desired by Hugh Fraser of Dum-balloch for his brother shows that the motives of the Government witnesses were not always purely patriotic ones.

Further information regarding the procuring of witnesses against Lord Lovat is given in the following letter (*S.P.Dom.*, 93-147) from John Sharpe, Solicitor to the Treasury, to Thomas Ramsden, Under-Secretary of State, dated 15th January 1747 :

'DR. SR,—I am Informed by a Latter I have rec'd from Lord Loudon that John Simpson, who is now at Tilbury and is one of those who has petitioned for transportation, can be a very material Witness against Lord Lovat; and I am likewise informed that Alan M'Donald and Neil M'Auley, who are also at Tilbury, and who have neither lotted or Petitioned, were two of the men employed by Lord Lovat as his Guard. I would therefore Submit whether it might not be proper to send Mr. Carrington to bring these three Men up to Town to be examined.'

The most prominent cases of men turning King's Evidence are, of course, those of John Murray of Broughton and Hugh Fraser, formerly secretary to Lord Lovat. Of the former there can be no doubt that, had it not been for his whole-hearted treachery to his colleagues and the extent to which he produced incriminating evidence against them, he would have been one of the first to be

sent to the scaffold. Hugh Fraser was likewise deeply concerned in the '45 and had been a most dangerous enemy of the English Government. Both these men were granted free pardons on 7th June 1748 (*P.R.*, 3623-2).

Against these examples of evidence offered by prisoners must be set the case of others who refused to turn traitor. Thus, John M'Naughton, servant of John Murray of Broughton, was offered a pension of £30 if he would turn King's Evidence. He answered that they had done him much honour in ranking him with gentlemen, and he preferred to die as such. He was hanged at Carlisle on 18th October 1746 (*Lyon*, i. 246).

Another was Patrick Keir, hanged at Carlisle on 15th November 1746, who, having himself pleaded guilty, refused to accept the offer of his life if he would give evidence against Sir Archibald Primrose (*Lyon*, i. 22).

Sometimes the Attorney-General declined to accept evidence submitted to him.

Thus, writing (*S.P.Dom.*, 93-44) to the Duke of Newcastle on 12th January 1747, he drew attention to what

'purports to be a List delivered by one Charles Leslie, and there is no evidence transmitted to us against one of the Persons contained in it, Except that of Mr Leslie himself, which from his own account in the List seems to be plain against them. He has likewise set down agt the Names of all except four the Annual Value of the Estates, but not the places where they lye.'

The identity of Charles Leslie has not been traced.

Treatment of Evidences

Witnesses, civilian and military alike, were themselves treated almost as if they were prisoners. They were usually segregated from those against whom they were to give evidence; but, on the other hand, for their own safety, it was often deemed expedient to hand them over to the custody of messengers, both before the trials and afterwards, pending decision as to their own disposal.

The messengers do not appear to have discriminated

between them and the prisoners awaiting trial; and the lot of the Crown witness was not a comfortable one. (*See MESSENGERS' HOUSES*, p. 175.)

Some witnesses were allowed to find accommodation for themselves. Thus, in a petition, dated 19th October 1747 (*S.P.Dom.*, 102-27), Donald Stewart, William M'Ghie and John Falconer, witnesses in the trial of Aeneas Macdonald, which was on the point of commencing, stated that they had been

'forced into the Rebellion, and became Evidences for the Crown and were released from the Messenger's custody, obtaining the King's pardon. As soon as the Bill was found by the Grand Jury they met with insults and universal desertion by their acquaintances, although only on suspicion; but, unless they leave London immediately after giving evidence, their lives will be in danger. Their lives too will be in danger if they give evidence in open court. . . .

'Our lives are threatened, our dwellings marked, and there is danger of our being conveyed from giving evidence by a mock press gang. We are exposed to beggary, our persons known, and our enemies watchful. We cannot but think they will take care to prevent our being employed or to have a bite of bread, as is the case with others. And, if this has been the fact with such who were not on this trial but returned to Scotland, where they can scarce find even the nearest relation to give them shelter, what must ours be ?

'Giving evidence in open court, wher the criminal's friends will swarm, attended with such imminent danger we do not find ourselves under a necessity to run such a risk to be left to the miseries of want, contempt, rage, begarry, loss of character and life itself.'

Perhaps the most important part of the petition is the closing request for

'a small sum to begin the world again, or a small annuity from the King.'

They point out that for the previous year the messengers had drawn their allowance of fourpence a day, but have only given them twopence. Finally, they ask for an answer to their petition to be sent to them,

'care of John Urquhart, servant to the biscuit baker, at Wapping New Stairs.'

Donald Stewart had received an anonymous threatening letter in the following terms :

‘ To Donald Struat [*sic*] Grate St Andrews St, next door to the Blew Ball, London.

‘ SIR,—You are an evidence, and has nothing to hope for from the Government. But you may hope for something by sending a line to A. B. Ferguson, Coffee House. Otherwise Sir you shall meet with Immediate Destruction, and the Government shall not protect you nor any of your associates.’

For their own security these witnesses were again put in charge of a messenger until they had given their evidence. They were finally discharged on the 21st December 1747; but there is no indication that their appeal for financial aid had any effect.

Fees of Evidences

The reference made by so many of these witnesses to lack of funds while in confinement is interesting. Crown witnesses were allowed two shillings a day, just six times as much as the amount allowed for the maintenance of an ordinary Jacobite prisoner. Whether this was intended to be paid to them personally or to the messenger in charge of them is not known; but the correspondence above seems to suggest that they saw little of the money due to them.

In the case of the Crown witnesses against Lord Lovat the daily rate was five shillings—a remarkable indication of the determination of the Government to secure enough evidence to convict him.

Disposal of Evidences

From a statement by Alexander Stewart the inducement offered to men to turn King's Evidence appears to have been their own release; and although most of them have no disposal indicated against their names in the Prisoners' List, it may be assumed that they were ultimately released. The *Scots Magazine* of June 1747,

after giving details of the General Pardon announced in that month, says that

'rebel prisoners who had been evidences were discharged from the custody of messengers at the same time.'

Earlier than this, however, orders had been given regarding the discharge of witnesses (*S.P.Dom. Entry Book*, 84). Thus, on 2nd March 1747, Mr. Thomas Ramsden writes to Mr. John Sharpe in the following terms :

'My Lord Duke having lately discharged several Persons who were detained either upon suspicion . . . or in order to give evidence against the Rebels . . . it being his Grace's intention that, as well those who can be of no further service with regard to their testimony as those against whom no Proof can be had, should be immediately set at liberty, I am directed to acquaint you therewith as all or most . . . appear to be in very indigent circumstances and utterly unable to get back to Scotland without some allowance. . . . His Grace desires that, out of the money imprest into your hands . . . you will supply . . . such of them as produce their Passes under the hand of Mr. Larpent with such sums as you shall think reasonable towards defraying the expences of their Journeys; and that you will make some Distinction between those who have given their Testimony faithfully and cheerfully and those who would not or could not be of Service.'

Some of these witnesses enlisted to escape further trouble. A reference to this is made in an anonymous letter, dated 24th September 1748, in which the writer conveys a warning that action is to be taken against the persons excepted from the 'Act of Grace,' and that

'with this List are the messengers coming down to Scotland, attended by a crowd of evidences who had served the Government in the late trials and had since enlisted themselves in several regiments' (*Lyon*, ii. 187).

Number of Evidences

It is difficult to arrive at an accurate idea of the numbers of Crown witnesses drawn from among the prisoners themselves.

Fortunately the papers of Sir John Strange throw some

light on the matter. In the case of each prisoner a summary of the evidence and the names of the witnesses are given, and, by comparing the latter with the List of Prisoners, it has been found possible to ascertain approximately how many Jacobite prisoners gave evidence for the Crown at the Southwark trials, and how many of them were civilians who had not—as far as can be traced—carried arms.

At Southwark 84 military Jacobite prisoners and 20 civilians were witnesses for the Crown; and the fact has been notified against the names of the men concerned in the Lists of Prisoners.

When to the Southwark List are added 160 witnesses, military and civil, employed at Carlisle and an unknown number at York, it is unlikely that there were fewer than 300 of all sorts.

In the case of the prisoners against whom the Government was determined to secure conviction, such as the officers of the Manchester regiment, or Lord Lovat and the other peers, care was taken to put up a considerable number of witnesses against each; in other cases the number would usually be two or three, but one witness often appeared against several individuals.

If the Southwark figures be taken as representing the proportion of military to civilian witnesses as about four to one, it is fair to infer that the rank and file of the Prince's shattered army only produced some 240 men who were prepared to buy their lives, or at least their escape from transportation, by giving evidence against their comrades in arms.

*Evidence given by English Officers on behalf
of Prisoners*

A few prisoners owed their lives to the fact that they had helped English soldiers, and that evidence was given on their behalf by English officers.

A case of this kind was that of James Stewart, who saved the life of Major Bowles at Prestonpans, and helped

to conceal Lieutenant David Drummond of Lee's regiment. Major Bowles reported that Stewart

' was more than instrumental in saving my life, for he not only supported me when I was almost dying with the loss of blood from eleven wounds, but preserved me from being cut to pieces by the straggling Highlanders.'

On 20th August 1747 Stewart was recommended by the Privy Council to be pardoned and released

' on condition that he remain in such Place or within such District in the King's Dominions as His Majesty shall be pleased direct by His Royal Sign Manual ' (*S.P.Dom.*, 100-65/68).

Robert Taylor, shoemaker in Edinburgh, was fortunate in regard to the success of the appeals made on his behalf. He joined the Duke of Perth's regiment in Edinburgh, as captain, and was captured a few days later. Albemarle, writing about him to Newcastle on 15th November 1746, says that he

' raised a company for the service of the Pretender's son, and promised to deliver the Castle of Edinburgh to him, but failed. This man has so infamous a character and is so notorious a Jacobite that I cannot help wishing His Majesty's mercy did not extend to him ' (*Albemarle*, i. 302).

Taylor pleaded guilty at his trial at Carlisle, but was recommended to mercy by the judges on the ground of his having helped the English wounded at Prestonpans. Numerous petitions were submitted on his behalf. Mr. Alexander Monro, Professor of Anatomy, described how he had supplied the wounded with food and water; and his statements were supported by Surgeon James Drummond of Lascelles' regiment. Captain Disney reported that Taylor had saved the lives of many soldiers who would otherwise have died, and Lieutenant Hewetson of Lee's regiment, a wounded prisoner, spoke highly in favour of him.

The appeal was successful, and Taylor was reprieved and was subsequently pardoned on condition of enlistment.

Roderick M'Culloch was another Jacobite officer whose

behaviour towards English officers was responsible for the success of his appeal for clemency. Captain Anderson of Lascelles' regiment stated that when he himself was a prisoner in Perth, M'Culloch had intervened in his favour when he was insulted by another Jacobite officer. A petition was submitted on his behalf on 8th April 1746 by Lord Moray and several others, and it was stated that he had helped an English prisoner to escape after the battle of Falkirk.

It is probable that John Mackinnon of Mackinnon, who was ultimately released, owed the leniency with which he was treated to his having afforded protection to the house and person of Sir Charles Gilmour. Considering he had already been out in the '15 and had raised and commanded troops in the '45, he might have expected severity of treatment. The circumstances of his intervention on behalf of Sir Charles Gilmour have not been discovered (*S.P.Dom.*, 96-154).

Alexander Stewart of Invernahyle, though never actually a prisoner, probably owed the fact that he was not attainted to Colonel Whitefoord of Ballochmyle. At Prestonpans they met and fought, and Invernahyle spared his opponent's life on condition of his surrender. With much difficulty and after threatening to resign his own commission, Colonel Whitefoord appears to have obtained the promise of a pardon for Stewart from the Duke of Cumberland after Culloden. He was afterwards pardoned and permitted to return to his home under the Act of Indemnity (*N.D.B.*, liv. 269).

The plea that a prisoner had saved an English officer from being killed, however, was not always accepted. Captain Allan Cameron of Callart, Lochiel's regiment, was stated to have saved the life of an English officer in this way, but this did not save him from conviction and sentence of death. It may, however, have been the reason for his reprieve and the commutation of his sentence to banishment.

Another case in which humanity to English troops was not followed by a pardon is that of James Steuart, said to

be a natural brother of Ardshiel. In the statement of his history submitted to the Attorney-General it was said that he

' was an instrument of saving the life of Capt. Campbell of the Argyleshire militia who had the misfortune to be taken by the Rebels and in general is said to have acted a very humane part by such of the Kings Troops as fell into the hands of the Rebels.'

He had also surrendered timeously under the Cumberland Proclamation. In spite of these points in his favour he was transported (*S.P.D.*, 96-154).

9. NOTES ON CONVICTIONS

Alleged Cruelty in Action

One of the offences which, in many cases, determined the carrying out of the capital sentence on Jacobite prisoners who had been formally convicted was that of 'cruelty' against English troops in action. The allegation of cruelty in the heat of action could rarely be substantiated, but that was a matter of small moment, except to the unfortunate prisoner himself.

A case in point is that of John M'Naughton, watchmaker, Edinburgh, who was stated by two men of a regiment there to have shot Colonel Gardiner at the battle of Prestonpans, 'and given him three wounds with his sword when he was fallen on the ground,' and to have boasted of the fact. This allegation was immediately accepted by the Solicitor to the Treasury, Mr. Sharpe, who wrote to the Duke of Newcastle on 20th September as follows :

' I find that M'Naughton, that Sir Everard Fawkener spoke and that I wrote to Mr Webb about, was the villain who shot Col. Gardiner behind his back and basely covered him with wounds after he was down. I therefore submit it to His Grace's consideration whether anything but the most absolute necessity should induce His Grace to receive such a wretch to mercy.'

M'Naughton denied the charge, and wrote to his old master John Murray of Broughton, who was then himself in custody, for help in finding evidences 'who knew the truth about Col. Gardiner.' No such evidence was obtained and he was hanged. As shown above (page 125), M'Naughton might have saved his life by turning King's Evidence.

Another prisoner charged with cruelty was Major Donald Macdonald of 'Tiernadriish,' of Keppoch's regiment, who was tried at Carlisle. The official charge against him was that he had refused to give quarter at Prestonpans, even when urged by the Duke of Perth to do so. No evidence was produced in support of the allegation. Probably, however, it was the fact of his having literally opened the campaign of the '45 by capturing Captain Scott and a detachment of the Royal Scots on 16th August 1745 that decided the Government to make an example of him, and he was hanged.

Again, William Connolly, a deserter from Lee's regiment (Scots Fusiliers) who was captured at the fall of Carlisle, lost his life in consequence of his alleged advice at the battle of Prestonpans 'to kill the redcoats, especially of Lee's regiment, because they would know him again,' and because he had personally killed an English soldier. He was convicted and executed at York on 1st November 1746.

Charge of the Prince's Baggage

David Row (or Rue) was a captain in Glengarry's regiment and was tried at York. It was stated at his trial that he had been in charge of the Prince's baggage at Prestonpans, and that he took part in the rearguard action of Clifton. But he had, at one time, been a Customs House officer, and he was hanged.

The Plundering of Houses

Among the prisoners who were said to have been concerned in the plundering of Lord Findlater's house at Cullen in March 1746 by the Jacobite army was one James

Bowie, who was imprisoned but apparently discharged for want of evidence.

Captain Daniel, in his *Progress with Prince Charles (Origins, 208)*, says that an assessment had been made by the Prince on the Findlater estate and that the Earl, hearing of the demand made on him, informed Lord John Drummond that, if his house were touched, 'there were Rebels houses enough on which his Master, Cumberland, promised him he should have his revenge.' This letter aroused resentment, and a party of men took immediate action, and 'without any order given . . . ransacked it and carried away several articles of value, but without setting fire to it, or wantonly destroying it.'

Regarding the plundering of Lowther Hall no detailed information is available, in contemporary records, beyond the fact that Edmond Clavering of the Manchester regiment was tried at York for being concerned in it, was convicted and hanged on 1st November 1746. With him were associated at least two other prisoners, John James Jellens and Louis Foure, both of whom claimed to be French subjects, and to be outside the jurisdiction of the Court.

The only information available is the statement in the *Scots Magazine* (October 1746, 485) that :

'they were concerned with several rebels in plundering Lord Lonsdale's house of Lowther Hall, where they were taken prisoners by the Militia.'

Jellens was held by the Court to have 'acquired a local allegiance' as he had come over to England as servant to a Dutch officer, 'under the appearance of an ally and friend to the Government,' and that therefore

'he was under the protection of the Crown of Britain as soon as he set foot on shore ; that therefore, from the time he had a claim to the King's protection, his Majesty had certainly a claim to his allegiance.'

The jury found him guilty and he was sentenced to death ; on the day fixed for his execution, however, he was reprieved and was ultimately pardoned on condition of enlistment.

Louis Foure was acquitted, but kept as a prisoner of war.

It is possible, though unlikely, that this incident occurred when part of the retiring Jacobite rearguard, under Lord George Murray, went in the direction of Lowther Hall expecting to come in contact with the English Light Horse; 'hard by' the house Lord George says he captured an English officer and one of Cumberland's footmen.

It appears more likely that these three prisoners had left Carlisle before its recapture by the English and were living on the country.

Tampering with the Mails

A few prisoners were charged with tampering with the mails during the time the Jacobite army was in possession of certain towns. No attempt at securing the mails while *en route*, however, is recorded.

In Dundee a merchant, John Brown, was arrested for having 'opened the Packet and reading the Letters'; the time at which this happened is not stated, but after a short imprisonment he was discharged on bail.

Another Dundee merchant, Robert Guthrie, appears to have been associated with him in his action.

Colonel Henry Ker of Graden, A.D.C. to Lord George Murray, was stated by a Crown witness at his trial to have 'acted as postmaster and inspected the letters of the Post office' (*Allardyce*, ii. 389).

During the occupation of Aberdeen the opening of mails and examination of letters passing to and from Edinburgh was a regular custom, the result of which was that 'the well affected had no intelligence by the Posts, especially to the North of Aberdeen, but what came through the Rebel's hands' (*Allardyce*, ii. lxxxv).

Thomas Ruddiman, James Grant and 'The Caledonian Mercury'

The Prisoners' Lists contain the names of two men who were closely concerned in the publication of this Jacobite paper, Thomas Ruddiman, junior, and James Grant.

Thomas Ruddiman, M.A., senior, came from Boyndie, Banffshire, and was a man of great literary talent. He became a printer in 1715 and published an edition of George Buchanan's works.

In 1725 he became printer of the *Caledonian Mercury*, which he acquired in 1729 on the death of the proprietor; he then took his brother Walter Ruddiman into partnership with him. In 1730 he was appointed Chief Librarian to the Society of Advocates, and in 1739 he resigned half his interest in the firm and the paper to his son Thomas.

At the time of the outbreak of the '45 he was a man of seventy years of age, and had retired from all but his literary work. He was always a fervid Jacobite.

The *Caledonian Mercury* was a partisan paper, and its Jacobite tendencies received a summary check after the Prince's departure from Edinburgh; and Thomas Ruddiman, junior, was arrested in November 1746 and placed in the Tolbooth, for having inserted in the *Mercury* a sarcastic paragraph from an English paper. Six weeks later he was released, but he died on 9th September 1747 of disease contracted while in prison (*Ruddiman*, 207).

Another member of the staff of the paper, who was also a printer by profession and partner of the Ruddimans, was James Grant. He joined Lord Ogilvy's regiment and had a commission as captain, and served with the army throughout the campaign.

On his own statements, elicited after his arrest at Harwich, he did very little military duty but was employed by John Murray of Broughton in printing proclamations and papers. Bishop Forbes speaks of him as the 'quondam author' of the *Caledonian Mercury*—which is probably an over-statement of his position on the staff of that paper; it is, however, possible that he 'took care when in Glasgow to have himself provided in types and a printing press, and brought them along with him to Bannockburn' where he produced a paper, the *Bannockburn Journal*, in which appeared an account of the battle of Falkirk (*Lyon*, ii. 197).

After Culloden he returned to Edinburgh, but, as he states,

' Messrs Thomas and Walter Ruddiman's were partners in the said Newspaper, but, refusing to give Examinant any share of their profit since the Rebellion, he left Edinburgh the latter end of December ' [*i.e.* 1747].

He then went to Breda to his son-in-law, Dr. William Smith, to try and recover some money which was owing to him (*S.P.Dom.*, 94-4), but decided to return home in January 1748 and was taken prisoner on landing at Harwich along with James Wilson, who posed as his servant, and John Tideman, *alias* Edgar, who was apparently a servant of Lord Elcho's.

When arrested he was found to be in possession of a recommendatory letter from the French agent, Mons. Carpentier.

A serious view was not taken of his case and, on 16th February 1748, he was discharged by order of the Duke of Bedford.

It may be stated here that the Prince's army had no printing press with it until it reached Glasgow. According to the *Caledonian Mercury* of 10th January 1746, they 'carried off from Glasgow a printing press, types and other materials for that business, together with some servants to work in that way. When they carried off these materials they did it in this manner, that is, from one printer they took a press; from another some types; and from a third chases, furniture etc' (*Ruddiman*, 208 note). It was presumably with this equipment that James Grant carried on his printing at Bannockburn and elsewhere.

The Case of Capt. Patrick Lindsay

This case is of special interest as an example of a man with strong Jacobite sympathies who, at the same time, held a Crown appointment.

His grandfather, Patrick Lindesay of Wormiston, had fought on the Royalist side at Worcester in 1651, and was taken prisoner; his grand-uncle John was killed there. His mother, Margaret Halyburton, came of an Episcopalian

stock, and his father, who died in 1715, was Commissary Clerk of St. Andrews. He himself was farming in Wester Dean's Houses in Newlands, Peeblesshire; but he also held the office of Assistant Keeper of the Wardrobe at Holyrood, on a salary of £20 sterling.

He joined Kilmarnock's Horse in 1745 and proclaimed James III. at St. Andrews. After Culloden he went into hiding, but was either captured in July 1746 (*Scots Magazine*, July 1746, 340) by a party of dragoons, or at Dundee (*Francis Stuart*, 22). He himself in a petition for mercy said he had surrendered to the Rev. Patrick Reid at Clatt.

He was sent to Carlisle, pleaded guilty, and was sentenced to death. He was hanged at Brampton on 21st October 1746. The Crown Solicitor at his trial produced evidence that he was 'Wardrobe Keeper at Holyrood House when he went into the Rebellion' (*S.P.Dom.*, 88-16); and another charge against him was that he 'assisted in Levying the Cess and Excise' (*P.C.*, 67), besides carrying arms.

The Capture of H.M. Sloop Hazard

One of the most remarkable operations of the '45 was the capture of this warship by a party of Ogilvy's regiment commanded by Captain David Ferrier, with Major Nicholas Glascoe and a few of Lord John Drummond's.

Ferrier was acting as Deputy-Governor of Brechin for the Prince in November 1745, and the *Hazard* was watching the coast to prevent a French landing, and at intervals firing shots into the town of Montrose. Ferrier ascertained that the vessel was lying near the position of the present Suspension Bridge; accordingly, during the night he occupied the east end of the island of Inchbrayock, nearer the sea, and threw up some defences. A French ship carrying troops came into the harbour and went ashore out of the reach of the *Hazard's* guns. The troops landed six French guns and placed them in position and opened fire on the English ship.

Meanwhile, Captain Hill, R.N., had taken four six-

pounder guns from the town, with the intention, no doubt, of removing them. However, he found himself too much occupied with the French gunfire to do so, and left them on the quay; Ferrier seized them and mounted them in positions which gave him excellent command of the *Hazard*, which then surrendered.

The capture of the *Hazard*, which was renamed *Prince Charles Edward*, was a most important one, and, as might have been expected, after Culloden the Government attempted to capture the ringleaders and those who had taken a leading part in the action.

Captain Ferrier escaped to Spain, and set up as a merchant in Cadiz; David Barclay and David Gemlo were captured and imprisoned, but were eventually released, from want of evidence.

Others, including David Buchan, George Bruce, Alexander Duthie, Robert Duncan, John Erskine, Thomas Kinnier, William Leith, John Shepperd, and Captain Robert Young—all of whose names appear in the 'List of Persons concerned'—escaped arrest, and the whole incident must be regarded as an almost unqualified success.

The Raising of Funds

That the Prince was compelled to raise money from the countryside is a matter of common knowledge. No other course was open to him, and it must be admitted that, wherever it was in his power to do so, he levied the contributions by force when they were not obtainable by persuasion.

The methods adopted were those hallowed by the practice of ages in Scotland, and the most obvious and simplest sources to tap were, on the one hand, the general revenue of the country and, on the other, the savings of the burgesses of Scottish towns. Where proclamations failed, the only alternative was the iron hand; and the State Papers are full of references to the actual procedure adopted and to the individuals concerned in carrying it out in different parts of the country.

A typical report from one of the Lord Justice Clerk's anonymous informers, dated Edinburgh, 27th October 1745, contains the following statement :

'He was informed at Dalkeith that, on Friday morning 25th, 60 men on horseback had gone into Haddington to gather the Malt Tax, and the same morning 100 men on the same errand to Musselburgh, and had two guides with them.'

Writing to Newcastle on 19th February 1746, the Lord Justice Clerk reported that,

'about 1500 or 2000 of the rebels, who have been hovering about Aberdeen, Lord George Murray at their head, obliged the town to pay them £500.'

An interesting commentary on this letter is to be found in another, dated 28th October 1745, from Lord Lewis Gordon to the Duke of Perth :

'There is about £1700 of Cess due ye Prince from Aberdeenshire, a good part of which they refused to pay to the Elector of Hanover's people att last collection, and have kept it up on purpose for the Prince's use, which Your Grace will allow is a good sign of the loyalty of ye shire' (*W. Drummond Norie*).

An early example of a formal demand made for such a levy is contained in the following Order sent by John Murray of Broughton to John Bell, the Provost of Dumfries :

'HOLYROODHOUSE, 26th Sept. 1745.

'SIR,—You are hereby ordered, upon receipt of this, to repair to the Secretary's Office in the Pallace of Hollyroodhouse, there to have the contribution to be paid by your town of Dumfries for His Highness ascertained, which shall be done in proportion to the Duties of Exceyze [*sic*] arising out of the said town of Dumfries.

'For the payment of which contribution the said duty shall be assigned.

'This you are ordered, upon pain of Rebellion, forthwith to pay.'

Bell appears to have rendered himself very unpopular with the Prince's army, as he reported to the Duke of Newcastle, that, on their return north from England, they imposed a contribution upon the town of £2000 in cash, 1000 pair of shoes, free quarters and 9 casks of gunpowder

and every available horse. Having commented on the behaviour of these 'most outrageous and intraged sett of men,' he reveals the real reason for the treatment meted out to Dumfries :

'What highley intraged our enemys was the instancees we had given of our disloyalty and disaffection to the Prince, raising regiments, seizing the baggage, illuminations, and rejoicing at their reverses. . . . We have paid them near £1100, and they have carried off hostages.'

Collecting the Excise or County Cess was, for obvious reasons, regarded by the English Government as a very grave offence, and prisoners specifically charged therewith were often treated with great severity. The evidence given at their trials is of much interest. Thus, in the typical case of Sir John Wedderburn, Bart., one witness proved by receipts that he had collected the excise on 'ale and lether in parts of Seotland where the rebels were masters'; another, John Brucee, said he had paid Sir John 12s. 6d. for his excise; while a third, John Adamson, complained that he had been forced to pay twice over (*Allardyce*, ii. 456).

As already stated, the Chief Justice, Sir William Lee, at the trial of Sir John Wedderburn, gave an important ruling on the law regarding this offence :

'The acceptance of, and acting under, a Commission of Excise from the Pretender was an overt act of Treason.'

And at all trials, in Southwark, Carlisle and York alike, several cases were decided on this ruling.

The case of Sir John Wedderburn was a pathetic one. To the original crime of serving as a volunteer in Lord Ogilvy's regiment he added the far more serious one of having acted with great energy as Collector of Excise for the Prince in Forfarshire and Perthshire. His father, Sir Alexander, had sold his estate, and Sir John was, in consequence, overwhelmed with poverty and the burden of a family of eight children. He lived in the humblest circumstances and could not provide sufficient clothing for his family.

At his trial he pleaded duress and said that he had been 'carried off by the rebels' three times, and that all his own horses had been impressed. He also stated that he had not carried arms. One of the Crown witnesses, Henry Edwards, deponed that a mistake had been made in Sir John's original commission as 'Collector of Excise' granted by the Prince, his father's name having been inserted in it instead of his own; and that Sir John therefore went to Edinburgh to have the error rectified (*Allardyce*, ii. 455). The fact that he had collected the Excise, however, damned him, and he was not only convicted and sentenced to death in the ordinary way, but, in spite of his own petition and the efforts of influential friends to save him, he was hanged at Kennington Common on 28th November 1746.

His case is typical of others; four were hanged, and three were transported.

The attached list summarises the cases of persons in whose indictment this class of offence was specially mentioned:

List of Prisoners concerned in Raising Funds

Name.	Disposal.
James Brand . . .	Hanged, Carlisle, 18.10.46.
William Broun . . .	Released.
Earl of Cromartie . . .	Conditionally pardoned.
Alex. Dalmahoy (also horse-stealing) . . .	Released.
Thomas Donaldson . . .	Died in prison, 9.9.46.
William Ferguson . . .	Released.
Charles Halkett (Hackett)	Transported.
Charles Kinloch . . .	Convicted and banished.
Peter (Patrick) Lindesay .	Hanged, Brampton, 21.10.46.
John Peddie . . .	Convicted and transported.
James Aberdour . . .	Released.
George Abernethie . . .	Released.
Earl of Kellie . . .	Released.
James Mather . . .	Released.
Sir David Murray, Bart., of Stanhope . . .	Convicted, but banished.

Name.	Disposal.
Thomas Ogilvie of Eastmills	Convicted, and killed while trying to escape from Edinburgh Castle, 21.5.51.
Sir John Wedderburn, Bart.	Hanged, Kennington Common, 28.11.46.
Robert Maxwell . . .	Pardoned on condition of enlistment, but released.
Alexander Maclachlan . . .	Convicted, but reprieved, and escaped from prison.
Charles Moir	Convicted and transported.
James Innes	Hanged, Brampton, 21.10.46.

10. EXECUTION LISTS

Hitherto the number of persons executed in connection with the '45 has been estimated at 73, or about that figure. The attached list, however, shows that that is an underestimate, the correct number being 120; and the discrepancy needs explanation.

In the first place, writers have ignored a considerable number of men who, at some time or another, either during the operations against the French on the Continent or in Scotland, had deserted the English army and joined the Prince. Henderson states that many of these English deserters were men who had been captured at Prestonpans and had enlisted in the Jacobite army (*Henderson*, 262, 363).

Among the prisoners taken after Culloden and in various parts of the country, before and after that action, there were about 60 deserters; and they were dealt with in a variety of ways. Thus, while the English army remained in the neighbourhood of Inverness, 32 deserters were found among the mass of Jacobite prisoners, and were tried by court-martial and hanged on the spot; only a few were reprieved and sent back to their regiments. Entries regarding the conviction and execution of these men are to be found only in the manuscript *Daily Orders* of Cumberland's army during that period; they do not appear in the State Papers.

On a much smaller scale the same thing happened in Edinburgh and Perth, as the English forces advanced. Thus, among the French prisoners captured at sea and taken to Edinburgh, at least four were found to have deserted from English units serving on the Continent and were executed summarily; and in Perth, Captain Crosbie and Niccol Whyte were hanged as deserters. Altogether 38 deserters were hanged.

Besides these 38 cases of summary conviction and execution a few men who had been sent to Carlisle, York and elsewhere were identified later as having served in the English army; and some of them were hanged in the ordinary course of events. Thus William Connolly and Daniel Fraser, hanged as treason felons at York, were at the same time deserters.

Two men, Riddell and Murdoch M'Ra, were dealt with summarily by the English authorities as spies, at Perth and Inverness respectively. Against their execution no valid objection can be raised.

These two groups of men together number 40, and there remain 80 ordinary Jacobite prisoners who were executed. An analysis of their names and regiments is interesting.

Besides 4 peers, Balmerino, Kilmarnock, Lovat and Derwentwater, there are at least 30 officers among the executed prisoners.

As regards regiments, one unit alone, the Manchester regiment, accounted for no less than 24 executions, of all ranks; the remaining units of the army accounted for 40 as follows:

Glenbucket's and Ogilvy's (5 each)	10
Perth's and Lochiel's (4 each)	8
Kilmarnock's Horse, Hussars and Roy Stuart's (3 each)	9
Grant's, Keppoch's, Lord Lewis Gordon's (2 each)	6
Atholl's, Glengarry's, Clanranald's, Elcho's, Balmerino's, Appin Stewart's and Artillery (1 each)	7
	<u>40</u>

Finally, there were 12 individuals whose regiments are not stated, or who were on the staff, or civilians.

Summarising the whole Execution List as regards these different classes, then, the position is as follows :

Peers	4
Deserters summarily executed	38
Spies summarily executed	2
Officers and men, Manchester regiment	24
Other units	40
No unit stated	12
	<hr/>
	120
	<hr/>

The deserters shown above do not include about half a dozen found among the Jacobite captives in the Scottish prisons who were handed over to the military authorities. Their fate can be surmised.

The Sentence of Death

Contemporary writers vary in their quotation of the barbarous sentence passed on Jacobite prisoners convicted of ' High treason and levying War.' For the judges, however, it must, in ordinary fairness, be said that they were bound to pass sentence in the terms laid down for the offence by the sanction of centuries and the law of the land. It ran as follows :

' Let the several prisoners above-named return to the gaol . . . from whence they came ; and from thence they must be drawn to the place of execution ; and when they come there they must severally be hanged by the neck, but not till they be dead, for they must be cut down alive ; then their bowels must be taken out and burnt before their faces ; then their heads must be severed from their bodies, and their bodies severally divided into four quarters ; and these must be at the King's disposal ' (*Scots Mag.*, July 1746, 326).

References have been found in the State Papers to the execution of Lords Kilmarnock, Balmerino and Lovat.

Writs were issued to the sheriffs of London and Middlesex ' to behead William Earl of Kilmarnock on Tower Hill on 18th August ' and similar writs regarding Lord Balmerino.

On the same day a writ was sent to the Lieutenant of the Tower to deliver these individuals 'lately attainted of High Treason to the Sheriffs of Middlesex and London on 18th August.' (*Crown Office Docquet Book*, 4217, Nos. 77, 78, 79; 4218, Nos. 41, 45.)

The disposal of the bodies of executed prisoners varied. In the case of Colonel Donald M'Donald of Kinlochmoidart, his head was placed on the top of the Scots Gate at Carlisle, while the heads of some of the officers of the Manchester regiment were sent to Manchester and elsewhere to be displayed prominently.

The head of the Rev. Thomas Coppoch was ordered to be placed at the English Gate of Carlisle; that of Thomas Siddall and of Thomas Deacon on the Manchester Exchange; David Morgan's on Temple Bar. In the majority of cases, however, no orders were issued in regard to this matter (*Allardyce*, ii. 442, 447, 451).

On the other hand, on 25th August 1746 we find the Duke of Newcastle instructing the High Sheriff of Surrey to hand over the heads and bodies of Donald M'Donnell, James Nicolson and Walter Ogilvie, who had been executed on 22nd August, to their friends 'to be interned (*sic*) privately' (*S.P.Dom. Entry Book*, 84).

Places of Execution

The places of execution of Jacobite prisoners obviously depended on where their trial and conviction took place.

In the case of the 4 peers the Tower Hill was the place selected; but 17 prisoners condemned to death at Southwark were executed on Kennington Common.

In this connection it is an interesting coincidence that among the titles possessed by the Duke of Cumberland was the appropriate one of Lord Kennington, considering the number of Jacobite prisoners who met their death on the Common there.

Of 33 prisoners executed after the trials at Carlisle, the sentence was carried out on only 19 in that place; in order to strike terror into the inhabitants 7 others were hanged

respectively at Bampton and Penrith. There were 24 executions at York. No Jacobite prisoner was executed for treason in Scotland.

Dr. Archibald Cameron was hanged at Tyburn in 1753.

Places of Execution of Jacobite Prisoners

Tyburn	1
Tower Hill	4
Kennington Common	17
Carlisle	19
Bampton	7
Penrith	7
York	24

Execution Lists

Name.	Regiment.	Place of Execution.	Date of Execution.
George Achenson	Deserter	Inverness	20.4.46
Robert Allan	Deserter	Inverness	20.4.46
Thomas Allan	Deserter	Inverness	20.4.46
William Armstrong	Deserter	Inverness	28.4.46
Lord Balmerino, Arthur Elphinstone	..	Tower Hill	18.8.46
John Berwick or Berswick	Lieut., Man- chester	Kennington Common	30.7.46
Andrew Blood	Capt., Man- chester	Kennington Common	30.7.46
Michael Brady	Manchester	York	8.11.46
James Bradshaw	Elcho's Life Guards	Kennington Common	28.11.46
10 James Brand	Major, Hussars	Carlisle	18.10.46
Francis Buchanan of Arnprior	..	Carlisle	18.10.46
Roger Burgess	Deserter	Inverness	13.5.46
Dr. Archibald Cameron	Lochiel's	Tyburn	7.6.53
Hugh Cameron	Lieutenant, Lochiel's	Carlisle	18.10.46
John Cameron	Deserter	Inverness	26.4.46
Thomas Chadwick or Chaddock	Lieutenant, Manchester	Kennington Common	30.7.46

Execution Lists—continued

Name.	Regiment.	Place of Execution.	Date of Execution.
Alexander Campbell	Deserter	Inverness	17.5.46
John Christie or Christy	Deserter	Inverness	30.4.46
John Campbell	Deserter	Inverness	26.4.46
20 Edmund Clavering	Manchester	York	1.11.46
John Claston	Deserter	Inverness	13.5.46
William Connolly	..	York	1.11.46
Duncan Colquhoun	Deserter	Inverness	28.4.46
The Rev. Thomas Coppoch	Chaplain, Manchester	Carlisle	18.10.46
Robert Crosbie	Deserter	Perth	17.9.46
Charles Davy	Deserter	Inverness	28.4.46
James Dawson	Ensign, Manchester	Kennington Common	30.7.46
Thomas Theodore Deacon	Lieutenant, Manchester	Kennington Common	30.7.46
Michael Dellard	Manchester	Brampton	21.10.46
30 William Dempsey	Manchester	York	1.11.46
Derwentwater, Earl of: <i>see</i> 'Ratcliffe, Hon. Charles.'			
Ninian Dunbar	Deserter	Inverness	20.4.46
Henry Edmonston	Deserter	Inverness	20.4.46
John Endsworth	Grant's	York	8.11.46
George Fletcher	Captain, Manchester	Kennington Common	30.7.46
Francis Forbes	Deserter	Edinburgh	24.1.46
Daniel Fraser	Deserter	York	1.11.46
— Gill	Deserter	Inverness	20.4.46
Charles Gordon of Terpersie, Yr.	Lieutenant, Glenbucket's	Carlisle	15.11.46
Charles Gordon (2)	Lieutenant, Glenbucket's	York	1.11.46
40 George Hamilton of Red House	Captain, Hussars	York	1.11.46
John Hamilton	Colonel	Kennington Common	15.11.46
James Harvey	Quartermaster, Kilmarnock's	Penrith	28.10.46
John Henderson of Castle Mains	..	Carlisle	19.10.46
Thomas Hayes	Manchester	Carlisle	15.11.46
David Home	Captain, Balmerino's	Penrith	28.10.46

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Execution Lists—continued

Name.	Regiment.	Place of Execution.	Date of Execution.
Valentine Holt	Serjeant, Manchester	Penrith	28.10.46
Philip Hunt	Serjeant, Manchester	Penrith	28.10.46
William Hunter	Serjeant, Manchester	York	8.11.46
James Innes	Colonel, Ogilvy's	Brampton	21.10.46
50 John Irvine	Deserter	Edinburgh	24.1.46
Patrick Keir or Ker	..	Carlisle	15.11.46
Archibald Kennedy	Artillery	York	8.11.46
William, Earl of Kilmarnock	..	Tower Hill	18.8.46
Alexander Leith	Captain, Glenbucket's	Kennington Common	28.11.46
Patrick or Peter Lindesay	Captain, Kilmarnock's	Brampton	21.10.46
Henry Livingston	Deserter	Inverness	21.4.46
Simon Fraser, Lord Lovat	..	Tower Hill	9.4.47
The Rev. Robert Lyon	Chaplain, Ogilvy's	Penrith	28.10.46
Angus M'Donald	Deserter	Inverness	21.4.46
60 Angus M'Donald	Duke of Perth's	York	1.11.46
Donald M'Donald of Kinlochmoidart	Colonel	Carlisle	18.10.46
Donald M'Donald or M'Donnell of Tien- drish	Major, Keppoch's	Carlisle	18.10.46
Donald M'Donald	Stewart of Appin's	Brampton	21.10.46
Donald M'Donald or M'Donnell	Captain, Keppoch's	Kennington Common	22.8.46
Ranald or Ronald M'Donald	Clanranald's	Brampton	21.10.46
John M'Gregor	Duke of Perth's	York	8.11.46
Evan M'Houle or Cameron	Lochiel's	Locharkaig	..
William Dow M'Houle or Cameron	Lochiel's	Locharkaig	..
Thomas M'Innes or MacGennis	Glenbucket's	York	8.11.46
70 John M'Kellar	..	York	8.11.46
Duncan M'Kenzie	Deserter	Inverness	28.4.46

Execution Lists—continued

Name.	Regiment.	Place of Execution.	Date of Execution.
Simon M'Kenzie	Roy Stuart's	York	8.11.46
Hector M'Kinnon	Deserter	Fort Augustus	29.6.46
John M'Lean	Duke of Perth's	York	8.11.46
Henry M'Manus	Deserter	Edinburgh	24.1.46
Henry Macnamara	Deserter	Edinburgh	10.5.46
John M'Naughton	Kilmarnock's	Carlisle	18.10.46
Murdoch M'Ra or M'Raw	Spy	Inverness	10.5.46
James Main	Grant's	York	1.11.46
80 Benjamin Mason	Glenbucket's	York	1.11.46
Barnabas Matthews	Manchester	Carlisle	15.11.46
— Mellon	Deserter	Inverness	20.4.46
James Mitchell	Lord Lewis Gordon's	Carlisle	15.11.46
David Morgan	Manchester	Kennington Common	30.7.46
John Morris	Deserter	Inverness	21.4.46
Patrick Murray of Dollair or Doloray	Lord George Murray's	Carlisle	14.11.46
William Neilor	Deserter	Inverness	13.5.46
James Nicolson	Lieutenant, Perth's	Kennington Common	2.8.46
Charles Offord	Deserter	Inverness	30.4.46
90 Walter Ogilvie	Lieutenant, Lord Lewis Gordon's	Kennington Common	22.8.46
Thomas Parke	Manchester	Brampton	21.10.46
Alexander Parker	Roy Stuart's	York	8.11.46
Robert Paterson	Deserter	Inverness	20.4.46
Sir Archibald Prim- rose of Dunipace, Bt.	Hussars	Carlisle	15.11.46
George Pully	Deserter	Inverness	20.4.46
The Hon. Charles Ratcliffe (Earl of Derwentwater)	..	Tower Hill	8.12.46
James Reid	Piper, Ogilvy's	York	15.11.46
Robert Reid	..	Carlisle	15.11.46
— Riddell	Spy	Perth	1.2.46
100 William Robertson	Deserter	Inverness	20.4.46
Edward Roper	Serjeant, Manchester	Carlisle	18.11.46
David Roe, Row or Rue	Lochgarry's	York	8.11.46

Execution Lists—continued

Name.	Regiment.	Place of Execution.	Date of Execution.
John Rowbotham or Rubethen	Serjeant, Manchester	Penrith	28.10.46
George Smith	Deserter	Inverness	20.4.46
James Sparkes or Sparks	..	York	1.11.46
Thomas Siddall or Syddall	Manchester	Kennington Common	30.7.46
Alex. Stephenson or Stevenson	..	Carlisle	15.11.46
John Strachan	Deserter	Inverness	28.4.46
Andrew Swan	Serjeant Manchester	Penrith	28.10.46
110 John Sudden	Deserter	Inverness	21.4.46
Peter Taylor	Manchester	Brampton	21.10.46
James Thomson	Ogilvy's	York	8.11.46
Francis Towneley	Colonel, Manchester	Kennington Common	30.7.46
John Walker	..	York ..	8.11.46
John Wallace	..	Carlisle	15.11.46
Thomas Waters	Deserter	Inverness	20.4.46
Sir John Wedderburn of Blackness, Bart.	Colonel, Ogilvy's	Kennington Common	28.11.46
David Welch	Deserter	Edinburgh	24.1.46
Niccol Whyte	Deserter	Perth	31.7.46
120 Andrew Wood	Captain, Roy Stuart's	Kennington Common	28.11.46

11. SUMMARY OF DISPOSAL OF PRISONERS OF THE '45

It is now possible to summarise the information at our disposal regarding the Prisoners of the '45; and this has been done in the table given below. The table itself, however, requires some explanations; and these are now given *seriatim*.

The List of Prisoners shows that 3471 persons, men, women and children, were taken prisoner. No doubt even this number is not exhaustive, but it is probably a close approximation to the correct total.

As far as possible, the allocation of these individuals by regiments has been shown; but, owing to lack of complete information in the State Papers, a considerable number are not shown as belonging to particular units; an unknown number, moreover, never bore arms at all, and were civilians, in all walks of life, who had been concerned directly or indirectly in the operations.

Of the total the transportation lists show that 936, or 26·87 per cent., were ordered to be transported. In only one case is there a list of prisoners taken on board a particular ship; and no information therefore is available as to the exact number who survived to be transported. Many of them no doubt died in prison.

Including 92 pardoned on enlistment, 1287 persons, or about 37 per cent., were liberated. This term 'liberated' has a different significance according as the prisoners were of French or Spanish service on the one hand, or ordinary Jacobite prisoners on the other. The normal method of disposal of French officers and men was by exchange as prisoners of war; and these, to the number of 382 French and 5 Spanish, have been included among the liberated.

There were executed 120 prisoners, or 3·26 per cent. This number, as stated in the section devoted to this subject, includes 40 ex-soldiers of the English army who were found to have deserted and joined the Prince; these were generally hanged summarily by sentence of court-martial.

Prisoners banished and forbidden to return to the country numbered 222. Of these, 86 French and 10 Spanish were officers. From their names they were principally persons who had established their foreign nationality, although their original domicile may have been British. Of the remaining 126 Jacobite prisoners, some were banished to America—a genteel form of transportation—and others were allowed to go abroad to the Continent.

The column devoted to deaths in prison is entirely misleading. The names of only 88 prisoners who died are shown in the State Papers ; but, for the reasons stated in the section dealing with the treatment of prisoners and mortality among prisoners, this figure bears no relation whatever to the actual conditions which obtained. In fact the true mortality is undoubtedly concealed in the number of those whose disposal is shown as unknown. That class, which numbered 684 persons, or about 19 per cent. of the whole, was probably to a very large extent made up of the unrecorded deaths of prisoners in prisons and transports. Considering the nature of the epidemic—typhus fever—which raged for months together in these institutions, it would not be at all surprising if it could be demonstrated that most of this class ought to be transferred to ‘deaths in prison.’

PRISONERS OF THE '45

TABLE OF DISPOSAL OF PRISONERS

	Trans- ported.	Released.	Hanged.	Banished.	Died in prison.	Escaped.	Conditional pardon.	Disposal unknown.	Total.
Atholl Brigade :									
Tullibardine's	5	19	.. 1	1	1	1	1	1	29
Lord George Murray's	10	5	1	..	1	..	1	9	27
Nairn's . . . . .	..	..	..	..	..	..	..	3	3
Robertson of Struan's . . . . .	..	7	..	..	..	..	..	1	8
Strathallan's	2	4	..	..	..	..	..	1	7
Lord Lewis Gordon's :									
Lord Lewis Gordon's	22	18	1	..	2	1	1	20	65
Bannerman's	4	3	..	..	..	..	1	4	12
Farquharson's	8	1	..	..	2	1	..	11	23
Crichton's	5	5	..	..	..	..	..	4	14
Stonywood's	12	18	..	1	2	..	..	9	42
M'Donald units :									
Glengarry's	128	21	2	1	6	1	1	49	209
Keppoch's	8	13	3	..	..	..	..	2	26
Clanranald's	35	24	1	..	1	1	..	12	74
M'Lachlan's	5	1	..	..	..	..	..	3	9
M'Lean of Drimmin's . . . . .	..	8	..	..	..	..	..	..	8
M'Leod of Raasay's	6	..	..	..	..	..	1	..	7
Lady Mackintosh's	14	2	..	..	4	..	..	7	27
Carry forward,	264	149	8	3	19	5	6	136	590

TABLE OF DISPOSAL OF PRISONERS—continued

	Trans- ported.	Released	Hanged.	Banished.	Died in prison.	Escaped.	Conditional pardon.	Disposal unknown.	Total.
Brought forward,	264	149	8	3	19	5	6	136	590
M'Gregor of Glengyle's	3	13	..	..	1	9	..	1	27
Stewart of Ardshiel's	4	9	..	..	..	1	..	4	18
Chisholm's	1	..	..	..	..	..	..	1	2
Roy Stuart's	25	5	..	3	2	1	6	24	66
Cromarty's	152	11	..	..	6	..	1	48	218
Lochiel's	16	13	2	..	1	..	..	11	44
Lovat's	26	2	..	..	1	1	..	7	37
Duke of Perth's	58	36	7	1	10	2	5	37	156
Gordon of Glenbucket's	25	11	5	..	3	1	1	21	67
Ogilvy's	60	116	4	1	6	3	7	60	257
Manchester	37	18	25	3	1	4	21	54	163
Elcho's Life Guards	4	8	2	1	2	4	2	3	26
Balmerino's Life Guards	4	3	2	..	..	1	..	2	11
Kilmarnock's Horse	4	7	3	..	1	1	2	8	26
Pitsligo's Horse	1	5	..	..	..	..	..	4	12
Baggot's Hussars	2	2	3	2	..	2	..	2	13
Artillery	5	8	1	..	2	..	..	6	22
Civilians and regiments not stated	182	444	48	111	22	19	16	227	1069
Women and Children	31	40	..	..	..	4	..	6	81
Carry forward,	904	900	110	126	78	58	67	662	2905

TABLE OF DISPOSAL OF PRISONERS—continued

	Trans- ported.	Exchanged or Released as Prisoners of War.	Hanged.	Banished.	Died in prison.	Escaped.	Conditional pardon.	Disposal unknown.	Total.
Brought forward	904	900	110	126	78	58	67	662	2905
French Service :									
Fitzjames' Horse	1	17	..	9	..	..	..	1	28
Lord John Drummond's	14	47	2	11	3	..	4	11	92
Dillon's Picquets	2	8	1	6	..	..	..	..	17
Clare's " . . . . .	..	50	1	6	1	..	1	1	60
Berwick's "	1	80	..	12	1	..	1	2	97
Buckley's " . . . . .	..	45	..	10	1	..	..	1	57
Rooth's "	1	9	..	5	..	..	..	..	15
Lally's " . . . . .	..	14	1	6	..	..	..	1	22
Civilians and regiment not stated	13	112	5	21	3	..	3	5	162
Spanish Service . . . . .	..	5	..	10	1	..	..	..	16
Total—French and Spanish Troops	32	387	10	96	10	..	9	22	566
Grand Total of Jacobite Prisoners	936	1287	120	222	88	58	76	684	3471

CHAPTER VIII

THE TREATMENT OF PRISONERS

1. TREATMENT IN THE TRANSPORTS

THE first reference to Cumberland's intention to dispatch Jacobite prisoners captured at and after the battle of Culloden to England is an Army Order of 24th April 1746, issued at Inverness (*Cumberland Orders*), which directed the Field Officer of the detachment in the town to ascertain

'what number of rebels the Ships already unloaded will contain . . . and see the number embarked which the ships will hold,'

and to place a serjeant and 12 men on board each as a guard, under a subaltern. As the ships were filled with prisoners they were to move out into the stream.

In regard to the rationing of these prisoners the Order continues :

'Mr. Dundas is to supply the men with meal . . . according to the number of men on board each ship, appointing the Master or Mate to deliver it very early each morning, at 1/2 pound per man.'

The conditions to which the prisoners were exposed in the transports on the voyage to London, and after their arrival in the Thames, have been detailed at great length in the *Lyon in Mourning*, and need not be repeated here. They may, however, be summed up as starvation, overcrowding, ill-treatment, and an epidemic of typhus which took heavy toll of them.

Lurid as are the accounts communicated to Bishop Forbes, a reader might perhaps regard them with suspicion as *ex-parte* statements, probably exaggerated by the writers ; but corroboration, as regards one at least of the

transports, is to be found in the State Papers in the form of a medical report on the prisoners in the *Pamela*.

About August 1746 the conditions in this ship came to the knowledge of the Commissioners for Wounded, and a medical officer, Mr. Minshaw, was detailed to inspect the ship. His report has survived (*S.P.Dom.*, 86-104); and, as it is unlikely that he would have been selected for the task if he had shown any signs of pro-Jacobite bias, it affords the best possible corroboration of the grounds of complaint by prisoners which appear in the *Lyon*.

The report is as follows :

‘ *Report of Mr Minshaw as to state of Rebel Prisoners
on Board Pamela at Woolwich*

‘ On Thursday night the 20th August 1746 between 8 and 9 o'clock I went on board the vessel called the *Pamela*, saw the commanding officer of the Guard over the prisoners, who appointed next morning at 6 to inspect the prisoners to take account of their names, etc. At which time I attended, and, on my looking down into the hold where the prisoners then were, was saluted with such an intolerable smell that it was like to overcome me, tho' I was provided with proper herbs and my nostrils stuffed therewith. After seating ourselves on the quarter deck the prisoners were called up one by one, such as were able to come, and on being asked told their names, in what regiment or corps they served, of what age they were and where born. The number of those who came on deck were 54, many of whom were very ill as appeared by their countenance and their snail creep pace in ascending the ladder, being only just able to crawl up.

‘ 18 who were left below were said to be utterly incapable of coming up on deck unless by the help of a string [sling?] which was not thought necessary as two of the most hardy of the Guard went down into the Hold, and took an account of their names etc., a fair copy of which, as well as the list taken above deck, I would have transcribed, but the commanding officer who wrote the List taken above chose to do it himself and send it as mentioned in his letter.

‘ To hear the description given by the Guard who went into the Hold of the uncleanness of that place is surpassing imagination, and too nauseous to describe, so that that, together with the malignant fever raging amongst them, and another odious distemper peculiar to Scotchmen, may terminate in a more dreadful disease.’

To this report was attached a nominal roll of 72 prisoners of all ages from 17 to 80, and of all social positions, from the 'common man' to officers such as M'Neill of Barra, Gordon of Glenbucket the younger, Captain James Sinclair of the French Service, and Robert Fraser, secretary to Lord Lovat. There was no distinction of persons in the treatment of Jacobite prisoners in transports.

A month later, from a report dated 11th September 1746, by Captain Strafford Eyre (*S.P.Dom.*, 87-122) it appears that 49 of the sick prisoners from the transports had been removed to the hospital ship *Mermaid*, where, as the writer says, 'they are surprisingly recovering.'

Otherwise nothing was done to improve matters until 25th December, when an order came to discharge the *Pamela* from Government service, and to transfer her surviving prisoners to the other transports.

The conditions in the other vessels were little, if any, better than in the *Pamela*, but the Commissioners again took somewhat belated action in regard to these unfortunate men.

The first official record of the outbreak of serious illness in the transports in the Thames appears to be a letter (*S.P.Dom.*, 86-53) from Major John Salt from Woolwich, dated 11th August 1746, to 'the Principal Clerk of the Duke of Newcastle.'

After stating that, in an earlier letter, he had omitted to mention that some of the Duke of Cumberland's baggage was on board, he says :

'The rebels begin to be very sickly, and the Stench is so great at present that the Soldiers are obliged to lay on the Deck.'

On 22nd August 1746, following perhaps on Mr. Minshaw's report on the *Pamela*, the Duke addressed the Admiralty (*S.P.Dom. Entry Book*, 226-131) stating that :

'the Rebel Prisoners now on board a transport at Woolwich are so straitened for room as to be very sickly, which may make it unsafe to land them. One or more empty transports are to be sent to receive some of the prisoners ; the transports to dropp down to Tilbury, where the prisoners may be daily

landed for air, and may be attended by the apothecary. . . . Two transports at the Nore in a similar condition.'

Similar proposals were made for the latter, and the Admiralty was asked to approve and to issue orders accordingly.

But the condition of affairs in Tilbury Fort itself was not satisfactory, and Captain Massey, then in command, appears to have made some recommendations for the carrying out of simple hygienic measures, which did not meet with Newcastle's approval. On 13th December 1746 the latter addressed the Commissioners in the following terms :

'Your letter received, enclosing extract of letter from Captain Massey, commanding officer at Tilbury Fort, relating to keeping the prisoners there clean.

'It seems to me very odd that he should want an order for allowing the wards to be cleaned and attending the sick, and I do not understand what authority can be wanted for that purpose.'

On the 22nd December another letter states :

'Hope no further difficulties will be made, as my Lord Duke cannot give an order as the commanding officer desires.'

No action therefore was taken on the lines suggested ; and it must be concluded that the epidemic was deliberately allowed to pursue its ordinary course.

The landing of prisoners from the *Pamela* and other transports in Tilbury Fort resulted, apparently, in an outbreak of disease in the latter ; this is comprehensible enough if the epidemic in the transports was typhus fever. Orders were given that the prisoners were to be supplied with clean clothing, and there appears to have been an idea that they might be removed to some large private houses in the neighbourhood.

The Commanding Officer at Tilbury, Captain Cayran, went so far as to forward to higher authority a Memorial in French drawn up by an unknown French prisoner, which is of sufficient interest to quote at length :

'Mémoire pour empêcher que l'infection n'augmente à Tilbury Fort.

‘Premièrement il faut brûler tous leurs habits, et leur en donner d’autres ; après il faut bien les purger et les guérir de la galle, les faire bien laver, leur couper les cheveux, brûler les perruques de ceux qui en portent, leur donner un bonnet et deux chemises à chacun, et les faire changer toutes les semaines.

‘Pour cet effet, il faut trouver quelque vieille maison de campagne inhabitée, où il y aura des écuries et granges, avec un jardin qui soit bien muré, pour qu’ils puissent s’y promener et prendre l’air. On enverra ceux qui se porteront bien dans la dite maison, et les malades resteront à Tilbury Fort ; on leur fera beaucoup de place.

‘Il faut donner aux malades des nourritures conformes à leurs estomacs ; il faut des gens pour servir les malades, avoir des lits de paille, et des couvertes pour qu’ils se puissent coucher ; il faut leur donner changement de nourriture ; il faut aussi brûler dans les chambres des drogues pour chasser l’infection. Il faudrait leur accorder une quarte de bière par jour, et un verre d’eau de vie. Je compte que six sous par jour par homme feront l’affaire.

‘5th September 1746.’ (Macbeth Forbes, 35, 36.)

This Memorial was forwarded to the Commissioners, who sent it on to the Secretary of State.

On 31st January 1747 the Commissioners addressed Mr. John Kirkes, ‘Surgeon, Agent for the Rebel Prisoners at Tilbury Fort,’ as follows (*S.P.Dom.*, 97-17) :

‘Whereas Captain Cayran, the Commanding Officer at Tilbury Fort has represented . . . that there is room sufficient in the said Fort to receive all the prisoners that are now on board the Transports, and Mr Ramsden one of His Grace’s secretaries has desired, by his Letter of the day’s date, that we would give the necessary Orders for removing all, or as many as possible, that so the great Expence of the Transports might be saved :

‘You are hereby directed immediately to land all the well prisoners now on board the *James & Mary* transport, and to receive from the Master of her the bedding which he has been furnished with, for the use of them.

‘And you are to do the same with respect to the sick on board the *Mermaid* from time to time as they recover and may be removed with Safety, receiving from the Master also all the Bedding and other Necessarys which have been furnished him for their use.’

It will be observed that it was the desire for economy rather than humanity that actuated this decision.

Analysis of Casualties in the Transports

All contemporary evidence supplied by prisoners agrees as to the high rate of incidence of sickness and mortality on board the transports. The question evidently arises how far these statements are confirmed by the State Papers. In order to ascertain this it is, in the first place, necessary to enquire more closely into the dates of such returns as still exist, and their relation to the dates of the known movements of the ships concerned.

On the 9th June 1746 H.M.S. *Winchilsea* arrived off Newcastle with a convoy of seven transports, intending to land the prisoners there in accordance with the original instructions; in compliance, however, with orders received there, the ship continued its journey for London the same evening along with the transports.

This convoy, as detailed in *S.P.Dom.*, 84, and endorsed '*Winchilsea's List of Prisoners*,' consisted of seven ships, carrying 564 prisoners.

The paper gives nominal rolls of the prisoners contained in each ship on 3rd June 1746, drawn up immediately before the departure of the convoy from Inverness.

In the case of two of these vessels, which had been gradually filling up with prisoners for some weeks prior to their departure, information is given in the nominal roll showing the men who had died on board up to the date of compilation of the return, *i.e.* up to 3rd June 1746, or during the following week. These lists are worth examining.

Thus, the *Alexander & James*, which had 83 prisoners on board on 9th June, had already lost eight men in May while lying off Inverness, and five more were dead by the 9th June.

The *Jane of Leith* had lost eleven out of 109 prisoners between the 7th May and 27th May before she put to sea at all. The other ships, unfortunately, submitted no corresponding return of deaths, though in each nominal roll of prisoners one or two names have 'Dead' written against them. It is impossible therefore to make a combined return for the whole convoy. The fact, however,

that the *Alexander & James* lost 13·5 per cent. of her prisoner complement in thirty-five days, and that the *Jane of Leith* lost 11 per cent. of hers in nineteen days, affords substantial support to the accounts of the consequences of their treatment which are given by prisoners in *The Lyon in Mourning*.

Later detailed reports from these seven transports are not available. If they were ever drawn up they have not been preserved.

There is, however, abundance of corroborative evidence of the reported statements regarding the conditions in the transports in the case of the *Pamela*, a vessel which had a peculiarly evil reputation, commanded by one Thomas Grindlay. On 9th August 1746 Major John Salt, writing from on board the sloop *Terror* at Woolwich, drew up a list of 82 prisoners on the *Pamela*, giving their age, height, and complexion, for transportation purposes. Eleven days later we have the report of Mr. Minshaw on the state of the *Pamela*, given above. He mentions the fact that out of 72 surviving prisoners only 54 succeeded in reaching the upper deck and answering their names, and that 18 men below were physically incapable of coming up; the number of prisoners therefore had fallen in eleven days from 82 to 72, a reduction which can only be accounted for by death, as there had been no transfers to hospital or transportations during those days, and 18 others were in a moribund condition.

As the *Pamela* continued in service as a prison ship until 25th December 1746 the total mortality in her must have been enormous; and the advent of winter certainly cannot have improved the physical condition of men who were in a state of semi-starvation and were only partially clad.

Summarising the available information drawn from official sources, certain conclusions are now permissible in regard to the mortality rates in Tilbury and the transports.

1. The original convoy from Inverness consisted of 564 prisoners on 3rd June 1746. (*S.P.Dom.*, 84.)

2. By 11th August 1746 268 prisoners had been landed and put in Tilbury Fort. There were 82 shown as remaining in

the *Pamela*, and 136 in the *Liberty & Property* and *James & Mary*. In other words, the strength had fallen from 564 to 486, or 13·9 per cent. in 70 days. (*S.P.Dom.*, 85-122 and 185 ; 86-18 and 207.)

3. On 11th September 1746 the number of Tilbury prisoners had fallen from 268 to 223 ; that of the *Pamela* from 82 to 74 ; and that of the other two ships from 136 to 110. The total reduction in the course of the month from 11th August to 11th September was from 486 to 407, or 16·26 per cent. (*S.P.Dom.*, 87-122.)

4. There is, then, indisputable evidence that of the original 564 prisoners of 3rd June only 407 were shown on the lists of 11th September, including those in Tilbury Fort ; and this loss of 157 men, or 29·7 per cent., in a period of 100 days accounts no doubt for the numerous blanks in the columns showing disposals of individuals in the prisoners' lists below. That these men, or the vast majority of them, died is the only possible explanation of the discrepancy.

Treatment of Military Guards on Ships

When the overcrowding and bad feeding, and consequent sickness, among the prisoners in the transports off Tilbury are considered it must, in common fairness, be admitted that the treatment of the military guards on those ships was at the same time open to severe criticism.

The following letter (*W.O.*, 4/42, p. 185) of 14th August 1746 shows that the regular soldier of that time had to put up with neglect of everything approaching consideration for his comfort :

' SIR,—It having been represented to the secretary at Warr that the Soldiers of Lord Henry Beauclerk's Regt put on board the two Transports, named the *Liberty & Property* and the *James & Mary*, to guard the Rebell Prisoners there, complain much of the hardships they undergoe in performing that Duty, by being oblig'd to lye on the Deck without any sort of Bedding, and having nothing to Subsist upon, but Bread and Cheese with hot fiery Brandy and Water, I am directed by Mr Fox to desire you would enquire into the truth of this Matter, and favour him with your Opinion how the inconvenience complained of may be removed, consistent with the Good of His Majesty's Service.—I am Sir, Your Most humble servant

' EDWD LLOYD.

' Officer Commanding in Chief
the Garrison of Tilbury Fort.'

It was decided that the detachments were to be relieved every forty-eight hours (*ib.*, pp. 284, 286).

2. TREATMENT IN PRISONS AND MESSENGERS' HOUSES

The sources of our information regarding the treatment of prisoners in prisons under English—as distinct from Scottish—military and civil administration are principally the abundant evidence afforded by those who suffered under it, such as that recorded in Bishop Forbes' *Lyon in Mourning*. It is, for obvious reasons, unlikely that any corresponding contemporary information should be found in the State Records on which the present work is based. It may, however, be reasonably argued that, if the statements of prisoners as to the conditions they had to endure in the transports which took them to the Thames and in which they were confined for many months are accepted as approximating to the truth, similar statements of those who suffered imprisonment in Carlisle, York, Southwark, Tilbury Fort, and elsewhere should be accepted equally as a true statement of the case.

The principal difference between the case against the transports and that against the English prisons is that in the former the official report of a Government Inspector, Mr. Minshaw, on the condition of the notorious *Pamela*, amply corroborates the prisoners' statements; and that subsequent Government action, in landing some of the prisoners with a view to remedying overcrowding, showed that Mr. Minshaw's report compelled immediate action.

No corresponding report on hygienic conditions in English prisons has been discovered after an exhaustive search; and we are thrown back therefore on what the prisoners themselves said, with little or nothing to show how far, except in regard to overcrowding and its consequences, the conditions complained of were peculiar to the places in which Jacobite prisoners were incarcerated, or were common to civil prisons generally at a time when these institutions were, notoriously, charnel-houses.

In studying the available records it is necessary, too, to draw a distinct line between the temporary prison arrangements which came into existence in Inverness after Culloden, and those which obtained in the permanent prisons in England. As, moreover, the Inverness arrangements were directly under the English military authorities, they must be considered entirely apart from those in the Scottish prisons in which so many Jacobite prisoners were confined. Inverness is therefore treated separately.

Treatment in Inverness

At the time of the '45 the population of Inverness probably did not exceed 3000, and the town found itself suddenly converted not only into a prison camp, but into a hospital for some 250 wounded English soldiers, besides at least 1200 Jacobite prisoners, many of them wounded.

In the circumstances, had there been any desire on the part of Cumberland to show humanity towards a beaten enemy, it must be admitted that it would have been extremely difficult to do so. As it was, however, the well vouched for atrocities committed by his men on the field of Culloden and after the battle show clearly enough that he never had any intention of treating his captives as prisoners of war, but rather as persons already proved guilty of high treason.

A great deal of information regarding the treatment of prisoners in Inverness has appeared in Forbes' *Lyon in Mourning* (i. 48 ; ii. 191-298 ; iii. 155), and need not be repeated here. All the evidence shows that the prisoners were subjected to brutal ill-treatment of every sort, to which no references are to be found in the State Papers.

As Inverness submitted no returns of the numbers of prisoners detained there at different times, it is impossible to arrive at any estimate of the mortality among them until they were embarked on transports and sent to England.

Carlisle, York, and Lancaster Prisons

From contemporary sources (*Lyon, passim*) it is common knowledge that the prisoners were rigorously treated in these prisons. The only example that need be quoted here is one recently published (*A.H.R.J.*, iii. 209) in the form of a statement by one James Miller, whose sentence was commuted on condition of enlistment. He describes his experiences after the surrender of Carlisle :

‘ We were barbarously treated, the souldiers rifling us and taking everything of value from us, both money and Cloaths ; they did not offer us any Provisions for three days, and on the fourth but one small Bisket a man. They broke open a well in the body of the Church, which had not been used for upwards of an hundred years.

‘ We was oblig’d to drink that or die of thirst, after we had been there five days, which I really believe was for want of natural subsistance.

‘ The Gentlemen (*i.e.* Officers) were took Jany. the 12 for London. The day following about four score were took out of the Church and Marched for (York Castle) and upon the third day the Remainder were took to Lancaster and Chester Castles, guarded by a party of Mark Kerr’s Dragoons, who used us very barbarously, dragging us through the dirtiest places they could find.

‘ We arrived at Lancaster Jany. 18, and orders were given to the Jayler to load us with heavy irons.

‘ The Governor allowed us four pence, but our Jaylour, perceiving it would be more beneficial, thought it proper to keep our pay and provide us with victuals, which were but very indifferent, consisting of cow heads, livers, lights, and the refuse of the market, which threw most of us into the Flux. Upwards of 80 poor prisoners died while (we) remain’d there.

‘ August 1st 49 of us march’d to Carlisle . . . and were confined in the County Goal, the Town Mr [Major], having the principal command over us, as to paying us, bedding and other agreeable necessarys, thought to have imposed upon us by allowing us one pound of Brede a day and Beef twice a week. We made our address to Carteret (Webb) the King’s Solicitor, who recover’d our four pence a day.’

Here it must be noted that in the absence of prison returns it is impossible to verify such a statement as above regard-

ing the alleged occurrence of 80 deaths in Lancaster between 18th January and 1st August.

Inferentially, however, it is possible to arrive at some conclusion regarding the health of the prisoners during the period of the Carlisle trials. The official report of the judges, dated 3rd October 1746, shows that, between 9th September, when the trials actually commenced, and the 27th of that month, when the proceedings terminated, 133 persons were indicted and 80 were sentenced to death, and that the sentence was ordered to be carried out on 30, in batches of 10 at a time, between 19th and 28th October.

Between the 27th September and 28th October 5 deaths occurred among these 30 men.

As, during that time, there were 385 prisoners in Carlisle it is fair to assume that the number of deaths, if they occurred on the same scale as among the 30 condemned men, must have amounted to well over 100.

Southwark Prison ('The New Gaol')

An account of his treatment in this prison is contained in a letter (*S.P.Dom.*, 98-27) by the Rev. Allan M'Donald to 'Mr. Caranton' (Carrington), London, a messenger, dated 15th June 1747. M'Donald was a priest who had acted as Chaplain to Clanranald's regiment and as Confessor to the Prince. He had been captured in South Uist in May 1746 and sent to Tilbury.

His letter speaks for itself :

'NEW GAOL, 15th June 1747.

'SIR,—You know that, by orders from the Duke of Newcastle's office to Mr Folsom that commands in Tilbury Fort, I, in conjunction with the other three Churchmen whom you have lately brought from thence to your house, subscribed a petition for being sent out of His Majesty's dominions and never to return. . . . And that, a day or two thereafter, I was brought from Tilbury here, wher I'm loaded with Irons, and lying on a floor ever since, and suffer several other hardships, by which my already shatter'd constitution is almost entirely destroy'd. I begg that you . . . represent my case to such persons of the said office as may contribute to my reliefe . . . and I hope that they'll take into consideration what I have suffered for this year past, first aboard a man of warr, then for

more than half a year in the howl [hull] of a transport in the River, after that at Tilbury, and last of all here, wher I 'm used as above, since I have not money to pay for better usage. . . . I expect that their humanity will . . . grant you an order to bring me from this place to your house, that I may undergoe the same fate with my three forsaied brethren.

'Your most humble servant,

'ALLAN M'DONALD.'

Aeneas Macdonald, the banker, also testifies to the treatment of Jacobite prisoners in this prison. On 4th April 1748, shortly before his release, he wrote (*S.P.Dom.*, 106-70) :

'I was almost eaten up with vermin of all kinds last summer, though I did all possible to keep my ward clean. I would pay 6s. 8d. a day out of my pocket to get to a Messenger's House, rather than stay in this cursed place.'

On 7th January 1747/8 Colonel Colbert of the King of France's Service wrote from the Marshalsea Prison to Andrew Stone that John Gray, an officer, had been lying in irons in the New Prison, Southwark, ever since he came from Scotland (*S.P.Dom.*, 106-4). On 2nd February 1747/8 William Brittough, prisoner in Southwark, petitioned for release, on the ground that he had been taken prisoner when only sixteen years of age and had been convicted of high treason in July 1746, since when he had been repeatedly reprieved. He adds that he is now very sick and in danger of death (*S.P.Dom.*, 106-27).

The prisoners sometimes appealed formally to higher authority against their treatment. In the case of the 'New Gaol, Southwark' such a petition, undated, but certainly written about October 1747, appears over the signatures of the rather well-known prisoners Charles Oliphant, Robert and Henry Moir, James Wilding and Walter Mitchell.

They crave relief 'from the cruel avarice of the gaoler and turnkeys,' and make the following statement (*S.P.Dom.*, 102-12) :

'1. Everyone, tradesman or relation, before admittance at the first door has to pay 6d., and, before admittance at the door backwards, even in sickness, 6d. to the turnkey.

' 2. Having no more than 4d. for subsistence per day they cannot purchase strong beer necessary owing to long confinement and weakly condition; small beer and every other kind of liquor has to be bought of the gaoler at very extravagant prices.

' 3. Lives are in danger owing to close confinement, prisoners on the common side being refused access to the fore yard because the second turnkey extorts another 6d., although some of them have paid near three times the money. The prisoners in the fore part have that privilege. We have petitioned the High Sheriff and had no redress.'

The petition was, in due course, forwarded to the gaoler for report; and he, naturally, denied the accusations and said that:

' no rebel prisoners had died in that gaol, except two brought in weakly condition from Tilbury Fort.'

The case is interesting as showing that, in Southwark at least, where the prisoners were of the officer class, the possession of money was essential to secure the barest comforts of life.

As an instance of the unhygienic conditions in Southwark prison may be taken the petition of Sir James Kinloch (*S.P.Dom.*, 96-59), dated 25th April 1747:

' Humbly sheweth:

' That, being obliged to lye three in a room, your Petitioner is confined in with his two brothers. It is his misfortune that one of them is not yet quite recovered of a Violent Feaver, and the other of them just now threatned with one, Your Petitioner's Health and even his Life is thereby greatly endangered.

' Your petitioner therefore most humbly prays that, as he is now but in a very Indifferent state of Health, Your Grace will be pleased to give Directions for his removal to the Custody of a Messenger.'

This petition suggests that there was a typhus epidemic in the prison, and that being so, the position of three individuals living in one cell was uncomfortable when one of the three had already developed the disease.

That the prisoners sometimes rebelled against their treatment in the ' New Gaol ' is not to be wondered at.

An example of an attempt to overpower the warders is

given in a report by William Goodall to Mr. Thomas Ramsden in December 1747, of which the following is an extract :

“ At the locking up hour last night the following persons set on the Keeper and Turnkeys, and, had it not been for Mr. Prothero, Sergeant of the Guards in the Duke's Regiment, Col. Mitchell's Company, and the Centenels,” the Keeper and the Turnkeys would probably have been murdered, as they were assaulted and struck several times, the men saying “ they did not care for the Guards as they were a match for them.” These disorderly persons were William Brittough, Charles Gordon, James Gordon, Charles Deacon, Furnivall and Watson.’ (*S.P.Dom.*, 103-44.)

*Treatment of Officer Prisoners : The Case of
Nicholas Glascoe*

As an example of the treatment of Jacobite officer prisoners this case is of particular interest and importance (*S.P.Dom.*, 42-5).

One of the most notable men of the Jacobite army in the '45 was the Franco-Irishman, Nicholas Glascoe [or Glasgow] of Dillon's regiment, who was posted to Ogilvy's second battalion and served with it during the latter part of the campaign. He was taken prisoner and sent to London and was tried for his life. He pleaded that he was a French subject and held a French commission, and that he was born in France. This plea was accepted by the Crown after hearing several witnesses in his support, and he was released from his irons and thereafter treated as a prisoner of war. On his return to France he joined the Scottish regiment raised there by Lord Ogilvy.

On 16th April 1752, hearing that the Duke of Newcastle was expected in France, he addressed a Memorial¹ to him from St. Omer, in the following terms :

‘ Glascoe, Major du Regiment d'Ogilvy éccosais, a l'honneur de représenter à Votre Excellence que les souffrances et les dépenses qu'il a essuïées pendant environ dix mois, dans les

¹ Miss Henrietta Tayler discovered this most valuable document. She points out that it bears the Endorsement ‘Glascoe-Memorial that he may return to France,’—an indication that the annotator was not a good French scholar.

fers a Londres, où il a été detenu prisonnier en 1746, l'ont si fort épuisé qu'il espère, qu'étant le seul officier françois dans le cas d'avoir été si mal traité, Votre Excellence voudra bien lui rendre la justice de le faire frayer les depenses que lui ont causés ces fausses accusations, puis ce qu'il a été dechargé par les lois civiles de la Grande Bretagne.

' . . . Sous quoy le dit Glascoe a . . . recours à votre justice Monseigneur, à qu'il vous plaira ordonner, qu'on luy fasse le remboursement de 391 livres sterlin et 16 shillin, à quoi montent les depenses qu'il a été obligé de faire pour sa justification, suivant l'état rapporté ey contra. . . .

Pour l'équipage dudit Glascoe à Inverness porté chez S.A.R. le due de Comberland, quand il s'est rendu prisonnier	Livres sterlin	40	0
Pour huit évidences ou témoins pendant neuf mois, à deux shillins par jour à chacun	do.	234	0
Pour les frais des Conseillers	do.	42	0
Logement de la prison à une guinée par semaine, pendant neuf mois	do.	42	0
Pour faire changer les gros fers	do.	21	0
Pour deux habis corpies (<i>sic?</i> Habeas Corpus) pour faire paraître deux officiers prisonniers de guerre à la Marehlay (Marshalsea) comme témoins	do.	4	10
Pour impression de 300 exemplaires du Cartel de Franekfort pour l'échange des prisonniers, et les disperser dans Londres	do.	6	6
Pour huit jours de louage de carosse pour aller paraître a St Margaret's hill, a 5 sehillin par jour	do.	2	0
Total	Livres sterlin	391	16'

This remarkable document throws a great deal of light on what it cost a Jacobite prisoner to live in prison, and to be in a position to defend himself before the Commission of Oyer and Terminer. At the time this exorbitant expenditure was incurred Glascoe was regarded and treated as an ordinary Jacobite officer prisoner, first in a transport and then in Southwark prison; and the details of the account are worth closer attention.

He was not captured at Culloden, but accompanied Ogilvy's regiment after the action, when they retired to Ruthven. This would explain the item for £40 of his 'equipage' when he returned to Inverness to surrender, obviously under the erroneous impression that he would be treated as a French prisoner of war. He was, on the contrary, treated as an ordinary Jacobite prisoner and sent to London in the convoy of transports.

The papers of Sir John Strange (*Allardyce*, ii. 418-432) show that Glascoe had a counsel, Mr. Joddrell, and six witnesses for the defence, of whom four were officers in the French Service.

The item of 'logement' in Southwark prison, at a guinea a week, shows that officers at least were expected to feed themselves while incarcerated, and this accounts for numerous entries in the Records in which it is stated that, at first, the prisoner had 'subsisted himself' but ultimately had to be rationed, as his funds gave out. It also accounts for the petition of certain prisoners to be removed from what was evidently an expensive prison, the Tower of London, and to be transferred to a cheaper one.

The reference 'pour faire changer les gros fers,' to secure which cost him no less than £42, can only have meant that this was the amount of the bribe he was forced to pay the jailer to secure it.

The most remarkable and unexpected item of the account is the hire of a carriage to convey the prisoner to and from the Court, a privilege which may have accounted for the escape of two prisoners during the trials.

Glascoe's case clearly shows that money, and money alone, gave a Jacobite prisoner a chance of defending himself. In his case it enabled him to produce the evidence required to convince the Court that he was being treated as a prisoner, in flagrant disregard of the Frankfort Cartel. If he had been unable, from lack of funds, to employ counsel and to produce witnesses at great expense to himself, he would certainly have been convicted; and, having regard to his exploit at Keith and elsewhere, he would assuredly have been hanged. Finally, if he had

not been able to pay for his board and lodging in prison, he would have been sent to the transports to take his chance as a 'common man.'

The Records do not indicate what response Glascoe received.

The Tower of London

Many references to the treatment of the somewhat privileged class which found its way to the Tower of London are to be found in the *Diary of General Williamson*, the Deputy-Lieutenant. It is common knowledge that the peers who went from it to Tower Hill for the last act of their life drama received punctilious courtesy; and prisoners there were better treated than elsewhere in England.

One case has been found, that of the Earl of Traquair, who was granted special permission by the Privy Council to 'walk in the Tower, accompanied by 'an officer' (*S.P.Dom.*, 100-65).

The principal complaint against confinement there was its costliness.

As an example of the cost of living Lord Traquair was confined in a suite of three rooms and was charged 7 guineas a week, 'wine, tea and warders pay excluded' (*Williamson*, 128); this sum however included the charge for Lady Traquair, who was allowed to share his confinement. In the case of William Duke of Atholl who died in the Tower on 9 July 1746 the charge was 10 guineas a week (*ib.*, 123), which sum had been agreed upon by him.

Official complaints in regard to the expense were made on behalf of William Murray of Taymount by his brother the Earl of Dunmore (*S.P.Dom.*, 100-25); and also by John Murray of Broughton (*S.P.Dom.*, 97-1).

Leave to Prisoners on Medical Certificate

An unexpected type of correspondence found among the State Papers is that dealing with permission applied for, and sometimes granted, for prisoners to go to Bath to drink the waters. The persons concerned belonged to the

favoured type, *i.e.* the 'French' officers, and those individuals who were in Messengers' houses pending decision as to their release.

Thus, in March and April 1747, there is correspondence (*S.P.Dom.*, 96-39, 40) regarding permission for this purpose being granted to Hugh Fraser, the Evidence against Lord Lovat; in June there is a letter from Fraser to Newcastle thanking him for the concession granted (*S.P.Dom.*, 98-2).

Similarly on 29th June 1747 Captain Nugent—one of the many Nugents in the French Service—writes to Newcastle for the like permission (*S.P.Dom.*, 98-29), which was granted.

Messengers' Houses

There is evidence to show that the severity of life in a Messenger's house was tempered by the possession of funds.

Thus Aeneas Macdonald the banker, when for a short time in Dick's house in September 1746, says that when 'one day he was concerting a jaunt to Windsor with Flora Macdonald' he was taken away to Newgate (*Lyon*, i. 283). He lived to regret the change, and, on 4th April 1747, he wrote from the New Gaol, Southwark (*S.P.Dom.*, 106-70), stating that he was in bad health. Here, as stated above (p. 169), he complained of verminous conditions and said he would gladly pay 6s. 8d. a day to be transferred to a Messenger's house.

From this petition it appears that, for the superior class of prisoner at least, the sum of 6s. 8d. a day was charged for accommodation in a Messenger's house.

No doubt a different class was catered for at a lower rate; but it is quite clear that one of the most important factors in a Jacobite prisoner's life was the possession of funds.

On the other hand, that a Messenger's house was not always a place in which comfort, and freedom from vermin, could be secured is indicated by the experience of Lady

Mackinnon, who was confined in Messenger Munie's house. On 17th February 1747 she addressed the following letter (*S.P.Dom.*, 94-59) to Andrew Stone :

'SIR,—The Great Character of Humanity you have always Bore, Especially towards the Helpless and Distress'd, Encourages me to Depend upon your good Offices, and, as a Word to the Wise is anuff, I shall trouble you no further than to beg you will peruse the annexed Case which I can verifie by Undisputeable Evidence.—I am, Good Sir, Your most Obliged & Obdt Servant,

A. MACKINNON.'

The letter reads as if there were an undercurrent of satire in it, the grounds for which are indicated in its annexure in a different writing, which is as follows :

'Last autumn Lady Mackinnon was taken from her house, on mistaken information that she held correspondence with persons accused of high treason. Conscious of innocence, she readily submitted, but her sufferings have been aggravated by an accident. She was carried by Messenger Munie to his own house in Derby Court, Channell Row, Westminster, which was then full of prisoners.

'There was no place for her except in a cockloft with a rotten floor and a hole in the roof for light, with no stove or any kind of firing, where she has lain all the preeeeding part of the winter, exposed to the inclemency of the weather.

'This is not meant as a Complaint as a Messenger will naturally not give up his perquisite of a prisoner except by Order of the Secy of State ; but she desires to be removed to some place where she may have a tolerable apartment, as her life is now endangered.'

Lady Mackinnon was released from confinement on 4th July 1747, but, as she was destitute and could not find her way home, Government compensated her for her privations with a sum of £25, which was paid to her in January 1748 (*S.P.Dom.*, 106-22).

Again, writing on 8th July 1748 (*S.P.Dom.*, 107-63) from Dick's house, Richard Morrison the Prince's wigmaker and barber, Ensign George Ramsay, John Farquharson and Christopher Taylor, submitted a joint petition :

'They have been closely confined for 11 weeks past. Since their reprieve they have never abused any indulgence, and therefore crave leave to go abroad to take the air as they

were formerly allowed to do, and as others in their situation do still.'

There is perhaps an explanation of this alteration of treatment in the fact that, at the time, three of them were on the point of being transported.

Another prisoner in Carrington's house, Carnegie, in June 1748 submitted a certificate of ill-health, with a recommendation that he be granted more air, exercise, and better sleeping accommodation (*S.P.Dom.*, 107-6).

3. RATIONING AND CARE OF PRISONERS

It is a remarkable fact that it was not until January 1746, after the fall of Carlisle, that the Government awoke to the necessity of making financial arrangements for the rationing of the prisoners in England, although the authorities in Scotland had had Standing Orders on the subject which had been drawn up long before the outbreak of the '45. Consequently on 13th January 'Secretary Corbett' was directed to address the 'Commissioners for Sick and Wounded' and instruct them to undertake the task (*T.B.M.*, 1/32, p. 81).

On 14th January 1746 there was a meeting of the Treasury Board of which the following proceedings (*T.B.M.*, 29/30, p. 230) are reported :

'Read a letter to Mr. Scrope from the Sick and Wounded Office, dated 11th January 1746, about subsisting Rebell prisoners in England.

'My Lords are of opinion that 4 pence per diem per man be allowed them, and the same be provided in the best manner.'

On 20th January the Commissioners asked for £2000 on account and enquired what sum it was proposed to allow for sick prisoners.

This was followed on 4th March 1746 by another meeting (*T.B.M.*, 29/30, p. 247), minuted as follows :

'Commissioners for Sick and Wounded attend on their memorial of 25th February last concerning Rebell prisoners.

'My lords are of opinion that sick prisoners be subsisted at or under 12 pence per day as proposed by the Commissioners ;

and their Lordships are also of opinion that all persons who are or shall be taken prisoners of Warr on board Men of War or Transports should be deemed and treated as prisoners of Warr until it shall appear that they are subjects of Great Britain and Rebels.'

The following printed pamphlet, not dated, was published by the 'Commissioners for taking Care of Sick and Wounded Seamen and for exchanging Prisoners of War,' with the secondary title :

'Instructions to be observed by the Persons appointed to take care of the Rebel Prisoners, *etc.* in Great Britain.'

I

'All such Rebels as are taken Prisoners, as well as these taken upon suspicion of Treason . . . are to be secured in the Gaol of the Place, in the same Manner other Criminals for treason are ; and attested lists of the Names & Qualities of such Prisoners are to be asked for of the Persons who deliver them, and copies thereof transmitted to Us from time to time in Form No. I.

II

'A weekly Account of them is to be sent Us in Form No. 2, and the names of such as shall have been discharged or shall have Died or Escaped . . . set off on the back of it.

III

'The prisoners are to be subsisted by . . . according to the annexed Scheme No. 3, and care taken their Provisions be properly dressed for them ; that they be furnished with as much good fresh Water as they shall desire, and have a sufficiency of clean straw to lie on, and that this be changed every Fortnight, for all of which there will be allowed four Pence a Man a Day.

IV

'The Prisoners are frequently to be Mustered, and such Cheequed out of Subsistence, for the Benefit of the Crown, as refuse to answer their Call.

V

'If any of the said Prisoners should happen to be either Sick or Wounded, they are to be put into some convenient Place, seperate [*sic*] from the other Prisoners, and there furnished

with Beds and Bedding, Diet and Nursing . . . for which there will be allowed Eight pence a Man a Day for so long as their State of Health shall require it.

VI

‘Some skilful Surgeon is to be Employed to attend the said Sick or Wounded Prisoners, to furnish them with Proper Medicaments and to do everything necessary in the way of his Profession for their cure . . . for which Service they will be allowed Six Shillings and Eight Pence for the Cure of each Man.

VII

‘If any of the said prisoners shall die, a Grave is to be dug for them, and they put into it at the Cheapest Rate that may be, and the expence charged in the proper Column of the Book No. 4.’

The ‘Scheme of Provisions to be issued each Rebel Prisoner every Day’ was as follows :

	lb.
Wheaten Bread	one
Marketable Beef	half
Gloucester or other Cheese equivalent to it	quarter

N.B.—The Meat to be Boiled into Broth with Oatmeal, Salt, *etc.*

It will be noted that, though bread is mentioned, no scale of oatmeal is defined. As the gaoler had to find the above ration, and make his own profit out of four pence a day, it is improbable that he troubled much about the addition of oatmeal or condiments to the broth.

The pamphlet contains a manuscript note, the date of which is uncertain, stating that it had been sent down from London ‘for the guidance of the persons who had charge of the Rebel Prisoners’ and that ‘this is the original Copy which was issued and acted upon by Mr. George Fraser, Assistant Auditor of Exeise, who had charge of the payments of the Prisoners.’

Attached to the body of the pamphlet are the skeleton forms referred to ; these comprise a weekly and a daily return of prisoners received, and a monthly return summarising this information and showing the number of days

and total amount of 'subsistance'; at the back are a medical certificate for sick prisoners, and one of the correct expenditure on the objects stated. These forms were certainly in use in the Scottish prisons, but there are none for English prisons to be found in the State Papers.

Among the Scottish Jail Papers is a Memorial from James Rob, 'principal Keeper of the tolbooth of Edinburgh,' addressed to 'The Honourable Commissioners appoynted to subsist rebel prisoners,' undated, but apparently written at the end of the winter of 1745-46.

The writer states :

'About the middle of November last . . . many persons were taken up and committed prisoners to the said Tolbooth on suspicion of treason or for treasonable practices. The Crowd of persons, prisoners on the aforesaid accompts, occasioned a greater expence to the principall Keeper than usuall, by increasing the number of Servants to take care of the prisoners and keep clean the house, not less than fifteen shillings a week being laid out for the above purpose.

'During the winter colds and feavers were very frequent in the prison, and more so afore the regulations for the sick came down than after. This made it necessary to provide blankets for those that were in feavers or otherways ill, which the Memorialist did of his own, at first to the extent of twenty two pairs which have since been increased to twenty five. These by the frequent use are quite worn to raggs, and will be so wore out afore any goal delivery can happen as to be of no manner of use.

'Its therfor expected that the blankets shall be paid for at the rate of 5 shillings each pair. From this no gain can be suposed to arise.

'As no Fees can be expected to arise from the far greater part of the prisoners the principal keeper expects that his own pains & trouble which have been very great will be considered and a suitable allowance granted.

'May it therfor please the Honourable Commissioners to take the premises into account and give proper relief . . . or remit the same to the Lord Justice Clerk.

'JAMES ROB.'

There is no record of the decision of the Commissioners in this case; but the memorandum affords a remarkable contrast between the treatment of Jacobite prisoners in

the two countries. James Rob may have been the only Scottish jailer who supplied necessaries to sick prisoners out of his own pocket on the chance of being repaid ; that he did so is, at least, worthy of record.

4. MEDICAL ATTENDANCE ON PRISONERS

The Jail Returns of Stirling and Edinburgh show that local 'chirurgeons' were called in to see sick prisoners ; and their accounts for services rendered were submitted to higher authority through the jailer.

The Stirling Return is particularly full of detail. Mr. William Chrystie, Chyrurgeon, sent in his professional account between 3rd February and 20th July 1746 amounting to £6, 14s. Of 26 patients treated by him 10 had gunshot wounds, contracted during the siege of Stirling Castle, and 2 had broken limbs. Most of the remainder were fever cases. In one case, that of John Norie, Mr. Chrystie amputated the leg, but the patient died ; for this operation he charged only 6s. 8d., the same fee as for attending on ordinary fever cases. It greatly redounds to his credit that out of his ten wounded men only this one died.

Prisoners in Edinburgh had the advantage of the existence of the Royal Infirmary, which had already made provision, in 1744, for the regular garrison, and had provided 24 beds for the army. After the battle of Prestonpans the wounded of both sides were sent there, and, for a time, it appears to have become practically a military hospital. The Jacobite patients after the action became prisoners automatically when the Prince marched south, and monthly returns regarding them had to be submitted by the medical authorities as vouchers for the money allowed for their diet.

The earliest return shows that the Infirmary received 18 Jacobite prisoners between September 1745 and the following April ; of these 14 were casualties in action. The remainder belonged to French units. These were all subsisted by 'collection,' *i.e.* by charitable contributions,

until 15th April 1746, when the regular system of a daily allowance came into force.

Of the Prestonpans prisoners, all of whom were gunshot cases, two had their legs amputated successfully, a high tribute to the skill of the surgical staff of the Infirmary. In the return for 29th April 1746, four were reported by Dr. George Cunninghame, 'H.M. Apothecary and Surgeon in Edinburgh,' as unfit for transportation or transfer to any prison. Another undated return shows the admission of four more wounded men, and seven sick, from Musselburgh and Haddington.

When Jacobite patients recovered and were discharged they were transferred to the Canongate or Tolbooth.

Among the periodical returns of the Scottish prisons there occasionally appear medical certificates, of which the following is a typical one :

'EDINBURGH, 12 July 1746.

'Having visited the prisoners in Canongate Goall do find the two following persons Thomas MacLaine and Francis Lamotte in Fevers. If it be your pleasure to Order them to be taken to the Royall Infirmary from the Canongate prison for their speedy and safe Recoverie being absolutely necessary.

'If you please allow another Frenchman Jean Bruilez to attend the above two patients, they requiring such attendance.

'Attested by

'GEO. CUNNINGHAM.'

This was addressed to Mr. George Fraser, Assistant Auditor of Excise, who was responsible for the payment of the prisoners' allowance.

A particularly interesting case is that of Hugh Fraser, at one time secretary to Lord Lovat, who turned King's Evidence against his old master ; he had been severely wounded just before his capture, and his surgical treatment and removal to London gave rise to a good deal of correspondence.

General Blakeney sent Lord Albemarle a medical certificate regarding him :

'As Mr Hugh Fraser has several bones to come out of his Arm, and is in a bad State of Body otherwise, being much

weakened by violent sweatings and looseness for these three weeks past, and seems to have but little chance for doing well, it is my opinion that there will be great danger in moving him.

'ARTHUR BAYNES, *Surgeon*.

'INVERNESS, 22 Aug. 1746.'

(*S.P.Scot.*, ii. 34-18.)

In November Fraser was sent by sea to Edinburgh, and the following month by road to London. The Lord Justice Clerk informed Newcastle that 'as his wounds are not yet healed the Messenger conjectures he 'le be 17 days on the road' (*S.P.Scot.*, 35-43), and, as a concession to his condition of health, he was allowed 'to carry a servant with him, who dresses his wounds' (*ib.*, 35-48).

A later medical certificate on Fraser's behalf (*S.P.Dom.*, 96-99) is contained in a letter from Dr. Freeman to Mr. Waite; Fraser was at this time a prisoner in the house of Chandler the Messenger:

'CONDUIT ST, HANOVER SQUARE,
'May the 25th, 1747.

'It is on account of Mr. Fraser, Prisoner at Mr. Chandler's, that I give you this trouble. I have, by his Grace the Duke of Newcastle's Orders, attended this Gentleman to try to recover for him ye use of his right arm since he was brought up here ye latter end of December last. And, as I was of opinion at first sight of his Case, when you were present, so experience has since proved that ye gross Neglects of his former Surgeons had render'd impossible a total recovery of his Arm. I have however employ'd all my skill towards recovering ye use of his hand and fingers and have succeeded in it beyond my expectation tho' not perfected, And did signify to him, in a letter in answer to one from him, my opinion that ye waters at Bath was ye only thing cou'd effectually perfect this last. He has put in a petition to Govt for this and for money to meet the expenses but has received no answer, although many weeks ago. Delay must cause loss of such benefit as might be gained. Urges expedition.'

Another medical certificate (*S.P.Dom.*, 107-6) on the case of Carnegie, dated 12th May 1748, is as follows:

'These are to certifie that Mr. Carnegie, now prisoner at Mr. Carrington's house . . . has, by his closs confinement, contracted a Hectick Fever and a bad habit of body, apparent from his loss of flesh, Headaek and Sweatings.

'Wherefor it is the opinion of his Physician that, unless he has more Freedom of Air and exercise allowed him, and better accommodation to sleep in, he must soon acquire such an illness as may endanger his life.

'Dr. JAMES KINNIER, M.D.
'JAMES FRASER, Appy.'

This certificate succeeded in securing the release of the prisoner shortly afterwards.

5. TRANSPORT OF PRISONERS TO LONDON

The prisoners who were sent to London, other than those who were taken in the original convoy of transports from Inverness and a few who got passages in warships to the Thames, were sent on foot or on horseback or coach by road; and, in the case of the more important ones at least, such as Lord Lovat and John Murray of Broughton, a good deal of care was taken of their comfort besides particular attention to their safety. In the case of John Murray, correspondence between Newcastle and the Lord Justice Clerk in July 1746 shows the kind of arrangements that were made.

Writing on 3rd July 1746 the Duke says:

'I am to acquaint your Lordship with His Majesty's pleasure that you should give immediate Directions for sending him from Edinburgh under a sufficient Guard, which you will take care may be strong enough to prevent any Apprehension of his being rescued.' (*S.P.Dom.*, 33-33.)

In reply the Lord Justice Clerk wrote on 10th July:

'Mr. Murray's bad state of health made it unsafe for him to make the journey on horseback. . . . Therefore a Coach was provided. . . . I endeavoured to conciliate his favour by telling him that I had particularly recommended it to Captain Gore to be civil to him, and to use him well, that he was to be carried to the Tower and not to the Common Goal. . . . Captain Gore has directions to let no Person have access to him, or any Letter or Message to be delivered but what is seen or done by himself, and to endeavour to preserve Mr. Murray's Health,

support his Spirits upon the Journey, and to deliver him Prisoner to the Constable of the Tower.' (*S.P.Dom.*, 33-39.)

Lord Lovat was not fit enough for the journey to London, even in a chaise, and was sent in a litter.

Some of the Crown witnesses, too, gave a good deal of trouble in regard to their transport. Thus the Lord Justice Clerk wrote to Newcastle on 23rd February 1747 regarding them as follows :

' Upon receiving a letter from Mr. Sharpe to hasten them I prevailed with such as could post to proceed with the utmost dispatch ; but six of them have undertaken it, and the other six mostly weak, old and infirm, with the help of post chaises, are to make what haste they can ; it was utterly impossible to get them forwarded with more expedition.' (*Albemarle*, ii. 435.)

6. MORTALITY OF PRISONERS

The Jail Returns and State Papers show that 88 deaths are known to have occurred in English and Scottish prisons and transports. Reasons are given elsewhere (page 162) for the view that this number was only a small proportion of the whole. No periodical returns, corresponding to the Scottish monthly returns, have been discovered in the case of Inverness or the English prisons, or the transports in the Thames, and the deaths in them which are included in the attached list have been principally gathered from casual references to prisoners in the State Papers who were found to have died when called up for trial or transportation. The Inverness and English figures, indeed, are useless for statistical purposes.

An analysis of the list shows that in Scottish prisons only 18 deaths were reported, which must be regarded as very few considering the crowded condition of the prisons during 1746 and up to the Indemnity of 1747.

Of 66 deaths in England, 36 admittedly took place in the transports in the Thames. Of the remainder 8 were accidentally caused by the sinking of a boat at Liverpool while prisoners were being sent on board the *Johnson* for transportation.

*Names of Persons known to have died in Prisons
and Transports*

Name.	Regiment.	Prison.
Alexander Abernethie	Capt., Duke of Perth's	Southwark, <i>circa</i> August 1746
David Abernethy	..	<i>Pamela</i> , <i>circa</i> August 1746
James Ancrum	..	Liverpool, 18th October 1746
John Barnaghy	Glenbucket's	York, 19th January 1747
Thomas Beckett	French Service	Berwick, 1746
James Bigg	Lord Lewis Gordon's	Lincoln, 1746
Andrew Bolton	..	<i>Pamela</i> , Tilbury, August 1746
Alexander Bower of Meathie	..	Perth, 1746
James Brander	..	At sea, <i>Thane of Fife</i> , Tilbury, September 1746
10 David Burns	..	<i>Mary of Leith</i> , Tilbury, 1st June 1746
Rev. Father Alex. Cameron	..	<i>Furnace</i> , at sea, July 1746
Alex. Cameron (3)	Lochiel's	Edinburgh, 18th October 1746
Allan Cameron	Duke of Perth's	Perth, 25th July 1746
Angus Campbell	..	York Castle, 8th April 1748
John Campbell	Cromarty's	<i>Wallsgrave</i> , Tilbury, 12th June 1746
Andrew Casey	French Service	<i>Jane of Leith</i> , Tilbury, June 1746
Henry Clark	M'Intosh's	Carlisle, November 1746
Archibald Colquhoun of Colhour	..	At sea, <i>Alexander & James</i> , 6th May 1746
Alexander Davidson	M'Intosh's	<i>Wallsgrave</i> , Tilbury, June 1746
20 Robert Deacon	Lieut., Manchester Regt.	Kendal, January 1746
David Deverty	..	Perth, 31st August 1746
Thomas Donaldson	..	Perth, 9th September 1746
George Drummond	Capt., Duke of Perth's	Edinburgh, 18th July 1746
Gilbert Drummond	Atholl's	At sea, 7th June 1747
William Fenwick	..	<i>Alexander & James</i> , Tilbury, 8th August 1746
Hugh Ferguson	Duke of Perth's	Perth, 15th April 1747
Stephen Fitzgerald	French Service	Brampton, October 1746
David Forrester	..	Perth, 6th August 1746
Thomas Fotheringham	..	<i>Pamela</i> , Tilbury, August 1746

*Names of Persons known to have died in Prisons
and Transports—continued*

Name.	Regiment.	Prison.
30 Alexander Frigge	..	<i>Alexander & James</i> , Tilbury, 1st June 1746
Andrew Gibb	Glenbucket's	Drowned, Liverpool, 2nd May 1747
Alexander Gordon of Gairnside	Farquharson's	Inverness, 1746
Rev. Alexander Gordon	French Service	Inverness, May 1746
Charles Gordon	Glenbucket's	Drowned, Liverpool, 2nd May 1747
George Gordon	Stonywood's	At sea, 9th June 1746
Alexander Grant of Sheuglie	..	Tilbury, 29th July 1746
William Grinton	..	Edinburgh, 13th May 1746
William Harrol	..	At sea, <i>Jane of Leith</i> , 27th May 1746
George Keel	..	At sea, <i>Alexander & James</i> , 3rd June 1746
40 James Kerr of Crom- mack	..	Dumbarton, 5th June 1747
Robert Ker	..	<i>Jane of Leith</i> , Tilbury, 1746
Peter King	Glengyle's	Dumbarton, 22nd May 1746
John Kintrea	..	<i>Liberty & Property</i> , 1746
John M'Andrew	Farquharson's	At sea, <i>Jane of Alloway</i> , 22nd May 1746
William M'Bane	M'Intosh's	At sea, <i>Jane of Leith</i> , 23th May 1746
Ewen or Evan M'Cay	..	Inverness, November 1746
Archibald M'Donald	Cromarty's	<i>Alexander & James</i> , Tilbury, 4th June 1747
Coll M'Donald or Macdonnell of Barisdale, yr.	Glengarry's	Edinburgh, 1st June 1750
Coll M'Donald	Glengarry's	Drowned, Liverpool, March 1747
50 John M'Donald	Glengarry's	Tilbury, June 1746
John M'Donald	..	At sea, <i>Alexander & James</i> , 19th May 1746
John M'Farlane	Roy Stuart's	Drowned, Liverpool, 2nd May 1747
John M'Eachain (M'Gechie)	..	<i>Pamela</i> , Tilbury 1746
John M'Intosh	M'Intosh's	Tilbury, 12th June 1747
Andrew M'Kay	..	Carlisle
James Mackay	Glengarry's	Drowned, Liverpool, 2nd May 1747

*Names of Persons known to have died in Prisons
and Transports—continued*

Name.	Regiment.	Prison.
Angus M'Kenzie	..	<i>Jane of Leith</i> , 2nd June 1746
William M'Kenzie	Perth's	<i>Jane of Leith</i> , 3rd June 1746
Donald M'Lellan	..	<i>Alexander & James</i> , 19th May 1746
60 Donald M'Leod	Glengarry's	<i>Alexander & James</i> , 17th May 1746
Hugh M'Leod	Glengarry's	Drowned, Liverpool, 2nd May 1747
Kenneth M'Leod	Perth's	<i>Jane of Leith</i> , 7th May 1746
Donald M'Millar	..	At sea, <i>Alexander & James</i> , 8th June 1746
Donald Macrac (1)	Cromarty's	At sea, <i>Alexander & James</i> , 24th May 1746
Donald Macrae (2) or M'Raw	Cromarty's	At sea, <i>Alexander & James</i> , 9th June 1746
John M'William	..	At sea, <i>Alexander & James</i> , 27th May 1746
Donald Marshall	Roy Stuart's	Chester, ? 1746
Lawrence Mercer of Lethenty	Kilmarnock's Horse	Carlisle, October 1746
George Murray	..	At sea, <i>Jane of Leith</i> , 20th May 1746
70 John Norie or Noris	Manchester	Stirling, 3rd February 1746
David Ogilvie	Ogilvy's	York Castle, 9th June 1747
William Oldham or Oldhorn	Perth's	Drowned, Liverpool, 2nd May 1746
Mornas Parker	..	<i>Pamela</i> , Tilbury, ? 1746
Robert Paterson	Artillery	Lincoln Castle, 1746
Thomas (John) Powrie	..	Lincoln Castle, April 1747
John Ratcliffe	Manchester	Lancaster Castle, Nov. 1746
James Reid	..	At sea, <i>Jane of Leith</i> , 21st May 1746
Patrick Robertson	..	Edinburgh Castle, 28th March 1746
Antony Shenan	French Service	Marshalsea, 1746
80 Edward Shower	Artillery	Perth, 9th March 1746
John Simon	Stonywood's	At sea, <i>Wallsgrave</i> , 9th June 1746
James Smith	Elcho's	Edinburgh Castle, 1746
John Smith	..	At sea, <i>Alexander & James</i> , 10th May 1746
David Somervell	Lord John Drummond's	Perth, 15th August 1746
Walter Stapleton	Brigadier-Gen., French Service	Inverness, 17th April 1746

*Names of Persons known to have died in Prisons
and Transports—continued*

Name.	Regiment.	Prison.
Sir James Stewart of Burray, Bt.	..	Southwark, 24th June 1746
Roger Strickland	Colonel	Carlisle, January 1746
88 Marquis of Tullibardine, William Murray, Duke of Atholl	...	Tower of London, 9th July 1747

7. PETITIONS BY AND ON BEHALF OF PRISONERS

Among the State Papers are many petitions, some by prisoners themselves, others presented on their behalf by friends; and these very human documents are an important source of light on personal aspects of the '45 which would not be otherwise available. Valuable as are the official comments on the cases of prisoners submitted to the higher legal authorities and the reports of the trials, it is obvious that they do not represent the point of view of the prisoner himself; it is, therefore, to these petitions that we must turn to discover how they were affected by the position in which they found themselves.

Some of the documents have already been dealt with elsewhere and need not be repeated; but many of the remainder throw much light on their treatment in prison and elsewhere, the great delay in disposing of their cases, the extenuating circumstances they put forward on their own behalf, and the justification for their appeals *ad misericordiam*.

Unfortunately, the persons responsible for the filing of these petitions among the State Records in the past were lacking in the historic sense; it seems rarely to have struck them that the answer to a petition was worth recording on the document itself, and, at this interval of time, it is difficult to ascertain in every case how far the result was favourable to the petitioner, or the reverse.

Many of the petitions fall into classes according to the nature of the request contained in them; but many put forward complaints of all sorts. It has been considered advisable, therefore, to take representative cases without reference to their nature, and to let them speak for themselves.

PETITIONS REGARDING EXECUTION

Sir Archibald Primrose, Bart.

Sir Archibald Primrose, Bart., was an officer of Baggot's Hussars. His wife was Lady Mary Primrose, daughter of the first Earl of Rosebery. The widow of his cousin James, first Viscount Primrose, was married to the Earl of Stair, who, at one time at least, had been a distinguished soldier and *persona grata* at Court. When, therefore, he pleaded guilty and was sentenced to death at the Carlisle trials he had unusually powerful influence behind him.

On 8th September 1746 the Earl of Stair submitted the following petition (*S.P.Scot.*, 33-20) on his behalf :

' . . . Though I am very unwilling to trouble Your Grace, espetically about small matters, I cannot refuse to give Your Grace the trouble of this letter, At the most ardent sollicitations of my cousin german Lady Mary Primrose, who begs that I will write to Your Grace to use your powerfull intrest to procure His Majesty's most gracious pardon for Sir Archibald Primrose, her husband, who probably one of these days at Carlisle may be found guilty of being in the late Rebellion.

' I know verry well that his Majesty gives way to sanguinary punishment only because it is necessary to make some severe Examples, but I leave it to Your Grace to judge, can the Capital punishment of Sir Archd Primrose prove a propper Example ?

' He was neither zealous nor active in the Cause of the rebellion . . . he enter'd verry late into the rebellion, and, I believe, singly out of the Idle views of mending his broken Fortune. Almost all his friends were zealous for the Protestant succession, and have ever been so.

' I verily believe if His Majesty gives his life and his fortune to Sir Archibald, he will not only prove a good subject himself

but he will bring his many Infant Children to be friends and servants to the Government.

'Your Grace will be so good . . . to obtain His Majesty's mercy.
STAIR.

'I beg the favour of Your Grace to let me know by some of your people what His Majesty's determination is in this matter, that I may acquaint Lady Mary.

'CULHORN, 9th Sept. 1746.'

This appeal failed in its object, and Sir Archibald was hanged on 15th November. His wife, Lady Mary, died two days later.

Lord Lovat

Lord Lovat, after his conviction and sentence, appealed to the King and Newcastle for mercy.

At a meeting of the Privy Council on 31st March 1747 this petition was considered, and the Minute states :

'The late Lord Lovat's Petition to the King and his letter to the Duke of Newcastle were laid before the Lords; their Lordships do not see any reason for them to presume to recommend him to his Majesty's mercy.

'To be executed on Thursday sennight 9th April 1747. Mr. Sharpe to order the Sheriffs to shew the head of a traitor.'
(*S.P.Dom.*, 95-63.)

PETITIONS REGARDING PRISON CONDITIONS

Charles Oliphant

One petition by Charles Oliphant and certain other prisoners has been dealt with in the section dealing with Southwark prison. Among the Scottish papers is a letter (*S.P.Scot.*, 36-53) from Alexander Brodie, the Lord Lyon, to an unknown person—probably Andrew Stone—forwarding a complaint he had himself received from Oliphant :

'BRODIE HOUSE, 3 Sept. 1747.

'SIR,—Altho' I troubled you some Posts ago with a Letter in favours of my late Servant Charles Oliphant . . . I must trouble you now with another, and beg you may read the inclosed to see how his Jaylor treats him. It were much better he had been hanged and put out of pain than be kept to dye a lingering death in an unhealthy Prison. . . .'

The enclosure is as follows :

' That it is from the most lively Idea I have of his Majesty's mercy to me . . . that has encouraged me to . . . get me released from the unsupportable cruelties of a most barbarous Goaler, which, if not suddently done, must soon put an end to that life. . . .

' That from my long closs confinement and bad state of health with only the allowanee of four pence per diem I am reduced to so lo a state that I am hardly able to walk ; and so inhuman is the Goaler that he will not allow me the benefit of the foer yaird for air, because I have not money to brib him, notwithstanding he has got an order to take us all out by turns, and has taken all out who can aforde to answer his exhorbitant demands.

' May it therefore please Your Lordship to contino your generous indevours . . . to get me movcd to a Messengér's [House] or to get the Gaoler ordered to grant me yc same priviledge as others in my situation has.

' CHARLES OLIPHANT.

' LONDON, 22nd August 1747.'

Charles Oliphant was an Excise Officer who took a commission as Lieutenant in Lord John Drummond's regiment. He was tried in January 1747 and sentenced to death, but reprieved the following month. In September 1748 he was pardoned conditionally on banishment to America.

Rev. Allan M'Donald or Macdonell

The petition (*S.P.Dom.*, 98-27), dated London, 15th June 1747, by the Rev. Father Allan M'Donald or Macdonell, lying in Southwark Prison, to Carrington the Messenger has already been quoted above (p. 168) as indicating the treatment of Jacobite prisoners in English prisons. It is, however, also a good example of the retention of prisoners in confinement without trial or official enquiry for a long period, on suspicion of having taken part in the Rising. In this case the petition appears to have been successful, as he was released shortly afterwards.

John Hay

As an example of the considerable inconveniences experienced even by the witnesses for the Crown in the Jacobite trials may be taken the following petition by John Hay, dated London, 2nd January 1748 :

'The Humble Petition of John Hay, one of the Evidences for the Crown, Humbly Sheweth :

'That I, along with fifteen more, was put under the care of Thomas Chandler, one of his Majesty's Messengers, from whom we had very bad usage since the 16th June last. We are all Bolted up every night in one room like so many Hogs, without any Bedding save a Little Straw. Neither did he ever bestow Body Cloths on us of any value ; and now we are run out of the few we have got. We have been informed that Your Grace allowed all suitable necessaries to be furnished us, and we understood that all the other Messengers did justice in some shape to those under their Care ; all which emboldened Your Grace's petitioner to make my complaint to the messenger, who, instead of removing the Grievance, confin'd one James Ross and me 4 days and nights in a Dark Room wtout Coll or Candle.

'May it therefore please Your Grace to take the miserable situation of your poor petitioner to consideration ; and order me to put under the Care of some other Messenger, in order to be used as other Evidences are, at least to be used like a reasonable Creature ; and your Grace's petitioner, as in Duty Bownd will ever pray etc. JOHN HAY.

'N.B.—The Messenger lives at the Black Bull, Windmill Street, near the head of the Haymarket.

[*Written on dorse.*]

'Petition of John Hay to be removed out of Chandler's custody to be enquired into by Mr. Waite.

'*Jany. 2nd, 1747/8.*'

GENERAL PETITIONS

John Beaton and Alexander Campbell

Prisoners were sometimes overlooked, and a typical case is that of John Beaton, Serjeant in the Duke of Perth's

regiment, who was captured at Carlisle, and is shown as a 'deserter.' At his trial he said he had deserted—presumably from the English army—and had been tried and condemned, but had been pardoned by Cumberland. After his capture as a Jacobite prisoner he was tried and pleaded guilty, and was sentenced to death; but the sentence was commuted to transportation. Writing for mercy (*S.P.Dom.*, 116-22) on 22nd February 1751 he stated that, when the time came for him to be transported, he had been found too ill to move, but recovered gradually, and had been in prison ever since. Whether the sentence of transportation was actually carried out or not has not been discovered.

Another man, at the same time, presented a rather different problem. Alexander Campbell was under orders for transportation, but, when the removal orders arrived, his name had either been accidentally omitted or he was shown in the list by another name. He was accordingly left behind, and had remained at York Castle ever since. What happened to him is not known; even his identity is doubtful, as it is not certain whether he was the Alexander Campbell of Lochiel's regiment or of Ogilvy's.

In the case of both these men Newcastle had already, on 19th February 1749/50, caused enquiries to be made about them (*S.P.Dom.*, 108-63; 112-25).

John Murray of Broughton

Even John Murray of Broughton had to exercise patience before he received the reward of his treachery.

On 25th March 1748 he wrote (*S.P.Dom.*, 106-62) to a person, whose name does not appear, begging him to use his influence with the Duke of Newcastle and other Ministers to procure his remission, and enclosing a part of a letter from his factor addressed to his wife, showing the parlous position of affairs in regard to the Broughton estates.

The endorsement on this letter, which must have been

written in the Duke of Newcastle's office, is noticeable for the inaccurate statement that :

'Mr Murray, having surrendered before 12th July 1746, in terms of the Act of Attainder the proper person to apply to for a certificate is the Attorney or Solicitor General.'

This statement that he had surrendered, when it was a matter of common knowledge that he had been taken prisoner, was a legal quibble, to which the Attorney-General was a party ; deliberately adopted by the Government, it was held to be necessary, in order to enable Murray to give evidence against Lord Lovat. It was, as Ryder expressed it, 'a surrender within the meaning of the Act.' (*S.P.Dom.*, 94 of 10.7.47.)

Murray was not pardoned until 7th June 1748 (*P.R.*, 3623-2).

John Mackinnon of Mackinnon

John Mackinnon was another victim of delay in dealing with his case. In a petition (*S.P.Dom.*, 112-13), dated 19th January 1749/50, he stated that he had been taken prisoner on 11th July 1746 and had been sent to Tilbury Fort. Thence he was transferred to the New Gaol, Southwark, and was later under the custody of 'one of H.M.'s messengers.'

'He has undergone innumerable hardships for 3½ years, is in advanced age, and destitute of all funds of subsistence except a small allowance from Government. Never yet examined or anything laid to his charge.'

He begged for release.

This delay is unaccountable, as in June 1747 both Dick and Carrington, the Messengers, had submitted lists of the prisoners in their custody in which his name is included ; it was then decided by the Privy Council that he should be tried at Derby. This course, however, was not adopted, and his case must have been overlooked. The

date of his actual release is not known, but it probably took place shortly after he submitted his petition.

Alexander Marr

A prisoner on whose behalf a strong petition for release was submitted was Alexander Marr, an Aberdeen flesher. On 25th March 1747 his case was submitted for consideration by several prominent burgesses of the town, including Mr. David Verner, Professor of Philosophy in Marischal College, James Smith, Convener of the Trades, and several representatives of the Hammermen, Coopers and Wrights. It was stated that the prisoner, then lying in Carlisle prison on suspicion, had never been concerned in the Rising at all.

‘It consists with our knowledge that the said Alexander Marr attended to his lawful business, never bore arms nor the Highland garb nor a white cockade, nor did ever speak or act against our happy constitution. Onle we are informed that the night of the skirmish at Inverurie he had gone to the guard house of Aberdeen to get payment from some of the rebell sergeants of what they were due to him for meat and drink ; and they, being at their supper, the said Marr was forced to wait in the guard house one hour and ane half until they had done with their supper, for which he was later taken up and put in prison of Aberdeen, and afterwards sent to Carlisle, and has been absent from his family for about these 11 months, and has a wife and 4 infant children all in a miserable and starving condition. We humbly think that he is an object of compassion.’ (*Scottish Notes & Queries*, August 1927.)

This petition was successful, and Marr was released.

Charles Kinloch

A petition in favour of Charles Kinloch was submitted by the Principal of King's College, Aberdeen, on 29th September 1746, and appears to have been favourably received. It throws an interesting light on a little known

incident during the occupation of that city by the Jacobite army.

'We, designed by our Subscriptions, who were prisoners to the rebels, and carried as such from Aberdeen to Perth, under the command of Sir James Kinloch, do certify that Charles Kinloch, brother to the said Sir James, and who was in company with him, did behave and carry himself toward us with great civility and discretion, and was ready as he had opportunity to do us any service during our confinement.

'JO. CHALMERS, Principal of King's College.

'THO. FORBES of Echt.

'DAVID BARTLET, Advocate in Aberdeen.'

Charles Kinloch had held a commission as Captain in the Atholl Brigade. He was tried in London and sentenced to death, along with his brothers, Sir James Kinloch and Captain Alexander Kinloch. He was, however, reprieved, and, after a long confinement, was banished.

Robert Maxwell

Two interesting petitions by Robert Maxwell appear in the Records. The official papers show him to have been a 'Writer in Edinburgh,' believed to be a natural brother of Sir William Maxwell of Monrieth; and the charge against him was the serious one of 'collecting the Cess for the Prince's Exchequer.' He was further stated to have acted as clerk to a 'rebel commissary.' In due course he was tried at Carlisle and sentenced to death.

On 3rd November 1746 he appealed to the Lord Justice Clerk and stated that he had surrendered to his Lordship personally. He added that for the previous month he had been suffering from high fever, and that, as regards the charge brought against him:

'All I did was to get down the quantities of corn and straw that parties caused the country people to bring in, and to give it out to the gentlemen's servants conform to instructions, and to take receipts for same.'

He was reprieved a few days later, and thereafter remained in Carlisle for close on a year. He was then

invited, along with many other prisoners, to enlist. Greatly against his better judgment he agreed to do so, and the next stage in his career is described in his second petition to the Secretary of State.

Writing on 13th October 1747 'from a stable, Bishops Hartfield,' he states that he had been brought from Carlisle in a group of men who were on their way to Portsmouth to enlist in the army (*see* PARDONS, p. 24). He had declined to do so because :

- ' 1. The Petitioner is advanced in age and very grey headed and infirm, being upwards of 50 years.
- ' 2. By a long course of sickness and bad usage in Carlisle he is infected with scrofulous humours, and wants the proper use of one of his arms.'

He then states his 'genuine case' to be as follows :

'After the battle of Falkirk, being an Attorney at Law, he was forced to go along as Rebell Commissary's Manuensis [*sic*] to keep the account of the forage ; he never wore their habits or arms.

'Within the time limit laid down in the Proclamation by the Duke of Cumberland he surrendered and was allowed freedom till 6th August 1746. He was then sent off with the rebel prisoners to Carlisle.'

He then explained that certificates of the fact of his timeous surrender had been suppressed by the Judge Advocate General, but that ultimately, having obtained copies, Baron Parker 'engaged to represent the case to His Majesty,' and that he received a reprieve.

He finally begged that he might be released

'as its said he is to be carried directly hence for Portsmouth without seeing London.' (*Allardyce*, ii. 618.)

The effect of this appeal is not stated.

18 *Youths in York*

It is a well-known fact that there was a large number of youths in the ranks of the Prince's army, besides those employed in ancillary services such as transport. In due

course many of these lads found their way to English prisons, and appeared before the Commission on the charge of levying war, with the almost inevitable conviction and capital sentence. In no case does it appear that any of them, except possibly Benjamin Mason, were executed; but large numbers were transported.

One of the most interesting petitions in the Records is an undated one from '18 Severall Prisoners under Sentence of Death at York,' in the following terms:

'Unto the King's Most Excellent Majesty, the humble petition of several of the young prisoners now under sentence of death in the Castle, York.

'Sheweth:

'That Your Petitioners, being indicted for high treason . . . did severally plead guilty and submitted themselves to your Majesty's mercy.

'That . . . it was impossible for them to bring up witnesses from the remote countreys where they were born and had resided, to prove their precise ages, though it evidently appeared upon the tryal that your petitioners are all and each of them young and of tender age. . . .

'May it please your Majesty to take your petitioners case into consideration and to extend your Royal Clemency to us, in such form and manner as Your Majesty . . . shall think proper.

	Age		Age
'Alexander Goodbrand	15	Alex Nichol . . .	17
William Stephen . . .	15	Peter M'Donald . . .	17
John Duncan . . .	15	Benj. Mason . . .	19
Wm. Smith . . .	16	James Craighton [<i>sic</i>]	15
John Cruikshanks . . .	17	Gill Barclay . . .	16
Wm. Grant . . .	18	Alex. Steele . . .	18
John Barnaghy . . .	15	Robert Stewart . . .	16
James Wishart . . .	18	Peter Hay . . .	20
John Geddes . . .	19	John Walker . . .	18.'

In the case of 'Craighton,' his age, according to the Records, was really 25.

The fate of these lads varied.

John Barnaghy died in prison, Gilbert Barclay, James Wishart, William Stephen, Alexander Steele, Peter M'Donald, William Smith, William Grant, John Geddes,

and Peter Hay accepted the offer of enlistment. Of John Walker there is no subsequent mention, and he may have died; this also applies to Alex. Nichol.

Robert Stewart cannot be traced, unless he was the captain in the Duke of Perth's regiment who was allowed to enlist. John Duncan, John Cruikshanks, James Craighton, and Alexander Goodbrand were transported. Regarding Benjamin Mason there is some doubt; the only individual of that name, possibly this one, was a sergeant in Glenbucket's regiment who was executed at York on 1st November 1746.

William Sharp or Sharpe

William Sharp, a youth of seventeen, son of a merchant, and great-grandson of Archbishop Sharp, was a student at the University of St. Andrews when he joined Elcho's Life Guards. At his trial at Carlisle the judges stated that he was an 'object of mercy,' and the sentence of death was not carried out.

A petition was submitted on his behalf on 18th August 1746 by Thomas Tullideph, Principal, and Professors John Craigie, Henry Rymer, David Young, and Ninian Young of St. Andrews University, in which it was stated that he was a 'modest assiduous boy, had a good genius for learning and made considerable progress, but in vacation time was unfortunately seduced.' He was reprieved in November 1746 and remained in Carlisle. His case, along with that of his fellow-prisoner, Robert Wright, was considered by the Attorney-General and the Council and it was decided to pardon him. He, however, ignorant no doubt of what was going on and expecting that he would be transported, succeeded in escaping from Carlisle prison, to which he had been transferred from the Castle. (*See ESCAPES*, p. 73.) He went abroad and rose to high rank in the Portuguese army. In April 1769 he received a pardon by Royal Warrant and returned home, succeeding in 1770 to the family baronetcy of Sharp of Scotsraig. (*Cockayne*, iv. 323.)

James Dods

The case of this man is interesting, as the battle of Prestonpans was fought on his farm of Seton Mains. According to his own statement he had all his effects carried off by the Prince's army, and was himself forced to join them. He was captured and was one of those who was allowed to draw lots for the 'King's Mercy.' While awaiting transportation in Tilbury a petition was submitted on his behalf by the minister of Gladsmuir parish :

'He was sober, discreet and peaceable, and regularly attended the Established Church. As to his behaviour since 21 September 1745 I can say nothing, having left the kingdom after the victory gained by the rebels at Preston; but, as I am certainly informed, he never openly joined them during their stay in Scotland.'

This appeal was of no avail, and he was transported.

Andrew Wood

The case of Andrew Wood, a Glasgow shoemaker, was a remarkable one. He was tried and sentenced to death at Southwark. He was a Captain in Roy Stuart's regiment, having, according to the evidence at his trial, been offered a commission if he would raise fifty men in Glasgow. He put in a petition to the effect that he had been instrumental in effecting the escape of nine Glasgow men who had been taken prisoner by the Jacobites, and that his father had been on the Government side in 1715; this petition, with an affidavit testifying to the facts, was signed on 22nd September 1746 by Andrew Cochrane, Provost of Glasgow, and officially sealed by the latter with the seal of the corporation. Wood was, however, executed on 28th November 1746. (*Allardyce*, ii. 453; *Macbeth Forbes*, 20.)

Captain John Graham of Kilmardinnie

An example of a petition for release, supported by a medical certificate, is that of Captain John Graham of

Kilmardinnie (*S.P.Scot.*, 39-51), dated July 1748. The prisoner was in Edinburgh Castle in July 1748, having been confined on 6th March 1747 by order of the Lord Justice Clerk on suspicion of high treason.

He addresses the Lord Advocate and says his health has broken down, his life is 'almost despaired of and endangered by close confinement,' and a course of medicines is advised as the only chance of life, and this cannot be carried out in the Castle. He asks for 'liberty for a short space,' giving caution to return.

The medical certificate by Mr. Geo. Cunningham, 'H.M.'s Chirurgion Apothecary,' states that he was suffering from 'an universal rheumatism, knees and ankles swelled, tendons contracted, much wasted, want of appetite and strength,' and advises liberty.

This petition was forwarded by the Lord Advocate to the Duke of Bedford. The result was that he was released on bail on 10th August 1748, though he had been excepted from the Act of Grace.

David Morris Fitzgerald

A most unusual petition was one from David Morris Fitzgerald to the Rt. Hon. Henry Boyle, Speaker of the House of Commons of Ireland, dated 'Edinburgh Gaol,' 14th May 1747 (*S.P.Scot.*, 31-21).

The petitioner had already addressed the Speaker in April, and had asked his advice on a communication he had received while in Ireland from Colonel Baggot of the Jacobite Hussars, dated 21st March 1746, urging him to raise men in preparation for an anticipated landing of the Prince 'with the French and Spanish squadron,' and pointing out that he might then hope to recover the lands 'forfeited by his grandfather in King James' cause.' He then explains that, as the Speaker advised, he decided to 'put himself under the Duke of Cumberland's protection,' and had gone to Fort William, where the Governor advised him to see General Campbell. On his way to visit the latter he was robbed of all his money, so he went

to Glasgow and thence wrote a letter to the Duke to be forwarded by General Campbell.

Meanwhile, having no money and being hard pressed, he 'used Sir Everard Fawkener's name for £50' and got the money, and then went to Edinburgh to tell the Lord Justice Clerk that what he had done was 'from necessity, not to defraud.' This statement was not accepted, and he was 'flung into Gaol,' and was informed he was to be tried for his life on 4th July. As he anticipates being sentenced to death he asks the Speaker to send an express to London for pardon, as no one knows him in Edinburgh except the Lord Justice Clerk, 'who has violated his promise of friendship.'

No further reference has been found to this case in the Records. It is doubtful even whether he can properly be regarded as a Jacobite prisoner, or whether his charge was not one of forgery.

There was a Court of Justiciary on 4th July 1747, but Fitzgerald's name does not appear in the list of persons tried.

Sir David Murray, Bt., of Stanhope

Captain Sir David Murray, Bt., of Stanhope, of Baggot's Hussars and one of the Prince's aides-de-camp, nephew of John Murray of Broughton, was sentenced to death, reprieved and confined in York. At the time he was seventeen years of age. The Privy Council, when considering his case in August 1747, recommended that he be pardoned on condition of banishment. No action, however, was taken at the time of this recommendation, and, early in 1748, his kinsman Lord Hopetoun petitioned successfully for his release (*S.P.D.*, 109-11) in the following terms :

'Lord Hopetoun Begs leave most humbly to Entreat the Duke of Newcastle to Interceed with his Majesty, that Sir David Murray, prisoner in York Castle, may be liberated from his confinement on such conditions as to his Majesty shall seem meet, which the said Lord Hopetoun will always acknowledge as a particular favour, Sir David being his relation.'

It was not until September 1748, however, that the necessary orders were passed (*P.S.O.*, 6733, Sept. 1748). He went abroad and joined the Prince in France.

The Earl of Cromartie

As already stated, the Earl of Cromartie after his reprieve was ultimately pardoned on condition of residing in such part of England as the King should direct. (*See PARDONS, CONDITIONAL*, p. 30.)

In due course he was ordered to go to Layhill in Devonshire, and, from there, on 5th September 1748, he submitted the following petition (*S.P.Scot.*, 39-61) :

'SIR,—I am loth to be any way troublesome to their Excellencies the Lords Justices, but I hope they will be so good as to pardon me for what I am now to mention, and beg that you will represent the same to their Excellencies. That this House is in a manner ruinous, not even necessary furniture in it, hardly a Chair to sitt on ; five miles from Honiton the nearest Market Town, which is too great a distance for one that has neither Servants or horses ; All sorts of provisions dearer than at Exeter, as all are carried thither to Market and sold cheaper then we can purchase them in this Neighbourhood, from the farmers—besides Mr Trevelyan demands a high rent for this House, very unsuitable for one in my situation. I have been to look at other Houses in this County near Exeter, and towards Tiverton : I find there are several to be had, tho' some of them not to be entered to presently. There is a little place near Honiton, called Northcote, that belongs to one Mr Blagdon, a Minor, where I can get my family (that are now with me) accommodate for this winter. I therefore most humbly beseech Their Excellencies will be pleased to give me leave to remove from hence to Northcote, and beg that you will acquaint me with their Excellency's pleasure in this.—I am Sir Your most Obedient Humble Servant

'G. M'KENZIE.

[*Endorsed.*] 'Mr M'Kenzie late Lord Cromartie, 5th Sept 1748.

'R. 7th.—Leave for him to go to the house he mentions for the present, and to look out for a house and when he has fixed on one to let their Exells know it.'

It will be observed that the petitioner signed himself 'G. M'Kenzie,' and is also so styled in the endorsement on the letter.

The Earl of Traquair

On 13th October 1747 the Earl of Traquair wrote to the Duke of Newcastle from the Tower of London begging for release, and stating that during his long confinement his health had suffered greatly, and his affairs had become seriously embarrassed (*Newcastle Papers*, Sept.-Dec. 1747).

At a meeting of the Privy Council, held on 22nd October 1747, the following decision (*S.P.Dom.*, 102-40) was arrived at :

' . . . The Lords are humbly of opinion that the Duke of Newcastle should acquaint Lord Traquaire that he had laid his letter before the King, and that His Majesty, considering the circumstances of his case, does not think proper to give any Directions thereon.'

On 21st January 1748 he submitted the following petition (*S.P.Dom.*, 106-16) :

' MY LORD,—The long continuance of my confinement makes me again presume to trouble Your Grace. My entire submission to His Majesty's will determined me to wait his pleasure for my enlargement, and, for that reason I omitted to make that application which persons in my situation usually do, by moving to be admitted to Bail.

' It is my purpose to take no step but what shall be agreeable to your Grace ; but, if his Majesty continues to think it not proper to give any directions in my case and Your Grace should approve of my applying in the ordinary method, I hope that Your Grace will direct that no advantage shall be taken of my omission, occasioned by my deference to His Majesty's will : and that I shall meet with that indulgence which I should have a right to, if I had acted otherwise.—I am with great esteem and profound respect My Lord Your Grace's most obedt & most humble servant
TRAQUAIR.'

The second appeal was more favourably received, and the Earl was released on bail the following month and was finally discharged in September 1748.

Charles Gordon, Younger of Binhall

This young man's case was a hard one. He was pressed into the service by John Gordon of Glenbucket, being at the time seventeen years of age. He was taken prisoner at the fall of Carlisle, and was thence sent to Southwark prison. When in Carlisle he had a commission in Ogilvy's regiment. His loyalty was in doubt, and his movements during and before the siege were apparently suspicious. At his trial he was found guilty but recommended to mercy on account of his youth. He was kept in Southwark prison, and his name was placed on the transportation lists.

In August 1748 he submitted an appeal (*S.P.Dom.*, 108-10) in the following terms :

'To their Excellencies the Lords Justices. The petition of Charles Gordon. Humbly Sheweth :

'That he has been confined in Prison above these two years, in the Borough of Southwark.

'That, in consideration he proved to the Court that he was forced into the Rebellion, when but 17 years of age, the Jury unanimously recommended him to his Majesty's Mercy.

'He therefore most humbly prays Your Excellencies in regard to his being forced contrary to his inclinations, into the Rebellion, his long Imprisonment, and the Jury's strong recommendation to the Judges, Your Excellencies will be pleas'd to grant him his liberty. . . .'

The endorsement on this petition has the words '*No order*,' which implies rejection.

It is possible that Gordon's action in taking part with five other prisoners, James Gordon, Deacon, Furnivall, Watson and Bretagh, in an assault on the keeper and turnkeys of William Goodall, the jailer at Southwark, in December 1747, was the cause of this rejection. He was transported shortly afterwards.

Following on this incident there appears an undated communication (*S.P.Dom.*, 103-45) from a Mrs. Poyntz to Mr. Stone in the following terms :

'Mrs Poyntz' compliments, by Mr Smith, to Mr Stone. She

desires the favour of him to order the Gaoler in Southwark to use Bretagh the rebel prisoner with less cruelty ; and if Mr Stone will be so kind to let Mr Smith know when to provide ships for all the rebels that are yet to be transported, it will be doing him a singular favour.'

No reply to this remarkable document has been discovered ; nor is it known who Mrs. Poyntz was, or what interest she had in the plans of Mr. Samuel Smith, the contractor for transportation.

Roger Gibson and Charles Fitzgerald

A somewhat mysterious case is that of Roger Gibson, an Edinburgh shoemaker, and Charles Fitzgerald, who, while abroad, assumed Gibson's name as an alias.

They both petitioned the Government, in February 1748-49.

Roger Gibson stated that he was persuaded by a refugee from Culloden, Charles Fitzgerald, whom he had befriended and concealed in his house, to accompany him to Holland. Soon after getting there he was captured and kept in close confinement for six weeks, when he was sent over a prisoner to London. He then begs for liberty (*S.P.Dom.*, 109-16).

At about the same time Charles Fitzgerald, *alias* Gibson, states that he had been sent over as a prisoner from Holland, and had been imprisoned in London for sixteen months, without examination, and was then placed in the house of Carrington, the messenger (*S.P.Dom.*, 110-40, 107-34).

Meanwhile the English Government obtained a report on the case from one James Manners, a merchant at the Hague (*S.P.Scot.*, ii. 38-13). Manners said he had made the acquaintance there of one 'Gibson,' who subsequently said his real name was Fitzgerald, an 'Irish nobleman,' and that the latter had borrowed 340 guilders from him. Fitzgerald had further stated that he was really Earl of Desmond, and intended to go into the French army ; also that he had been wounded at Culloden, and that, at Lady

Drummond's request, Roger Gibson, shoemaker, had concealed him in his house; 'in recompence' for this he had brought Roger away from Edinburgh to Holland.

Another witness, Menzies, swore to the truth of his statement, 'before the Councillors in the Court of Holland.'

What happened to these two prisoners is not certain; but as late as 9th September 1749, Charles Fitzgerald, who had apparently been transferred to Scotland, was ordered to be brought before the Lord Justice Clerk (*S.P.Dom.*, iii. 26). They were probably released.

MISCELLANEOUS PETITIONS

M'Donald of Glencoe

The State Papers contain petitions by individuals, addressed to the military authorities, in connection with their surrender after Culloden. Whether the sentiments were genuine or not they all express contrition and appeal *ad misericordiam*.

One such is the petition (*S.P.Dom.*, 83-321) of M'Donald of Glencoe to Major-General Campbell, dated 12th May 1746:

'VERY HONOURABLE SIR,—By this my subscribed mission [*sic*] I do inform you that I am now very sensible of my folly and great error in taking up arms against His Majesty, and resolve never to do the like while I've life, and so surrender and give up myself as your prisoner depending on H.M.'s clemence and pardon, as I am most willing to return from my error and behave myself as becometh a loyal subject, and begging you'll please befriend me in my great extremity and interpose your good offices with His Majesty in procuring my remission, and sparing a life that is in all probability nearing an end. By your so doing you'll lay me and my posterity under the greatest obligation to serve you and your posterity. Wishing you success, I am ever with the utmost regard,—very honourable Sir, Your most obedient humble servant

'A. M'DONALD, Glencoe.'

In a letter of 15th May (*S.P.Dom.*, 83-339) he makes a further appeal, in which, after reporting the surrender by his followers of all their arms, he states:

'I am not in a condition anyhow to travel, being for some considerable time leaded with great sickness . . . and how soon it please God I recover I shal most willingly go and surrender myself to your Excellency or any of His Majesty's officers at any place you 'll appoint.

'Glenco. 15. May 1746.'

Alexander M'Donald was kept in prison in Edinburgh until October 1748, when he was released.

French Officers

On 6th January 1746 ten officers of the French Service, who had been placed in confinement in the H.M. Sloop *Carolina* at Greenwich, after their capture in the *Soleil*, appealed to Newcastle in regard to their treatment and their status. This complaint appears to have been effective, as they were moved shortly afterwards to the Marshalsea prison (*S.P.Dom.*, 80-100) :

'GREENWICH, Jan. the 6th, 1746.

'MY LORD,—We take the liberty of representing to your Grace our present situation.

'We are officers in the King of France's service, your Prisoners of War, taken by the Sheerness, pilaged of our cloaths, linen, Money etc, att present aboard of the *Carolina* Sloop, where we have been these three weeks past ; notwithstanding the Captain's Civilities we undergoe the greatest hardships. Ten of us in a little Cabine without anything to lie on but the boards sufficiently shews our miserable condition. The world knows the Civil usage the English Officers received in France, wee have room to Expect the same treatment from a nation who always gloried in acting with humanity. To be compassionate to the distressed, Especially to Military Men, is natural to a person of your Lordship's rank and birth, and makes us presume to meet with a speedy result.—We beg pardon for troubling Your Grace etc., yours.

'FITZGERALD Capt. of Berwicks.

'O'HANLON Capt. in Berwicks.

'BAILLIE Capt.

'CAMERON Capt.

'SHEE Capt. of Rooths.

FITZGERALD Lt.

M'CARTY Ensign.

CAMERON Lt.

URQUHART Lt.

NAIRNE Lt.'

Another petition on behalf of French officers is that of the Earl of Morton (*S.P.Scot.*, 36-48) in regard to two brothers, Douglas :

‘ EDINBURGH, 6th August 1747.

‘ MY LORD,—Sometime before I left London I addressed Your Grace on behalf of two French gentlemen of the name of Douglas, officers in the Service of that Crown and prisoners of war at Penrith, that they might be allowed to return to France upon their paroles.

‘ Your Grace told me it was needless to make any such particular application, because they were all very soon to be exchange’d. But this day I received a letter from one of ’em telling me they were still in the same situation at Carlisle.

‘ I must again renew my request to Your Grace that they be allow’d to go home upon their paroles, in case they are not to be exchange’d soon. I received civilities from their relations in France, and should be glad, thro’ Your Grace’s means, to make them some return.

‘ Their names are Douglas, Capitaine dans le regiment de Languedoc and Douglas, Capitaine dans le regiment de Drummond ou Royal Ecossois, but they are both Frenchmen.
—etc. MORTON.’

These two officers appear in the List of Prisoners as Captain Charles Guillaume Douglas and Captain d’Hortore Douglas respectively.

John Goff

An appeal to be treated as a French prisoner of war was submitted on 15th January 1747 by John Goff (*S.P.Dom.*, 93-51), at the time confined in the hospital ship *Mermaid* :

‘ TO HIS GRACE THE DUKE OF NEWCASTLE,—The petition of John Goff humbly Sheweth,

‘ That, whereas Your Grace’s petitioner is a French Soldier belonging to Col. Dillon’s regiment, he was lying sick in the royal hospital of Inverness at the time the French prisoners were ordered to London, and this was the reason of his being separated from them; yet he was still used as a French prisoner during all the time he was in Scotland.

‘ But, when he came here, he was compelled to subscribe a paper, without knowing the meaning thereof, or the consequence of his subscribing; and now, to his great Surprise, he is informed that he has subscribed his Transportation.

CHAPTER IX

THE JACOBITE PRISONERS

1. WOMEN PRISONERS

THE part taken by the women of Scotland generally in the '45 is outwith the scope of this Introduction; but 18 of them, drawn from all ranks, who took a prominent part in the Rising, and 56 regimental women mentioned below found their way into captivity; and these alone are dealt with here, although they represent but a small proportion of those who took part, in some way, in the campaign. Their names and disposal are given in the attached list.

The most prominent were those who took an active part in raising troops for the Prince, such as Lady Ogilvy, Lady Mackintosh, and Mrs. Robertson of Lude. Of these, the first acted wholeheartedly with her husband, the second in complete opposition to hers, and the third, a widow, was by instinct and by the example of her mother Lady Nairne, a convinced Jacobite. These three were military assets of great value to the Prince.

Others were accused of treasonable dealings with the Jacobites; such were Lady Mackinnon, Lady Macdonald of Clanranald, Mrs. Anne Leith, who was party to Lord Lovat's escape from Inverness, and Anne Mackay, who saved the wounded Robert Nairne after Culloden.

Against the remainder no definite charges were brought—mere suspicion being the usual reason for imprisonment. Speaking generally, their prison treatment was more lenient than might have been expected.

In Scotland they were sent to Edinburgh Castle, where the inevitable discomfort was tempered by the facts that they were allowed to receive friends, and that they had

privacy. That this was so accounts for the way in which Lady Ogilvy made her escape. (*See ESCAPES*, p. 73.)

Those who were sent to London were confined in the houses of Messengers. The nature of their treatment and accommodation probably depended on their purses rather than on the nature of their crimes; and this disparity of opportunity explains the miserable circumstances in which Lady Mackinnon was confined (*see PETITIONS*, p. 176) throughout a winter, while Flora Macdonald had sufficient freedom to arrange a trip to Richmond with Aeneas Macdonald.

No Jacobite ladies were brought to trial, though the Privy Council Records frequently refer to their disposal, and, in the case of some of them, suggested prosecution; after confinement varying in duration they were all released, except Lady Ogilvy, who escaped from prison, and Elizabeth Clavering, who was transported in 1747.

At least three ladies, Lady Cromarty and Lady Traquair and Mrs. Patrick Wallace, were allowed to share their husbands' confinement in the Tower (*Williamson*, 131, 230).

Regarding one of the ladies shown in the lists, Jean Cameron 'of Glendessarie,' there is much mystery. Contemporary writers stated that she was daughter of Hugh Cameron of Glendessarie and helped to raise Lochiel's regiment and was present in several actions. Aeneas Macdonald considered it necessary to state that she 'was so far from accompanying the Prince's army that she went off with the rest of the spectators' (*Lyon*, i. 291). Cumberland regarded her as a prisoner of note and said of her, in a letter dated 2nd Feb. 1746, 'We have taken the famous Miss Jenny Cameron, whom I propose to send to Edinburgh for the Ld. Justice Clerk to examine, as I fancy she may be a useful evidence if a little threatened.' Nothing was proved against her and she was released on bail. The author of *Ascanius* (Ralph Griffiths) says she was a milliner in the Lawnmarket, Edinburgh.

Regimental Women

In spite of orders prohibiting women from accompanying

the army in the field (*A.H.R.J. Orderly Book of Lord Ogilvy's Regt.*), they did so, and, in several cases, they were accompanied by their children.

When the Prince abandoned Carlisle and its garrison to its fate in December 1745, many of these women and children were left behind there. As most of them came from Scotland, it is suggested that the reason was the impossibility of getting them over the Esk in spate.

They consequently fell into the hands of Cumberland, and were sent to Chester, Lancaster, and York; the Returns of these places for January 1746 show that 56 women and girls were confined there, besides at least 15 children.

None of them were tried, nor were they allowed to draw lots for transportation. But it is certain that in the transport ship *Veteran*, which sailed for Antigua in 1747, there were 20 women and several children prisoners on board. These had the good fortune to be captured by a French privateer and released. Altogether 28 women are known to have been transported, and three escaped from Whitehaven in August 1746.

As far as is known, the remainder were released and repatriated under a general instruction by the Privy Council to that effect.

The attached list gives such information as is available regarding them.

Table of Women Prisoners

Name.	Place of Imprisonment.	Disposal.
Lady Stewart of Burray	London, Messenger's House	Liberated, <i>circa</i> May 1747
Viscountess of Strathallan	Feb. 1746, Edinburgh Castle	Liberated, Sept. 1746
Dowager Duchess of Perth	Feb. 1746, Edinburgh Castle	Liberated on bail, Nov. 1746
Lady Ogilvy	April-May 1746, Inverness; June 1746, Edinburgh Castle	Escaped, 21st Nov. 1746

Table of Women Prisoners—continued

Name.	Place of Imprisonment.	Disposal.
Dowager Lady Mackintosh	April-May 1746, Inverness	Liberated, April-May 1746
Lady Mackintosh	April 1746, Inverness	Liberated, April 1746
Lady Gordon of Park	April 1746, Inverness	Liberated, April 1746
Lady Clanranald	London, Messenger's House	Liberated, 4th July 1747
Lady Mackinnon	London, Messenger's House	Liberated, July 1747, on bail
Lady Frances Steuart of Goodtrees	London, Messenger's House	Liberated on bail, 1747
Anne M'Kay (Skye)	April 1746, Inverness	Liberated, May 1746
Mrs. Anne Leith	April 1746, Inverness	Liberated, April-May 1746
Jean Cameron	Feb. 1746, Edinburgh Castle	Liberated, 1746
Lady Kinloch	April 1746, Edinburgh Castle	Liberated, 1746
Mrs. Katherine M'Dougall	Dec. 1746, Edinburgh Castle; London, Messenger's House	Liberated, 1747
Mrs. Elizabeth Clavering	York Castle	Transported, 1747
Hon. Mrs. Robertson of Lude	Sept. 1746	Liberated, Sept. 1746
Flora Macdonald	Sept. 1746, H.M.S. <i>Furnace</i> ; H.M.S. <i>Bridgewater</i> ; H.M.S. <i>Royal Sovereign</i> ; London, Messenger's House	Liberated, July 1747

Table of Regimental Women and Women imprisoned on suspicion

Name.	Regiment.	Disposal.
Katherine Bateman	Keppoch's	Released.— <i>S.P.D.</i> , 81-293
Anne Bromley	Duke of Perth's	Do.
Mary Burtbey	Do.	Do.
Anne Cameron and child	—	Transported, 8.5.47.— <i>S.P.D.</i> , 91-84

*Table of Regimental Women and Women imprisoned
on suspicion—continued*

	Name.	Regiment.	Disposal.
	Effie Cameron	—	Transported, 8.5.47.— <i>S.P.D.</i> , 91-84
	Flora Cameron	—	Do.
	Mary Cameron	—	Released.— <i>S.P.D.</i> , 84-2
	Barbara Campbell	—	Transported, 8.5.47.— <i>T.B.P.</i> , 327-109
	Martha Campbell	Duke of Perth's	Released.— <i>S.P.D.</i> , 81-293
10	Mary Campbell	—	Released, July 1747.— <i>J.R.</i> , Edinburgh
	Mary Carroll	—	Fate unknown.— <i>S.P.D.</i> , 91-77
	Agnes Cathel and child (3)	Roy Steuart's	Released.— <i>S.P.D.</i> , 81-293
	Isabel Chalmers or Chambers	Glenarry's	Transported.— <i>T.B.P.</i> , 327-109
	Jane Cuming	—	Released.— <i>J.R.</i> , Montrose
	Anne Connor	—	Released.— <i>S.P.D.</i> , 81-293
	Jean Duncan	Duke of Perth's	Do.
	Margaret Dykes or Dikes	—	Transported.— <i>T.B.P.</i> , 327- 109
	Martha Erskine or Areskine	Grant's	Released.— <i>S.P.D.</i> , 81-293
	Agnes Flint and child (7)	Glenbucket's	Do.
20	Elizabeth Grant	—	Transported.— <i>P.R.</i> , 3621-3
	Isabel Hamilton or Clavering	—	Do.
	Jane Herring	—	—
	Mary Kennedy and child (10)	Glenarry's	Transported.— <i>T.B.P.</i> , 327- 109
	Janet M'Arrow or M'Kinnon	—	Do.
	Agnes M'Cartney	Clanranald's	Do.
	Catherine Macowin or M'Cowen	—	Do.
	Clementina M'Donald	Clanranald's	Released.— <i>S.P.D.</i> , 81-293
	Mary M'Donald	—	Transported.— <i>P.R.</i> , 3621-3
	Margaret M'Donald	—	Do.
30	Margaret M'Donald	—	Released.— <i>S.P.D.</i> , 91-77
	Elizabeth M'Far- lane	—	Transported.— <i>P.R.</i> , 3621-3
	Mary M'Gregor	Keppoch's	Released.— <i>S.P.D.</i> , 81-293

*Table of Regimental Women and Women imprisoned
on suspicion—continued*

Name.	Regiment.	Disposal.
Ann M'Intosh	—	Transported.— <i>P.R.</i> , 3621-3
Ann M'Intyre	—	Do.
Mary M'Intyre	—	Do.
Anne M'Kenzie	—	Do.
Flora M'Kenzie	—	Unknown.— <i>S.P.D.</i> , 81-76
Jean M'Kenzie	—	Transported.— <i>P.R.</i> , 3621-3
Mary M'Kenzie	—	Do.
40 Catherine M'Owen or M'Ewen	—	Do.
Flora M'Quin	—	Do.
Jane Matthewson	—	Escaped.— <i>S.P.D.</i> , 92-201
Anne Matthews	Manchester	Released.— <i>S.P.D.</i> , 81-293
Isabel Main or Mein	Grant's	Do.
Isabel Nichols	Duke of Perth's	Do.
Eliza Park	—	Released.— <i>S.P.D.</i> , 81-76
Janet Pate	—	Do.
Alice Pimmurray	—	Transported.— <i>P.R.</i> , 3621-3
Elizabeth Rob	—	Do.
50 Margaret Shaw	—	Do.
Mary Shaw	—	Do.
Margaret Simpson	—	Transported.— <i>S.P.D.</i> , 91-77
Margaret Straiton	—	Escaped.— <i>S.P.D.</i> , 92-201
Jane Straton	—	Unknown
Anne Straw	—	Do.
56 Margaret Straw	—	Do.

2. DOCTORS

The names of several doctors appear in the List of Prisoners as well as in contemporary State Papers. The term was an elastic one and covered different degrees of professional qualification. Some were practitioners in the ordinary sense of the term; others combined the healing art with other pursuits. Some, too, served during the '45 in their professional capacity, while others dropped the lancet for the claymore.

An example of the doctor who turned soldier is Alexander Abernethie, Captain in the Duke of Perth's regiment, against whose name appears the remark that he was a 'farmer and a surgeon.' He died in prison.

Another was Dr. John Macdonald, 'chirurgion' in Moidart, brother of Kinlochmoidart, who served as a Captain in Clanranald's regiment. He was captured in June 1746 and sent to London. There he was kept in the *Pamela*, without trial, until the end of the year, and was then transferred to the house of Dick the Messenger. He was released in June 1747 for want of evidence, and having been 'out' in the '15 with his father, must be regarded as fortunate.

Dr. James Stratton was surgeon to the Prince's garrison at Carlisle, and acted as such during the siege of that place by Cumberland. Crown witnesses deponed that he accompanied the army from Edinburgh, and treated Colonel Strickland when that officer lay on his death-bed in Carlisle.

In summing up the case of Stratton at his trial Chief Justice Wills said :

'It is objected that it dont appear he had arms. All are principals in aiding or assisting; and are parties in levying war, and surgeons are necessary; so are drummers.'

Notwithstanding this ruling the jury acquitted him (*Allardyce*, ii. 453).

Dr. James Burton, M.D., was a York doctor who was arrested on suspicion of having gone to the Prince's headquarters at Lancaster to kiss his hand. Murray of Broughton, when examined regarding his knowledge of him, said that he had introduced him to the Prince, and that, in Dr. Burton's opinion, many people would have joined the army in Yorkshire had it gone that way (*Murray*, 436). Burton was arrested at York and sent to London, but was ultimately discharged on the Attorney-General's decision that there was not enough evidence to convict him (*S.P.Dom.*, 99-15). He subsequently wrote an account of the Prince's escape, published in London, 1749, 'taken

from the mouths and journals of the very persons who assisted him,' and was in frequent correspondence with Bishop Forbes (*Lyon, passim*).

Dr. Archibald Cameron, brother of Cameron of Lochiel, was one of the first to meet the Prince on his landing, though he was in the unpleasant position of being the bearer of a message to him from that Chief urging him to return to France. During the campaign he was employed as a combatant officer; and in this capacity his first exploit was the unsuccessful attempt on 28th August 1745 to capture the barracks at Ruthven. After Culloden he was in concealment for some months and succeeded in escaping to France with the Prince. He returned home in 1753, thinking he was safe in doing so, but was arrested and sent to the Tower of London. He was convicted and executed at Tyburn, the principal charge against him being that he was in possession of blank commissions signed by the Prince.

Colin M'Lachlan, an Argyll man, said to have been a 'surgeon from Jamaica,' was arrested on suspicion. He denied having had anything to do with the Rising; on the other hand the State Records says that

'there is full proof against Colin M'Lachlan, that he came twice to Gosford commanding a body of armed Highlanders during the time the rebel army was in this country, in quest of Mr. John Wedderburn, Gosford's son, who it is alleged debauched his sister.' (*S.P.Dom.*, 89-272.)

This is the only reference traceable to him in the Records except the fact of his imprisonment. As he was not sent to Carlisle for trial he must have been released.

John Rattray and George Lauder, Edinburgh surgeons, were captured at Culloden and confined in a church there (*Lyon*, ii. 312 note), along with crowds of wounded prisoners. Their instruments were taken away from them, in order to prevent their tending their wounded companions. They had interest with Duncan Forbes of Culloden, and, at the latter's request, they were released by Cumberland's orders in May 1746. On arrival at Edinburgh, however, they

were again arrested and sent to London as Evidences. Nothing has been traced regarding their activities in this direction. They were again finally released in January 1747.

Donald M'Intyre's case is interesting, as he is shown in the State Papers as a 'quack doctor.' What this exactly means it is impossible to say. He was taken prisoner at Carlisle and was ultimately transported.

The following table summarises the information available regarding the doctors of the '45 :

Doctors and Surgeons

Name.	Origin.	Disposal.
Alexander Abernethie	—	Died in prison
Peter Barry	London	Released, 1747
James Binnievis	Perthshire	Died ?
John Burton	York	Released
Archibald Cameron	Inverness	Hanged, 1753
John Crosbie	French Service	Transported
John Divier or Divcer	French Service	Banished
William Drummond	Perthshire	—
William Gray (ap- prentice)	Brechin	Pardoned on condition of enlistment
Thomas Hogan	French Service	Banished
George Lauder	Edinburgh	Released
John (Alexander ?) Littlejohn	Montrose	Released
John M'Donald	Moidart	Released, June 1747
Donald M'Intyre, 'Quack Doctor'	—	Transported
Colin M'Lachlan	Jamaica	? Released
Donald M'Lean	French Service	Discharged
John Milne	Montrose	Released, 25th Feb. 1747
Henry Moir	Kelso	Transported
James Murray	Edinburgh	Acquitted
John Rattray	Edinburgh	Released, January 1747
James Smith	—	Released
George Stirling	Perth	Released
James Stratton	Edinburgh	Acquitted
John M'Warish	Inverness	Surrendered and released
Robert Young	Tipperary	Transported

3. CLERGY

Episcopal Clergy

The attitude of the English Government to the Episcopal Church of Scotland is shown in a letter dated 12th May 1746 from the Duke of Newcastle to the Lord Justice Clerk [*S.P.Scot.* 31-18], dealing with the action to be taken after Culloden, in which he says :

‘ His Majesty approves Your Lordship’s attention to his service in the Orders you have given relating to the Episcopal Non-Jurant Meeting Houses ; and the King is persuaded that you will lose no time in taking the necessary steps for putting the Laws effectually in execution against those Meetings, which have been, and must continue to be, so prejudicial to His Majesty’s Government.’

In the light of later events this letter shows what was in store for that persecuted Church and the alliance between an Episcopal England and a Whig Presbyterian Scotland to destroy it. It must be recognised that, speaking generally, the ‘ non-jurant minister ’ was a Jacobite, and his influence over the lieges frankly anti-Hanoverian and reactionary. Nine of the Scottish Episcopal clergy and one of the Church of England appear in the List of Prisoners.

One, Robert Lyon, chaplain of Ogilvy’s regiment, was hanged. Of the remainder seven were released without trial after some imprisonment, and one was acquitted.

The most remarkable of these men was Rev. Robert Forbes, Incumbent of Leith, afterwards Bishop of Aberdeen. To him we owe *The Lyon in Mourning*. The Rev. James Taylor, of Thurso, was taken prisoner along with Sir James Stewart of Burray and sent to London. Evidence was produced that Sir James had stored arms in his house (*S.P.Scot.*, Series 2, 33-17). He was, however, never tried.

The Rev. William Seton, of Forfar, was imprisoned for three months for preaching on the text, ‘ Shall they fall and not arise ? Shall He turn away and not return ? ’ (*Jail Return, Montrose*) ; and the Rev. George Robertson,

of Edradyne, for 'praying publicly in his Meeting House for the Pretender and for entertaining in his house the Pretender's Son's priest' (*Addl. MSS.* 24,900).

The only clergyman of the Church of England whose name appears in the List of Prisoners is the Rev. Thomas Coppock, Chaplain of the Manchester regiment. With the majority of the other officers of that corps he was marked out for summary punishment, and was tried and sentenced to death by the Commission at Carlisle and hanged at Penrith on 18th October 1746. The fact that the Prince was stated, probably wrongly, to have promised him the Bishopric of Carlisle did not tend to help him before his judges.

The following letter (*S.P.Dom.*, 83-75) from Coppock appealing to the Archbishop of Canterbury after his conviction is of considerable interest :

'LANCASTER CASTLE, 29. April 1746.

'MOST REVD. FATHER,—I embrace this Opportunity, being importun'd to it by Mr Henry Masterman, (to implore Your Grace's Aid and Assistance in this dangerous Crisis) before whom Your Grace will find I made a fair, open, and Candid Confession. I know Your Grace's Interest is very ample and I humbly desire You'd importune His Majesty for His Royal Clemency and Favour. I dont desire it sho'd extend any further than for my Life: I was not deeply involved in the present Rebellion, what I did I assure Your Grace was done with the greatest Reluctancy and with the utmost Importunity: to demonstrate to Your Grace that I was not biass'd by a hot braind fury, I declar'd to several of my Friends the morning before I set out for Derby that I'd rather have broke my leggs than have gone with the Rebels had I not been seen with 'em, and had it not been for my narrow Circumstances. I shall only mention one other particular, I was prest by a certain Officer now prisoner in London to erase George out of the prayer for the King and to insert James which I absolutly refus'd; I assure Your Grace further that what I know that can be of Service to the Government I'll declare, and I'm willing after I've done his Majesty all the Service in my power to be transported for Life or to serve on board any Ship of his Majestie's Royal Navy, and if ever for the future I be so found faulty either in my Duty to my King or Country I desire no favour from God or Man.—I'm your Grace's undutifull son and servt

THOS COPPOCK.

'P.S.—Your Grace is sensible what a Maze of Misfortunes I was involv'd in and how often I wrote to your Grace before the Rebels came to Manchester even in the most pressing terms; and if Your Grace can do me any Service I humbly desire Your Grace's best Offices and I can assure Your Grace that I'll never abuse His Majestie's Clemency but sacrifice my life, if ever 'tis in my power, for His Majestie's Safety and Service.

'To his Grace John Lord Archbishop of Canterbury at Lambeth.

'Endorsed Lancaster Castle. April. 29. 1746. Mr Coppock to Archbishop of Canterbury.'

At the foot of the petition there appears the following note in a different hand :

'This Coppock is in Deacon's Orders, and, for bringing a forg'd Testimonium, was remov'd from a Curacy in Kent.'

The names and disposal of the Episcopal clergy who were taken prisoners are detailed in the attached Table :

Names and Fate of Scottish Non-Jurant and English Episcopal Clergy

Name.	Regiment or Charge.	Disposal.
The Rev. Thomas Coppock	Manchester Regiment	Executed, 18.10.46
The Rev. Thomas Drummond	—	Released, 29.5.46
The Rev. Robert Forbes	Leith	Released, 29.5.46
The Rev. John Grant	Glen Urquhart	Released
The Rev. George Law	Stonywood's Regiment	Acquitted
The Rev. Robert Lyon	Perth	Executed, 20.10.46
The Rev. James Taylor	Thurso	Released
The Rev. George Robertson	Edradynate	Released
The Rev. John Willox	—	Released, 29.5.46
The Rev. William Seton	Forfar	Released, 28.8.46

Roman Catholic Priests

A proclamation was issued on 6th December 1745, putting into operation certain laws which were more or

less obsolete—the Act of Queen Elizabeth, cap. 27, and of James VI., cap. 3—against Jesuits and Catholic priests. A reward of £100 was offered for every such person after conviction, within London, Westminster, Southwark, and within ten miles from these places.

The names of 15 priests appear among the prisoners, and most of them, including four Gordons, two Macdonalds, two Farquharsons, a Grant and a Cameron, were undoubtedly arrested chiefly on political grounds, owing to their relationship to the Chiefs. Some were military chaplains, such as Bishop Hugh Macdonell of the Morar family, who blessed the Prince's Standard at Glenfinnan, and Father Allan Macdonald of Clanranald's, who rode down the line and blessed the men before Falkirk.

These priests were treated with more leniency than the non-jurant Episcopalians. The two Farquharsons were banished, and Bishop Hugh Macdonell was kept as a prisoner on parole until his death many years later. Two died in captivity, and the remainder were released.

The names and disposals are shown in the attached Table :

Names and Fate of Roman Catholic Priests

Name.	Disposal.
The Rev. Alexander Cameron, S.J.	Died at sea, 1746
The Rev. Charles Farquharson, S.J.	Banished, May 1747
The Rev. John Farquharson of Strathglass, S.J.	Banished, May 1747
The Rev. John Godsman	Released
The Rev. Alexander Gordon, S.J.	Died in captivity, May 1746
The Rev. James Gordon	Released, 13.3.47
The Rev. John Gordon	Released, 13.3.47
The Rev. Robert Gordon	Released, 28.2.46
The Rev. James Grant	Released, July 1747
The Rev. James Hay	Released, ? July 1747
The Rev. Allan Macdonald or Macdonell	Released after June 1747
Bishop Hugh Macdonald or M'Donell	Prisoner on parole until his death, 1773
The Rev. William Reid	Released
The Rev. Michael or Nicholas Skelton	Released, 20.12.46
The Rev. Robert Leith	Released, 18.2.48

4. LAWYERS

The names of a good many lawyers appear in the List of Prisoners. As they are generally styled 'writers' it might be assumed that some of them were Writers to His Majesty's Signet; of only one, however, Andrew Alvis, an 'apprentice writer,' can it be said that he was connected with that Society.

Alvis was the bearer of the summons from the Duke of Perth to Provost Archibald Stewart, calling on him to surrender Edinburgh to the Prince.

A reference to the attached table will show that of these twenty persons no less than thirteen were Edinburgh lawyers who succumbed to the lure of the white cockade during the Prince's occupation of the city.

Three were hanged, and three at least were transported; two escaped transportation by accepting enlistment, and one, Adam Hay, was banished; two were acquitted on trial, and the disposal of three is uncertain. At least four, after imprisonment, were released; and one died in prison. One, Hugh Fraser, who had been secretary to Lord Lovat, turned King's Evidence and was pardoned.

Name.	Origin.	Regiment.	Disposal.
Andrew Alvis (apprentice)	—	—	Released
Alexander Auchter- lony	Arbroath	—	Released
William Brittough (clerk)	Salford	Manchester	Transported
David Canty	Forfar	Ogilvy's	Unknown
John Caw	Edinburgh	Roy Stuart's	Transported
Hugh Fraser, yr. of Buchrubin	"	—	Pardoned as King's Evidence
Charles Gordon	"	Ogilvy's	Unknown
Mungo Graham	"	—	Released
Adam Hay of Asslid (apprentice)	"	Stonywood's	Banished
John Henderson of Castlemains	—	—	Hanged
George Home	Edinburgh	—	Transported

Name.	Origin.	Regiment.	Disposal.
Martin Lindsay	Edinburgh	—	Acquitted
Robert Maxwell	„	—	Pardoned on enlistment
John Menzies	„	—	Released
David Morgan	Monmouthshire	Manchester	Hanged
Robert Murray	Edinburgh	Elcho's	Pardoned on enlistment
Walter Ogilvy	—	Duke of Perth's	Hanged
James Smith	Edinburgh	Elcho's	Died in prison
Andrew Sprule	„	Pitsligo's	Acquitted
Robert Wright	„	—	Unknown

5. SEAMEN

The lists contain references to 32 seamen, most of whom were from the East Coast of Scotland.

Two Englishmen, Edward Adair and Samuel Mersh, were probably deserters from the Navy. Mersh, who said he was a 'wine help' (? steward) in a warship, was handed over to a man-of-war; Adair was released.

Of the remainder the majority were concerned in piloting or commanding French ships which brought over men and stores for the Prince's army, or in aiding the escapes of Jacobite fugitives abroad after Culloden. All these were released.

Four of the Prince's boatmen were captured, but were released after examination in London.

Seven seamen were captured while serving in the ranks of the Jacobite army.

The attached Table summarises the available information regarding this class :

*Seamen**English Deserters—*

Edward Adair	Released
Samuel Mersh	Handed over to a warship

*Seamen—continued**Pilots—*

John M'Lean of Icolmkill	Released
Capt. John Orkney, Montrose	„
Capt. Alexander Pierson, Arbroath	„
Capt. Thomas Wilkie, Arbroath	„
William Gillespie, Arbroath	„
John Ritchie, Aberdeen	„
William Smith, Stonehaven	„
George Bisset, Stonehaven	„
William Blyth, Montrose	Discharged as a French prisoner
Neil M'Dougall, Tiree	Released

French and Spanish Naval Officers—

Capt. Anthony Talbot	Discharged as a French prisoner
Capt. Pierre Colieno	Discharged as a French prisoner
Capt. William Leslie	Released
Lieut. Hippolyte Lafague	Discharged as a French prisoner

Aiding Escapes—

Capt. James Wemyss, Broughty Ferry	Released
William Shepherd, Broughty Ferry	„
John Imrie, Broughty Ferry	„
James Tosh, Broughty Ferry	„
Capt. William Mitchell, Dundee	„

The Prince's Boatmen—

Donald Macleod of Gualtergil	Released
Lachlan M'Vurich	Released (turned King's Evidence)
John M'Ginnis	Released (turned King's Evidence)
Duncan M'Rievre	Released

Serving in the Army—

John Scott, Stonywood's	Transported
John Williams, Fitzjames' Horse	Released
Patrick M'Lean, Lord John Drummond's	„
William Campbell, Ogilvy's	? Died
Peter M'Duer	Released
William Miller	Unknown
Andrew Simpson, Ogilvy's	Released

6. OFFICERS OF ARMS

The Jacobite Heralds and Pursuivants, although none was ever imprisoned, were penalised to an extent which justifies a reference to them here.

On 17th September 1745, after the Prince's entry into Edinburgh, Ross Herald (Roderick Chalmers of Portlethen) proclaimed James VIII. King of Great Britain, and Prince Charles Edward Regent, from the Mercat Cross of Edinburgh. He was accompanied on this occasion by Hlay (Alexander Martin) and Snowdoun (James Fordyce) Heralds, and by Dingwall (William Gray) and Kintyre (James Clarkson) Pursuivants.

On the 25th September the official salaries of these officers were stopped by order of the Barons of the Exchequer.

Owing to technical difficulties connected with their position, no Treason proceedings were taken against these Officers of Arms. Ross Herald was never pardoned for his action in making the proclamation, but on 27th February 1749, in consequence of a Memorial by the Lord Lyon (Alexander Brodie of Brodie) to the Barons of the Exchequer, the remaining four Jacobite Officers of Arms were restored to the Civil List.

7. HEIGHTS AND AGES OF PRISONERS

Writers of fiction and of history alike have conspired to create an inaccurate impression in regard to the physique of the men who took part in the '45. The accepted idea of the average clansman still is that he was a tall man, with large bones—this is a feature which is specially stressed by the writer of fiction—and of powerful physique; and, even now, a Press description of any Scottish regiment would be regarded as lacking in descriptive power if it omitted reference to the men being 'raw-boned.'

Another equally prevalent idea is that the Jacobite ranks were filled with men in the prime of life, and perfect

specimens of an ideal race. Neither of these views is borne out by the State Records.

It must be premised that, just as a vendor of horses gives the height, age, and quality generally of animals he wishes to sell, so the agents employed to transport and sell the Jacobite prisoners to whom the 'King's Mercy' had been extended had lists of their human wares prepared giving similar information; and some of those lists have survived.

And if, as experience shows, the horse dealer is unlikely to cry down its useful qualities—age being usually underestimated and physical measurements exaggerated—so the slave dealers were not likely to depreciate unduly the labour-producing potentialities of the persons handed over to them for disposal in the New World.

Four documents are available which furnish invaluable information on the heights and physical condition of 346 prisoners of all ages, male and female, awaiting transportation in October 1746 in Carlisle, Lincoln, York, and Lancaster.

Of course that number is too small a proportion of the total of transported persons to justify a general deduction being drawn from them; still it represents roughly a third of them.

It must be assumed that these 346 individuals were a fair average of the Jacobite army, having regard to the circumstances in which they were captured, and the units to which they belonged. They were drawn from two sources, namely, the captured garrison of Carlisle, numbering 354 rank and file, and 270 prisoners, who were sent from the Scottish prisons to England for trial.

About 30 of the Manchester regiment, English and Irish by birth, were included in the first group; the remainder of that group belonged to Glenbucket's, Ogilvy's, the Duke of Perth's, and Roy Stuart's regiments. The 270 men sent from Scotland included representatives of practically every unit that served in the Prince's army, recruited from all over the country.

It is necessary to exclude the 17 women and children

shown in these lists ; after doing so there were, of males of sixteen years of age and upwards, at Carlisle 168, at Lincoln 48, at York 61, and at Lancaster 52 ; or 329 males of military age.

Against the name of each individual of the 161 prisoners at Lincoln, York, and Lancaster is a record of his height ; this detail is omitted in the Carlisle list. The average height of these 161 men was 5 feet 4·125 inches.

The tallest man in York was 5 feet 9 inches ; on the other hand, there were 27 men of 5 feet 4 inches and under, and 5 of 5 feet and under.

In Lincoln the tallest man was 5 feet 10 inches, followed by 2 of 5 feet 9 inches ; 18 were 5 feet 4 inches and under, and 3 of 5 feet and under.

The Carlisle table classifies them as ' 6 feet,' ' large,' ' medium,' and ' small ' ; this is only useful as showing that a ' 6 foot ' man was regarded as of a class superior in height to the ' large ' man. Including 9 men of 6 feet and 45 shown as ' large,' there were only 54 out of 168 of the Carlisle men who were above the undefined height of ' medium ' (*S.P.Dom.*, 88-124 ; 91-77-84). That a height of 6 feet was regarded as unusual is shown by the fact that against the name of John Craig in the List of Prisoners sent to Carlisle it is stated that he was ' 6 ft. large.'

No distinct difference between men from different parts of Scotland can be deduced from the lists ; there is absolutely nothing to show that the physique of the man of the Western Highlands was superior to that of the Angus or Aberdeen man, or of the inhabitant of East Lothian.

The figures of height in the Tables having given an average of 5 feet 4·125 inches, it is necessary to compare the latter if possible with that of the modern recruit.

Through the great courtesy of the War Office and of Major-General H. P. Barrow, A.M.S., C.M.G., D.S.O., this comparison is possible, as the figures of height of 398,423 recruits enlisted in the United Kingdom between the pre-war years of 1903 and 1911-12 have been made available. They are vitiated only by one fact, *i.e.* the modern figures

are those of men 'enlisted,' who represent a selected portion of the population, free from physical defects of any magnitude, whereas the Jacobite figures, on the other hand, by no means approximated to any such standard of selection; the men were, often, not volunteers, and many of them had defects which would not be passed in a modern recruit. In other words, the comparison is between a group of what would now be regarded as Class A men, and a group which contained many of Class B and Class C.

Expressed in percentages, the War Office figures show that, during the period above-mentioned, the height classes of the British Army were as follows :

Under 5' 3" (including boys)	5.52 per cent.
5' 3" to 5' 4"	13.33 "
5' 4" to 5' 5"	17.1 "
5' 5" to 5' 6"	16.55 "
5' 6" to 5' 7"	15.3 "
5' 7" to 5' 8"	13.3 "
5' 8" to 5' 9"	8.15 "
5' 9" to 5' 10"	5 "
5' 10" to 5' 11"	2.5 "
5' 11" to 6'	1.3 "
6' and over 6'	0.862 "

Again, taking the war period from 1st November 1917 to 31st October 1918, the average height of recruits in the Ayr region was 5 feet 6 inches, or 1.875 inches taller than the Jacobite average shown above; and the monthly returns for the London area for the first six months of 1926 showed a variation in average height in different parts of that period from 5 feet 6.47 inches to 5 feet 6.71 inches, or from 2.345 to 2.585 inches above the Jacobite average.

This comparison, it is thought, completely supports the view that the Jacobite soldier, judged by modern standards, was not only not a big man, but, on the contrary, was over an inch shorter than the soldier of to-day.

It is not known how the Jacobite compared with the English soldier as regards height. After Prestonpans there

was feverish anxiety in England to increase the Army; the four battalions of Guards were hastily brought up to strength, and the War Office offered a bounty of £6 for able-bodied men of five feet seven inches in their stocking feet under thirty years of age (*Henderson*, 162). The height standards of the Guards, however, then as now, bear no relation to those of regiments of the Line.

Turning now to the ages of the 329 males shown in the Lists as of 16 years and upwards, it must be premised that a man of 50 in those days was well up in years, with an expectation of life much lower than that of a man of that age to-day.

Analyses show there were 45 men of 50 years of age and upwards, or 13·6 per cent., the details of whom are as follows: 50 to 58, 25 per cent.; 60 to 69, 15 per cent.; 70 to 80, 5 per cent.

At the other end of the age scale were 27 lads of 16 and 17 years, or about 8 per cent. of the whole.

Combining the height and age factors, the only possible inference is that the rank and file of the Prince's army was certainly below what is now regarded as Class A, and, judging by the standards of height, was probably not better than Class B. There was also a considerable number who could not be rated higher than Class C. This statement, however, must not be regarded as reflecting on the constitution or fitness for military service of these men. They may have been 'stocky' to a degree to which we are now unaccustomed, while their physique may have been excellent for their height.

Contemporary reports by informers, contained in the State Records, frequently refer to the number of boys and old men in the ranks. Thus the English spy, Captain Vere (or Weir), wrote on 12th September 1745 from Edinburgh describing the Jacobite army at Perth. What struck him most was the age of the men. He says:

'There are great numbers of them perfect hurd boys, without arms, stockings or shoes, about 14 to 16 years of age. . . . There were a great number of boys and old men among them, who had no weapons, and attended baggage.'

8. PHYSICAL DEFECTS OF PRISONERS

The Records show, too, that some of the men had physical and mental defects which, judging by modern standards, would have barred them from enlistment.

The most obvious example of this is the unidentified individual who is shown in successive Jail Returns and elsewhere as 'Keppoch's Dumbie.' He was perhaps a Macdonald of Keppoch, swept into the ranks under the Clan system. The fact of his being deaf and dumb shows that he probably knew nothing of the ideals of the '45; this did not, however, prevent him from fighting at Prestonpans. In that action he suffered a compound gunshot fracture of one leg, and was for months in the Royal Infirmary of Edinburgh. Perhaps more than any other individual 'Keppoch's Dumbie' stands out as a representative of the man of the '45. As far as can be ascertained, he remained in prison in Scotland until the Indemnity released him. Another man with the same disability was David Fraser, said to have killed 7 men at the battle of Falkirk (*S.P.Dom.*, 84-2).

Another case was Andrew Porteous of Burnfoot, a Dalkeith merchant, who had joined Balmerino's Guards. Of him the Records of the Court which sentenced him to death state that 'he appeared a lame miserable object on crutches.' This condition may have been due to a wound.

Of William Hargrave, the Carlisle Court Record states that he was of a 'distemper'd brain'; while Simon Lugton is described as 'almost an idiot.'

James Bradshaw of Elcho's Life Guards was tried at Southwark for his life. The defence in his case was that he was mad, that he occasionally jumped out of the window, and that his servant James Richardson said 'he carried straps about with him because he was mad.' In spite of this evidence he was convicted and executed (*Allardyce*, ii. 474).

One man, Angus MacDougall, who was taken prisoner

at the battle of Falkirk, is described in the Prison Returns as a 'blind Highland pyper.'

John MacLennan of Glengarry's regiment, taken prisoner after Culloden, is stated to have had club feet.

The case of Alexander Haldane is interesting. He was a deserter from Sempill's regiment who joined Lord John Drummond's regiment. The day before Culloden he was captured at Glamis, and was sent to Aberdeen. There he stated that he had been dismissed from his English regiment on account of lameness, and as 'being wrong in his judgement.' The State Paper says of him, he 'appears to have been an idiot.' What became of him is not known.

Hugh Johnston, a Lancashire weaver, was 'blind of an eye.' The fact of his having joined the Manchester regiment, however, probably determined his being transported. The same was the fate of Mathew Matthews of the same regiment, who was stated to be 'a poor deaf man.'

CHAPTER X

THE FRENCH AND SPANISH PRISONERS

I. CAPTURES

As early as December 1745 there were Frenchmen—genuine Frenchmen, not Scottish or Irish—assisting in the garrisoning of Carlisle. These were swept up with the rest of the garrison when it surrendered to Cumberland's beleaguering force.

No indication is given in the list of captures at Carlisle (*S.P.Dom.*, 79-26) of the nature of their occupation, and no unit is shown against their names. It is suggested, however, that they may have been gunners, Artillery being an arm in the personnel of which the hastily improvised Jacobite army might be expected to be deficient. When the Prince marched north, leaving Carlisle to certain disaster, the garrison was an Infantry one; but the castle had guns, and we know there were a few men capable of firing them, as one man at least, James Gordon, was stated to have fired a cannon 'in the direction of the Commander-in-Chief of the English Army.'

After the operations at Stirling, at which Lord John Drummond's regiment was present, a few Franco-Scots were taken prisoners. These were probably deserters who were not prepared to take part in the withdrawal to the north, and were captured individually by the English troops as they advanced and occupied the country. The names of these men are to be found in the Stirling Jail Returns; among them were a few officers.

The great majority of the French troops who were captured in the land operations, however, fell into the hands of Cumberland after Culloden. As he entered

Inverness he received a letter signed by Brigadier-General Stapleton and other officers, offering to surrender the whole of the French force and asking for quarter. Among them were a few Scots officers of the Spanish army serving with French units. The total captures on this occasion can scarcely have exceeded 350 of all ranks.

A far larger proportion of the French troops who were captured, however, fell victims to the navy rather than to the land forces of the Crown. Their experiences, in their attempt to cross from France to Scotland, must have given the men concerned a good practical insight into the significance of sea power.

On 25th November 1745, H.M.S. *Sheerness*, Captain Bully, R.N., brought in *L'Espérance*, a French privateer which had formerly been known as *Le Soleil*, and landed 22 officers and 60 other ranks of Lord John Drummond's regiment at Deal. Some of the officers, five captains and five lieutenants, were transferred temporarily to the Custom House smack *Caroline*, lying at Greenwich (*S.P.Dom.*, 81-70); and eighteen of other ranks, shown respectively as French, Scottish, Irish, and Swiss, were sent to Marshalsea Prison, and, according to Henderson, many of the prisoners were distributed among the ships of Admiral Vernon's Squadron (*Henderson*, 180).

On 28th November 1745, H.M.S. *Milford*, Captain Hanway, R.N., captured another French transport, the *Louis XV.*, off Montrose. This vessel was carrying 19 officers, 17 non-commissioned officers, and 142 men of the following Irish 'picquets':

Berwick's	.	.	.	4 officers, 41 other ranks
Bulkeley's	.	.	.	9 officers, 47 other ranks
Clare's	.	.	.	5 officers, 46 other ranks

There were also a few 'details,' whose units were not stated (*S.P.Dom.*, 81-73). This vessel is also said to have been carrying 300 muskets and 380 claymores, besides saddles and harness.

They were landed at Leith and sent to Edinburgh, where they were confined in the already overcrowded Castle. On 26th December they were embarked again on two hired transports and sent to Berwick, under escort. Grossett, in the 'Accounts of monies spent by him on behalf of the military authorities,' tells us that the cost of hiring these transports was only £6, 4s. sterling (*Grossett*, 352).

Before the dispatch of this batch of French prisoners from Edinburgh, however, doubts arose concerning some of them, and it was found that 16 were deserters from the English army on the Continent. By sentence of a General Court Martial in Edinburgh four of them were hanged. (*See EXECUTION LISTS*, p. 143.)

On 21st February 1746, Commander Knowles, R.N., captured two more French transports, *Bourbon* and *Charité*, off Ostend, and took them into the Thames. They were carrying 23 officers, 13 'quartermasters,' and 360 men, besides 4 French 'officials.' The prisoners consisted of a portion of Fitzjames' Horse and details of the Irish 'picquets.'

Finally, on 25th March 1746, the *Prince Charles Edward*, formerly the English sloop *Hazard*, which had been captured so gallantly by a small Jacobite force on 24th November 1745 as she lay in Montrose harbour, was driven ashore at Tongue by four English cruisers. She was carrying 156 of all ranks and treasure amounting to £12,000, and Lord Reay captured the whole, after some fighting, in which 30 men were killed. According to Elcho there were only 40 soldiers on board, the rest being French sailors. These prisoners were sent to Inverness, from which place, together with many of the French troops who had surrendered after Culloden, they were dispatched to the number of 310 of all ranks to Newcastle on 22nd April 1746. They were thence sent by road to Carlisle and Penrith, arriving at the latter place on 5th May 1746.

Summarising the captures of French troops at sea, the following table shows the total number of prisoners

shown in the Records as having been taken between 25th November 1745 and 25th March 1746 :

Date.	Ship.	Officers.	Other Ranks.	Total.
25.11.45	<i>L'Espérance</i> (ex <i>Soleil</i>)	22	60	82
28.11.45	<i>Louis XV.</i>	19	159	178
21.2.46	<i>Bourbon</i> and <i>Charité</i>	23	373	396
24.3.46	<i>Prince Charles Edward</i> (ex <i>Hazard</i>)	20	136	156
		—	—	—
		84	728	812

No corresponding table of French prisoners taken in the land fighting can be drawn up.

As the English army advanced north, individuals were picked up and found their way into Scottish prisons, and an unknown number surrendered after Culloden. Cumberland himself reported that in the pursuit after the action quarter was given to 'about 50 French officers and men' (*Hist. MSS. Commn.* vol. x. 443). These were apparently over and above the bulk of the French troops who surrendered at Inverness. It is known, however, that the day after the battle 51 French officers gave their word of honour not to leave Inverness without permission (*Albemarle*, 1-40), and were kept there until late in August. The terms of the parole were as follows :

' INVERNESS, April 17, 1746.

' We the underwritten, in the service of his Most Christian Majesty acknowledge ourselves Prisoners of War of his Britannick Majesty ; and we engage ourselves upon our parole of Honour not to go out of the town of Inverness, without a permission from H.R.H. the Duke of Cumberland. In witness whereof we have signed this ; and have thereunto set the seal of our arms.

' Done at the Headquarters at Inverness the 17th April 1746.'

On 15th August General Blakeney reported that he proposed sending these prisoners of war by land to Newcastle (*ibid.*, 111), but soon afterwards a ship was procured

for them and they were sent by sea under the escort of H.M.S. *Glasgow* (*ibid.*, 179).

Of those who were taken at sea some were sent to the Marshalsea in London, where, on 8th January 1747, there were confined 98 of all ranks (*S.P.Dom.*, 93-30), and about the same time there were at Berwick 21 military and naval officers and 36 other ranks, and in the two Hull prisons 17 officers and 131 other ranks (*S.P.Dom.*, 81-72). In the Tower there were 6 officers; and a considerable number, who had surrendered at Inverness, were on parole at Penrith and Carlisle. Referring to these latter Sir Everard Fawkener, in a letter dated 12th February 1747, says he found

'on perusing the subscriptions (*i.e.* signatures) to the General Parole signed by officers taken at and who surrendered after the affair at Culloden many names which are not in the lists you have sent me.' (*S.P.Dom.*, 94-87.)

In the absence of the lists it is not possible to identify the individuals referred to.

There were certainly a number of French prisoners, apparently on parole, in Carlisle. On 10th July 1747 the keeper of the prison reported that the day before the 'whole gang of rebel Convicts were at liberty to walk the town,' and started fraternising with French prisoners. They appear to have behaved 'in an insolent, seditious and treasonable manner, so far as healths and words cou'd go,' in the course of which one prisoner escaped (*S.P.Dom.*, 99-65).

2. THE STATUS OF FRENCH PRISONERS

The first reference to this important matter that has been traced is in a Treasury Minute. At a meeting of the Treasury Board on 4th March 1746 the decision to allow a shilling a day for the subsistence of sick prisoners was arrived at, as the result of a recommendation to that effect by the 'Commissioners for Sick and Wounded.'

At the same time My Lords came to a definite opinion

as to the status of French prisoners, which they expressed in the following terms :

' Their L^{ts} are of opinion that all persons who are or shall be taken prisoner on board Men of Warr or Transports, untill it shall appear that they are subjects of Great Britain or Rebels, should be deemed and treated as prisoners of Warr.' (*T.B.M.*, 29-30, p. 247, 4th March 1746.)

On 15th May 1746 the Council decided :

' To write to Van Hoey for the exchange of the few prisoners sent to France on delivery of a like number from hence.' (*S.P.Dom.*, 83-108.)

Van Hoey was the Ambassador of the States General in Paris who acted as an intermediary between Great Britain and France in regard to exchanges. (*Lyon*, iii. 270; *Murray*, 518.)

The ' few prisoners ' referred to were the English officers who had been captured by the Jacobite army and wrongly believed to have been sent to France by them (*S.P.Scot.*, 2nd Series, 31-17).

It must have been a matter of common knowledge that the majority of the men in the French units had not always been French subjects, and that the question of their ultimate disposal must depend upon a decision in each individual case as to whether French nationality could be claimed.

This became a matter of the greatest importance to each individual, especially after the decision of the Chief Justice, Sir William Lee, at the Southwark trials that ' a commission in the army of a Foreign State does not entitle the holder, being an Englishman, to be treated as a prisoner of war.'

That the treatment of certain ' French ' Jacobite prisoners by the English Government had the immediate effect of reprisals in France is indicated by a draft letter dated Versailles, 30th September 1746, which is reproduced in the Appendix to Murray of Broughton's Memorials (*Murray*, No. 32, p. 516). The letter, which is addressed to M. de Marville, M. Lehain, and others, states :

‘ Le Roy, ayant appris que le Roy D’Angleterre faisait faire le procès aux Prisonniers faits à Culloden, même à ceux qui estoient en pied dans les Régiments de leur nation au service du Roy, et qui servoient en Écosse sous les Drapeaux de Sa Majesté, Elle a pris la résolution de faire arrester tous les sujets actuellement dans le Royaume sans passeports, ou dont les passeports sont expirés. . . .’

Consequently, they are directed to make secret enquiries into the position of British subjects in their Departments and to call upon them to show if they are in possession of passports and to make sure that these have not expired. In the event of failure in either respect,

‘ L’intention de Sa Mté est que vous les faissiez arrester et constituer prisonniers jusqu’à ce qu’Elle en ordonne autrement.’

No doubt a copy of this communication speedily reached London, and helped the English Government to decide how the prisoners of French units should be treated.

3. DISCHARGE OF FRENCH PRISONERS

About the end of the year 1746, measures were taken to carry out an exchange of prisoners of war between Great Britain and France, and, on 4th January 1747, Sir Everard Fawkener, Secretary to the Duke of Cumberland, wrote to an individual whose name is not stated, as follows :

‘ CLEVELAND ROW, 4th Jan. 1746/7.

‘ SIR,—Nothing was committed to writing between his Royal Highness and Mr. Seigneur, but this latter agreed to make the exchange upon the foot of the conditions laid down in my Lord Duke of Newcastle’s Letter to Mr. Hoey ; and thereupon it was agreed between His Royal Highness and Seigneur that the English, Hanoverian, and Hessian Prisoners, as well Officers as Soldiers, should be sent to Maestricht, and the French prisoners in England to Calais, each with a Commissary.—
I am etc. EVERARD FAWKENER.’

(*S.P.Dom.*, 93-5.)

A Privy Council Meeting was held on 21st January 1747, and Mr. Sharpe, who attended,

‘ was directed to get the Pardon for the said Officers passed, and the said prisoners sent away to France as soon as possible.’
(*S.P.Dom.*, 93-223.)

The next step was an order to the General Officers at Berwick and Hull, in whose areas French prisoners were confined, in the following terms :

' SIR,—His Majesty having been pleased to direct That the Prisoners in the French Service who are now in Great Britain should be sent to France, I am commanded to signify H.M. pleasure that all the said Prisoners at Berwick [and] Hull, whether officers or private men, and of whatever country, should embark on vessels . . . provided by the Lds Commissioners of the Admiralty to receive them.

' But if there should be among the said Prisoners any of His Majesty's natural-born Subjects, who are not Roman Catholics, and may chuse to remain in England, You will not oblige any such to embark, but discharge Them out of Custody.

' And it is H.M. pleasure that you should send an Officer with the said Prisoners to Calais, in order to deliver these to Capt. Des Cogne, the Commissary appointed for making the Exchange.

' I have sent H.M.'s Directions to Lord Albemarle that all the Prisoners under the above description should be sent from Scotland to Berwick. As also to Brigadier Fleming at Carlisle to convey the Prisoners there to Berwick, as soon as he shall receive notice from you that the Transports are ready to receive them.' (*S.P.Dom.*, 94-41.)

This letter was signed by the Duke of Newcastle.

Similar orders were sent to Scotland for the disposal of their French prisoners from that country.

The persons to whom the above correspondence referred were not only the French ' prisoners of war ' proper, but also the other class, not technically French, who had served in the French units.

This class had to be separately provided for, and this was done in the form of a conditional pardon (*P.R.*, 3622-12), which reads as follows :

' George the Second, by the Grace of God etc.

' To all whom etc.

' Know you that we, being moved with compassion, of our especial Grace, certain Knowledge, and meer motion, Have pardoned, Remitted and Released, and by these presents do Pardon, Remitt and Release

(Here follow 81 names.)

' Provided nevertheless, and these our Letters Patent are and shall be under this express Condition, that if they or any or

either of them do not forthwith depart out of this our Realm, or shall at any time hereafter return into any part of our Dominions, That then this our Pardon . . . shall be altogether void and of no force. . . .

‘ In witness etc.

‘ the second day of July 1747.

‘ By writ of Privy Seal.’

The prisoners above mentioned included officers and men who had been taken on land, at Culloden, and elsewhere, as well as those who had been taken at sea, and few of them bore French names.

The proviso contained in the second paragraph of the letter of 7th February gave rise to further correspondence. General Fleming, commanding at Carlisle, writing to Newcastle acknowledging receipt of his orders, on 14th February said :

‘ Herewith I send enclosed to Your Grace a List of such as are allready come to my knowledge, who say they are Protestants and natural-born subjects of His Majesty’s Dominions, and desire not to be sent to France, but discharged out of Custody.

‘ I shall therefore, pursuant to Your Grace’s Letter, sett them at liberty next week, and do not doubt when this is done, but several Men will apply to be sett at Liberty for the same reasons urged by the others ; and how to avoid being imposed upon by such People I am at a loss.’

The letter contains a pencil note to the effect that the writer is going on 10 days’ leave, in the hope no doubt that the problem would settle itself during his absence.

There is a further note saying :

‘ All men on list are now in County Gaol destined for transportation as Rebels, and subsisted by the French officers as their men, of which only just inform’d, so will defer discharging them until he hears from Newcastle.’

The list attached gives the names of eight men, all Protestants. It is interesting to observe that four of them were English and two Irish.

Meanwhile, on 14th February 1747, Newcastle sent similar orders to the legal and military authorities in

Scotland regarding the disposal of French officer prisoners in Scottish prisons (*S.P.Dom.*, 94-41). These orders were:

'The names of French Officers in Scotland, natural-born subjects of His Majesty, to be sent up that they may be pardoned. Clanranald to be excepted.'

The interests of the French prisoners of war, while in Great Britain, were looked after by a Frenchman, Mons. Carpentier, who in one document (*S.P.Dom.*, 106-18) is styled 'Minister at the Hague.' He was acting on behalf of the French Government, and he had the right to examine prisoners to discover whether any French subjects were included among those whose French nationality was either suspect or had been rejected.

His views did not always coincide with those of the officers in charge of transports or prisons, and an interesting example of this is afforded by the case of one John Goff of Dillon's Irish picquet. In the list of prisoners for transportation from the *Pamela* transport (*S.P.Dom.*, 87-122) a remark appears against his name that 'his brogue is very strong.' A further comment is particularly interesting:

'yet this is one of Monsieur Carpentier's Frenchmen who cant speak English.'

Another man, 'John Lowden' or Loudoun, Fitzjames' regiment, who was in the *Pamela* in September 1746, has the following entry against him:

'went 5 years ago to France. This is one of M. Carpentier's Frenchmen, yet he has signed a petition to His Majesty acknowledging his guilt and begging for transportation.'

Another of Carpentier's functions was the drawing up of lists of French prisoners. Of these one survives which is headed 'Estat des Noms tant de famille que de baptisme [*sic*], et des Grades des Officiers etc au Service de sa Majesté tres Chrétienne, Prisonniers de Guerre à Berwick sur Tweed, ce 26me Fevrier 1747' (*S.P.Dom.*, 94-255). The list is in French and it is difficult to reconcile the names of some of these prisoners with the Chief Justice's ruling on the holding of foreign commissions already referred

to. Of 14 officers shown, only one has a French surname; the others were all Scottish or Irish; but they all escaped transportation and were returned to France.

On 20th March 1747, Carpentier wrote officially to 'Mr. de Ramsden' reporting that he had received from certain officers of the French Royal Scots a list of other individuals of that Corps who were presently confined in Tilbury Fort. He begged that the Duke of Newcastle would send a 'Messenger d'État' to Tilbury, accompanied by one of these officers, to identify the individuals (*S.P.Dom.*, 95-87).

The list consisted of eleven names, three of whom have the marginal note 'no such person' against them. Of the remainder two belonged to Ogilvy's, and one each to Elcho's, Lord John Drummond's, Cromarty's, and Macleod's regiments. There were also two Jesuit priests, Charles and John Farquharson.

The Farquharsons were ultimately released; but it is unlikely this was the result of Carpentier's intromission. The rest were all included in the list of persons to be transported (*P.R.*, 3621-3); and there is no evidence that this sentence was modified or that they were discharged as French subjects, except John Nisbet of Lord John Drummond's regiment, against whose name appears the remark 'discharged.'

4. SPANISH PRISONERS

Among the prisoners captured at sea coming over from France, or after Culloden, there is a small group who claimed to be Spanish subjects, and who are to be found in the list of foreign officers in Berwick, dated 25th February 1747.

As their names bore little relation to those which they originally possessed, they would have presented some difficulty in identification had it not been for the fact of there being two identical returns, in Spanish and English (*S.P.Dom.*, 94-256), headed:

'Estado de los oficiales en le Servicio de S. Majestad Catholica, pressos en Berwick,

Don Diego M'Pherson (James M'Pherson), Captain of Grenadiers.

Don Francisco St. Clair (Francis St. Clair), Captain of Grenadiers.

Don Guilliemo Hay (William Hay of Edington), Captain.

Don Juan Gould (John Gould), Captain.

Don Rodrigo Ferral (Roger O'Farrell), Captain, Engineers.

Don Benito Antonio O'Heyne (Benedict Anthony O'Heyne).'

There were, however, others.

Thus, Colonel Henry Kerr, A.D.C., was pardoned and banished on his claim to be a Spanish subject (*S.P.Dom.*, 100-65).

The Prince's friend and faithful attendant, Capt. Felix O'Neill, though actually serving at the time in Dillon's Franco-Irish unit, had for many years been in the Spanish army; his father, a Brigadier, had also been killed in that service. He certainly could not write English and had little but his name to show his Irish origin (*Albemarle*, i. 342).

Colonel Ultan Kendela was one of the prisoners on parole in Inverness after Culloden. It was he who came over and landed arms in the island of Barra (*Lyon*, ii. 286). Whether he was a true Spaniard or not has not been ascertained; he is sometimes called 'Kendal.'

Of Pierre Colieno, '2nd Captain, Spanish ship,' nothing more is known. He was probably discharged as a prisoner of war.

These Spanish prisoners were treated on the same lines as the French who were not natural-born Frenchmen, and the same difficulties occurred in determining their domicile.

CHAPTER XI

GOVERNMENT OFFICERS

JUDICIAL OFFICERS

THE names of many judicial officers appear repeatedly in the State Papers of the time in connection with the Prisoners of the '45.

It is easy to assume that they were all anti-Jacobite by interest or conviction, and that they invariably exercised their powers to secure the ruin of the unfortunate individuals who fell into their hands.

This seems to have been true of some of them ; but, in common fairness, it must be admitted that, on the whole, many of them were prepared to hear and, sometimes, to sympathise with the point of view of the prisoner.

This was particularly true of the English Crown lawyers, Sir Dudley Ryder the Attorney-General, and the Hon. William Murray the Solicitor-General, who were jointly responsible for the decision as to the procedure to be adopted in the case of every prisoner whose name appeared on the lists submitted to them.

Their reports on prisoners are available for reference, and there can be no doubt that they showed an impartiality which is almost surprising. They had long lists of names sent to them by their subordinates and by their Scottish colleague the Lord Justice Clerk ; but, over and over again, they decided against individuals being sent for trial, on the ground of insufficient evidence.

Looking back on their position, it may be stated that, if they showed no favour to individual Jacobite prisoners, there is at least no evidence of their showing bias against them.

Sir Dudley Ryder

Sir Dudley Ryder, who had held the post of Attorney-General since 1737, was the official primarily responsible for the prosecutions.

His first important duty as Attorney-General was to take charge of the Bill of Pains and Penalties against the City of Edinburgh after the Porteous Riots.

In 1744 he moved the suspension of the Habeas Corpus Act in view of the threatened Jacobite rising, and spoke strongly in favour of the Bill attainting the sons of the Chevalier should they land in England, and of making it high treason to correspond with them. In the same Bill he justified the provision by which the property of a rebel's children was declared forfeit.

In May 1754 he became Lord Chief Justice of the King's Bench and a Privy Councillor.

The Hon. William Murray

The Solicitor-General, the Hon. William Murray, was a son of David, fifth Viscount Stormont. Unlike his father and his elder brother, both of whom were Jacobites and had received sentences of imprisonment and fine for the part they had taken in the Rising of 1715, his own sympathies seem always to have been Whig; and the story that he once drank the Prince's health kneeling is probably untrue. He is better known as Lord Mansfield, so created on his appointment as Lord Chief Justice in 1756; and ten years later he was elevated to an Earldom.

Robert Craigie

The Lord Advocate of Scotland at the time of the '45 and for the first few months was Robert Craigie of Glen-doick. He seems to have taken little or no part in the onerous and anxious duties arising out of the filling of the Scottish prisons with Jacobites captured after and before Culloden, and their ultimate disposal, which appear

to have been delegated to the Lord Justice Clerk. He gave up the office of Lord Advocate in February 1746. It appears possible that his sympathies were to some extent Jacobite. The accounts of Oliphant of Gask, as civil administrator of Perth, show that he sent contributions of meal to the army (*Tullibardine*, ii. 324).

William Grant

On the demission by Robert Craigie of the office of Lord Advocate he was succeeded, on 26th February 1746, by William Grant, better known by his later judicial designation of Lord Prestongrange. As regards the '45, the references to him are chiefly in connection with the indictment of ' Excepted Persons ' before the Court of Justiciary in Edinburgh in October 1748. From his letters to the Lord President reporting the proceedings, it is clear that he was anti-Jacobite in sympathy, and did all he could to induce the Grand Jury to bring in true bills against the absent leaders. As M.P. for Elgin he took a prominent part in the furtherance of the Bill for abolition of heritable jurisdictions, and introduced the Bill of 1752 for annexing the forfeited estates in Scotland.

Andrew Fletcher

Andrew Fletcher, Lord Milton, was Lord Justice Clerk from 1735-48. He was in constant, almost daily, correspondence, first with the Duke of Cumberland and then with his successor the Earl of Albemarle, on matters connected with the prisoners, receiving their reports of the course of events, and submitting ' informations ' to them ; and all the time he was directing a widely spread Intelligence Service system all over Scotland.

On him also fell the task of arranging for the dispatch of prisoners to England, even in regard to such small details as to whether particular individuals should be sent to London by coach or on horseback. Large numbers of prisoners and witnesses selected from the

prisons in Scotland were sent to Edinburgh for him to examine personally before a final decision was arrived at as to their disposal ; and, judging by his reports to the Duke of Newcastle, in spite of frequent attacks of illness, he showed considerable tact in his dealings even with such persons as John Murray of Broughton.

Like the Lord Advocate, he appears to have been very doubtful of his powers under the emergency orders of the time, and especially of the niceties of English legal procedure in dealing with cases of high treason. Thus, as already stated, in a letter to the Duke of Newcastle, dated 14th July 1746, regarding the dispatch of witnesses for the Crown to Carlisle, he points out that ' few will be willing to make journey ' to that place, and that as ' I am not acquainted with English Law,' he hopes that Sir Everard Fawkener, the Duke of Cumberland's Secretary, ' will be able to judge what prisoners should be sent ' (*S.P.Scot.*, 32-46).

It may be said of the Lord Justice Clerk that he never abused his powers ; indeed he was more lenient than might have been expected of him in his position. It seems probable that had he shown more keenness in dealing with cases, the number of Jacobites sent to England for trial would have been considerably greater than it actually was.

In May 1748 he resigned his office and was appointed Keeper of the Signet for life, and was succeeded by Erskine of Tinwald (*Albemarle*, ii. 550).

CIVIL OFFICIALS

Among the Hanoverian civil officials in Scotland one of the most venomous was George Millar or Miller, Town Clerk of Perth. The Scottish Jail Returns frequently mention him as having brought about the capture of fugitives, and one of his earliest manifestations of anti-Jacobite bias was the imprisonment of the Sheriff's Officers of Perth on suspicion of treason. He also took a prominent part in preparing cases against prisoners, and inducing men to turn King's Evidence. He co-operated with the English solicitor, Philip Webb, a man of his own type.

The evidence so produced was invaluable for the prosecution at the Carlisle trials (*Lyon*, ii. 233).

Self-advancement was his object, and he attained it; for, in a communication of 22nd November 1747, from the Lord Justice Clerk, he is addressed 'Sheriff-Depute of the County of Perth' (*S.P.Scot.*, 38-47).

The name of John Sharpe, Solicitor to the Treasury, appears very frequently in the Records. He was in regular communication with the Lord Justice Clerk; at the same time he was employed to obtain information for the Attorney-General and Solicitor-General regarding individual prisoners.

Philip Carteret Webb was one of the Solicitors for the Crown, and took a leading part in the selection of individuals in the Scottish prisons for trial, and in the trials at Carlisle and York. A determined opponent of the Jacobites, he went out of his way to injure them in every possible manner. He had acquired a great reputation for knowledge of precedents of constitutional law, and was the author of *Remarks on the Pretenders' Declaration and Commission*, 1745; this probably accounts for his selection for the appointment he held. He was entirely opposed to the reintroduction of the system, originally adopted in 1716, of the drawing of lots for transportation, on the ground that many of the transported prisoners would find their way home again, and to prevent this he recommended branding. Webb stands out among his contemporaries concerned in the treatment of Jacobite prisoners as a man totally devoid of any sympathy.

Horace Walpole described him, in later life, as 'a most villainous tool and agent in any iniquity.'

On 31st January 1769 he was charged in the House of Commons with having bribed Michael Curry to betray Wilkes and give evidence against him. Counsel pleaded that Webb was blind and of impaired intellect (*D.N.B.* s.v. *Webb*).

Sir John Strange, K.C., was Counsel for the Crown at the trials at Southwark. He had retired from practice in 1742, but came forward for the purpose of conducting the prose-

cution of the more prominent Jacobite leaders. The notes of the proceedings at the Southwark trials have been preserved, including his own speeches for the prosecution in the cases of certain individuals; and on these notes largely depends our knowledge of the disposal of the prisoners, and also of much detail concerning the raising of the Jacobite army and of the military operations. These have been published in Allardyce's *Historical Papers relating to the Jacobite Period*.

Andrew Stone was an Under-Secretary of State and Secretary to the Duke of Newcastle, and, as such, was the ordinary vehicle of communication with the latter. He was in frequent correspondence with the Lord Justice Clerk and the Commander-in-Chief in Scotland. One of his functions was attendance on the Committee which conducted the examinations of prisoners, and to him John Murray of Broughton communicated information regarding the leaders of the '45 for further action (*S.P.Dom.*, 89-62, 63). He visited prisoners in their places of confinement, and endeavoured to elicit information from them.

Thomas Ramsden was also an Under-Secretary of State. He was in close touch with John Sharpe, Solicitor to the Treasury, regarding the disposal of prisoners.

Henry Fox, afterwards Lord Holland, was 'Secretary at War.' His name appears in the correspondence regarding the pardon of Jacobite prisoners on condition of enlistment, a policy of which he was strongly in favour.

HANOVERIAN NAVAL AND MILITARY OFFICERS

One of the military officers who was in constant contact with the Jacobite prisoners and whose name appears very frequently in the State Papers, was an Irishman, Captain Stratford Eyre (or Aires) of Battereau's regiment. Of his personal unpopularity among the Jacobite prisoners there can be little doubt; but it must be admitted that the nature of his duty was such as to impress upon the individual prisoner the fact that in his hands lay their destiny.

There are references to him in the *Lyon in Mourning* which suggest that he was imbued with the Cumberland spirit, and that, immediately after Culloden, he made his severity apparent to the prisoners. Thus Mrs. Leith, in describing her experiences in Inverness, says :

‘ Our countrymen wer confined in the keeping of the greatest tyrent in the whol army, one Captain Aires, so that, when at any time this cruell man put them under any hardship, which he afften did, then I had recourss in their name to Lord Lewis (Drummond) and the Ambasedr (Mons. D’Eguilles), who did not fail in applying to Lord Albemarle . . . demanding the cusage due to prisoners of war.’ (*Lyon*, ii. 286.)

When the Privy Council, on 23rd July 1746, decided to adopt the lotting system, Eyre was the officer detailed to carry out the procedure laid down, in the case of the prisoners in Tilbury Fort and the transports (*S.P.Dom.*, 88-17); and he was aided by Lieut. William Moore of Battereau’s and John Kirkes, Surgeon. Their certificate is attached to the report on the lotting (*S.P.Dom.*, 88-60).

According to another prisoner, the Rev. James Taylor, Eyre was in charge of cash issued to prisoners when they were liberated; and he complains bitterly that he only gave him a guinea and a half to cover his expenses from ‘ London to John o’ Groat’s House.’ At a time when fourpence a day was allowed for a prisoner’s ration, it may be said that Captain Eyre was merely carrying out the military regulations governing ‘ Travelling Allowance.’ Modern experience indicates that an appearance of hard-heartedness is not uncommon among staff officers responsible for military expenditure (*ibid.*, iii. 34.)

Captain Eyre took a prominent part in the Southwark trials in identifying individual prisoners. After Culloden he and one or two other officers were detailed to examine all prisoners, with the object of being able to identify them later as having been taken when carrying arms; and it is probable that in Inverness itself, and later in the transports in the Thames, he performed the functions of a Provost-Marshal.

Another officer who was regarded by Jacobite prisoners

with bitter hatred on account of his cruelty, was Major Lockhart of Cholmondeley's regiment. Taken prisoner himself at Falkirk by the Prince's army, he was released on parole, and, like the other English officers similarly treated after Prestonpans, he broke his parole and rejoined the English army. He was one of the most prominent of the leaders of parties of English troops who scoured the Highlands and Islands after Culloden, and was actively engaged in bringing Jacobite fugitives from their hiding places. His name appears frequently in the Records in this connection. Detailed accounts of his shooting persons in cold blood for no apparent reason are to be found in the *Lyon in Mourning* (i. 82-91 ; ii. 306, 309 ; iii. 16, 57, 72).

Captain John Ferguson, R.N., son of George Ferguson of Old Meldrum, was equally notorious. In 1746 he was commanding H.M.S. *Furness* (or *Furnace*), and was employed in hunting down Jacobites, employing men from his ship for the purpose. Ferguson habitually treated his prisoners with the utmost cruelty, and Captain O'Neill describes how he stripped him and ordered him to be flogged because he would not confess where the Prince was hiding (*Lyon*, i. 374). Along with other warships, the *Furnace* was for some time employed in scouring the west coast and islands during the months of May and June 1746 in search of the Prince. The most remarkable of his prisoners was Flora Macdonald, who was in his ship for three weeks. Fortunately for her, General Campbell was also on board, and his presence ensured her being treated with courtesy (*Lyon*, i. 303).

Ferguson alleged that a plot to murder him was arranged by Coll Macdonald of Barisdale, and that the individuals appointed to carry it out were Allan Macdonald and Neil Macaulay, who subsequently gave evidence against Lord Lovat (*S.P.Dom.*, 88-60).

His brutality was rewarded, on the recommendation of the Duke of Cumberland, by promotion to a new frigate, H.M.S. *Nightingale*. He died in 1767, but, as the 'black Captain,' his name has been handed down as one of the vilest of Cumberland's subordinates.

Another officer of the same type was Captain Carolina Scott of Guise's regiment, who, as the late Dr. Blaikie pointed out, 'shares with Ferguson and Lockhart eternal infamy for his superlative cruelty to the hunted Jacobites of the Western Highlands' (*Origins*, 248, note). His name appears frequently in the Records as having captured prisoners, and the records of his unbridled brutality fill many pages of *The Lyon in Mourning*.

A very different man was Commodore Thomas Smith, R.N., who was naval Commander-in-Chief in Scotland throughout 1746. Flora Macdonald was handed over to his custody from the *Furnace*, and remained in his ship, H.M.S. *Eltham*, until she reached the Nore on 28th November 1746 and was transferred to the *Royal Sovereign*. Commodore Smith treated her as a distinguished guest, and Forbes says he

'behaved like a father to her and tendered her many good advices as to her behaviour in her ticklish situation.'

He even let her go ashore in Skye to see her mother, and, when at Leith, he obtained clothes for her (*Lyon*, i. 112, 116).

The savagery of the post-Culloden measures is also relieved by the conduct of the one Highland gentleman who stands out among the officers of the English army as perhaps the only one who was in a position of authority and did not abuse it. Major-General John Campbell, afterwards fourth Duke of Argyll, showed kindness contrasting strongly with the brutality of such men as Carolina Scott, Ferguson, Lockhart, and other 'King's Officers.' Not only was the courteous treatment of Flora Macdonald in the *Furnace*, after her capture, entirely due to his presence and intervention, but it was he who did his utmost to provide food and protection for the wife and children of Stewart of Ardshiel after his house and estate had been plundered by the English troops in May 1746.

Other prisoners received courteous treatment when they fell into his hands. For example, Alexander Cameron of Glenevis, who took no part at all in the operations, had

his house burnt, his wife and family grossly ill-treated, and his effects plundered by a party under Carolina Scott. He himself surrendered to General Campbell, who at once sent him on parole to Inveraray. Had Scott captured him he would certainly have been sent to London.

CHAPTER XII

IDENTIFICATION OF INDIVIDUALS

SURNAMES AND PATRONYMICS

THE question will naturally arise how, in preparing the List of Prisoners of the '45 (Vols. II and III), individuals have been identified; and it is necessary to indicate at some length how this has been done.

As identification depends primarily on names, these must first be considered.

The difficulties encountered depend on several circumstances, which may be defined as follows :

(a) The limited number of surnames, as compared with the individuals shown. This would apply principally to what may be called the ' Mac ' names and other clan names such as Grant, Fraser, Stewart, Gordon, and the like.

(b) The well-known variations in the spellings of those names, which were undoubtedly the result partly of ignorance and illiteracy on the part of the men themselves, and partly of the attempt of English or non-Gaelic speaking clerks to render them phonetically. Numerous cases have been found in the preparation of the List in which other evidence has proved that what at first appeared to be two men subsequently proved to be a single individual whose name had been spelt in various ways. As simple examples of this class may be given such surnames as M'Artair, M'Kenzie, and Menzies. English clerks would naturally, and sometimes very successfully, transcribe these phonetically and show them as M'Carter, Makengy, and Minges. More difficult cases will suggest themselves to the reader.

(c) There are also some rather unexpected examples of alterations of names in successive references to the same

individual, which may depend on the same cause or to the clerk's failure to catch and retain the sound. As an instance, we find Farquharson sometimes spelt Ferguson, thus confusing two totally distinct surnames. Here it would be rash to assume that any Ferguson in one of the lists was really a Farquharson, but, as the mistake occurred demonstrably more than once, it has been necessary to pay special attention to both these names whenever they occur in Jail Returns or State Papers.

(d) Another difficulty is the tendency that undoubtedly existed in dealing with names with the terminal 'son.' For example a Donaldson, during his career in prison, will be shown sometimes under that name and sometimes as a Donald, and has had to be identified by other means.

William and Williamson, Roberts, Robertson, and Robinson are other examples of this tendency; and individuals are frequently shown as bearing these surnames indifferently.

As might be expected, the group of 'Mac' names is the one which affords the largest field for speculation and study.

Apart from the fact that they lend themselves to every possible type of error in transliteration, there are many whose form, in the State Papers, is not explicable merely on the assumption that they are the result of errors in spelling. The opinions of experts have been obtained in regard to many of these; but it must be stated at once that, even where such names have been submitted to the present inhabitants of their places of origin, their elucidation has not been an easy matter, and has sometimes failed completely. There is indeed a residuum of these 'Mac' names which must be left for future controversy, especially as they do not appear to have survived to the present day as surnames.

The most obvious explanation is that such inexplicable names are not, and never were, surnames in our sense of the term; they were probably peculiar to the individuals who bore them, to distinguish them from other persons, all of whom had a common surname, and perhaps the same Christian name, and must be regarded as individual names

which have suffered, like the clan names proper, at the hands of ignorant clerks.

In some cases, however, there are indications that the form is more accurate historically than it would assume in a modern list of 'Mac' names.

Thus, in one case, the compiler of a list shows a M'Tagart or M'Taggart as 'M'Intergart,' a much closer rendering of the original 'Mac-an-t-sagairt,' 'son of the Priest,' than the modern spelling. This possibly indicates that the pronunciation of his own name by the individual concerned was more accurate than the modern abbreviated rendering, and that the compiler took it down phonetically and at the same time successfully.

Again 'M'Gilphadrick' is quite a creditable transcription of 'Mac Ghille Padruig,' 'son of the servant of Patrick'; but it obviously gives no indication whatever of the clan or sept to which the individual belonged. The owner, or his ancestors, may have had any recognised surname such as survives to-day, but was actually known by what was originally a descriptive name and was on its way to become a surname, in precisely the same manner as 'Maeghille Chrìosd,' 'son of the servant of Christ,' has become in its modern form MacGilechrist.

Other examples will suggest themselves by reference to the List of Prisoners.

ALIASES

Another very common source of difficulty in the identifying of individuals arises from the use of an 'alias.'

This matter is dealt with below in considering the case of the Grants, with special reference to the alternative names or aliases in the case of men bearing that name.

Many other instances are to be found in the State Papers.

As an example, in a petition in favour of certain of his parishioners in Tilbury Fort the Rev. James Robertson, minister of Lochbroom, includes in his list 'Alexander M'Kenzie alias Roy. John Oge alias M'Kenzie. Donald Roy alias Leslie.' (*S.P.Dom.*, 94-241.)

CHRISTIAN NAMES

Christian names also give rise to difficulties in identification. It is unlikely that a man whose name was Alexander would be shown in a Jail Return or a State Paper as John ; but it is quite likely that a Donald would be shown sometimes as Daniel ; and this confusion often occurs. Hugh, Ewen, and Evan were often used indiscriminately ; Ranald and Ronald were spelt as his fancy struck the clerk ; and Roderick and Roger, Patrick and Peter, were liable to be confused.

It is interesting to notice that phonetic renderings of Christian names are sometimes more accurate than the modern accepted spellings. Thus ' Farcher ' or ' Ferecher ' is probably a more correct expression of the sound than ' Farquhar,' having regard to the fact that there is no ' Q ' in Gaelic.

FOREIGN NAMES

Another type of difficulty is exemplified by the case of ' Don Rodrigo Ferral ' of the Spanish army, who was found to be the same as ' Roger O'Farrell,' an Irishman. In this case the identity was discovered by the fact of one of the State Papers being written both in French and in English ; the name appears in these in its two forms.

ERRORS IN TRANSCRIPTION

In some cases, in the process of handing of lists of prisoners from prison to prison, names have become mutilated to an extent which renders identification very difficult. As an example, there was a Banffshire man taken at the fall of Carlisle who is shown in one Return as James ' Streethead ' ; he is almost certainly identical with James ' Strutherd,' who is shown in the same prison in another list and was taken at the same time. In the compilation of the combined Lists the first surname, ' Streethead,' has been assumed to be another form of the second.

Another individual who has given trouble in regard to his identity was Peter 'Gamatsgavin,' a Banffshire man who was in Whitehaven prison, in which there were only a dozen prisoners. In another list, of the same prison, is a Peter 'Gairn.' Probably both entries are incorrect and represent a single individual, whose real name was Peter 'Gavin.' Errors such as these vitiate the accuracy of the returns, and are very difficult to detect; but at this interval of time they must be accepted as unavoidable.

These are perhaps extreme cases; but many others have required much consideration before it has been decided how they were to be shown in the List of Prisoners.

IDENTIFICATION FACTORS

While admitting that it is practically impossible to be quite certain in every case of the identification of an individual prisoner, it may be stated that, generally speaking, the number of doubtful cases can be materially reduced.

The lists in the Scottish Jail Returns and in the various classes of State Papers contain items of information about each or nearly each man, which, taken together, help to identify him.

This information, in a complete case, would consist of the place and date of capture, regiment, previous history as regards prisons since capture, and places and dates, disposal, also age, normal employment and residence. The more of these 'identification factors' that are available, the easier it is to trace an individual.

Experience of the actual disposals of different classes of Jacobite prisoners, again, shows that it would be unlikely that a man whose name appears for the first time in, say, the Edinburgh Tolbooth or Dundee, should be subsequently found in one of the transports lying off Tilbury, for the simple reason that those transports contained the prisoners who were sent down by sea direct from Inverness, or who were subsequently brought in by warships from the Western Islands or Highlands. The

Edinburgh or Dundee man, if there was enough evidence to send him up for trial, would have been sent first to Carlisle and thence, possibly, to York, Chester, or Lancaster. A name appearing in a transport at Tilbury and also in Carlisle, therefore, would certainly not be that of the same individual.

Dates and places of capture and confinement are another obvious means of proving that two individuals bearing the same Christian and surname are meant, instead of representing the same individual. A John Grant in the transport *Wallsgrave*, for example, could not be the same John Grant in the *Pamela*, provided the returns for both ships were dated on the same day.

The homes and ages of individuals again are a most important aid to identification; they are only rarely given, but, when they are, they have sometimes provided the final argument in identification. Finally, where a prisoner's regiment is stated, an additional aid is provided; though here it must be noted that the names of regiments, especially clan regiments, were themselves liable to variation.

For example, a Grant of Glenmoriston might have 'Grant's' entered in the regimental column of a Jail Return, but he might, in a later return, be shown as belonging to 'Glengarry's.' The explanation is that the individual often only knew the designation of the comparatively small unit in which he was serving, although that unit was really merely one company of a 'regiment,' and, in this case, the Grants of Glenmoriston served in Glengarry's regiment. Innumerable instances of this confusion of units occur.

Dependence on a single one, or even two of the various identification factors, may lead to a wrong conclusion; but, when three or more factors are available, room for doubt diminishes; and when all the factors differ from each other, it may be regarded as certain that the Records are referring to two individuals, not one.

The importance of extreme care in the compilation of the List, so as not to show two men when there is really one, is

obvious, if only for the reason that the number of prisoners would be rendered larger thereby than it actually should be. This has been felt to be a great responsibility in compiling that List. Actually, wherever two or more identical names have appeared, they have been subjected systematically to this form of investigation, with the intention of making the total less rather than greater as it would be otherwise. As presented in Vols. II and III it is safe to state that it underestimates rather than exaggerates the true number of Jacobite prisoners, possibly to the extent of a small percentage.

It is indeed likely that further research and the local knowledge of critical readers may still discover cases where the application of identification factors has failed to operate, and two individuals have been shown where there should be only one, and *vice versa*. Such cases must be accepted as unavoidable.

EXAMPLES OF APPLICATION OF DISCRIMINATION FACTORS

1. *The Grants*

The identification of individuals bearing Clan names in a Gaelic-speaking area requires careful treatment.

As an example, illustrating one aspect of the problem, may be taken the list of surrenders of 16 Grants of Glenmoriston and 68 of Glenurquhart in May 1746, who, having submitted to Sir Ludovic Grant and surrendered their arms, were marched to Inverness along with James Grant of Sheuglie, his son James, and the Rev. John Grant, and were there handed over to the Duke of Cumberland for disposal, in direct violation of the promise under which they had come in.

The names of these 84 men appear in one group in the Records (*S.P.Dom*, 84-2), and 54 bore the surname of Grant. These 54 men may be grouped, as regards their Christian names, as follows: Alexander, 7; Angus, 4; Archibald, 1; Daniel, 3; Donald, 7; Dugal, 1; Duncan, 2; Farquhar, 2; George, 1; Hugh, 2; James, 2; John, 15; Patrick, 3; Peter, 3; William, 1.

There is, however, another source of information regarding these Grants. Dr. William Mackay, in *Urquhart and Glen Moriston*, has an Appendix, the original of which is stated to

be at Castle Grant, giving the names of 87 men of the two glens who either surrendered or were apprehended.

The names in this Appendix, however, included only 24 who bore the surname of Grant, made up as follows : Alexander, 5 ; Angus, 1 ; Archibald, 1 ; Donald, 4 ; Duncan, 3 ; James, 3 ; John, 4 ; Peter, 2 ; William, 1.

It is difficult to reconcile the two authorities without further investigation of the remainder of Dr. Mackay's list. The first thing that is obvious is that that list contains 9 names which are not surnames at all, but Gaelic descriptive names used locally in lieu of the patronymic. These names are based on physical 'colour' characteristics, such as Roy (rudha, red); Dow (duhb, black); Bain (ban, fair); or Buy (buidhe, yellow or yellow haired). Although generally known by these appellations, many of these were probably Grants, and would naturally have called themselves so in such circumstances as those of prisoners. If so, this 'colour' group might all be correctly included among the Grants from the point of view of identification, and not as 'Bain,' 'Dow,' 'Roy,' 'Buy,' and the like.

There still remain 21 Grants in the State Paper who are not shown in Dr. Mackay's list under that name; but a reference to other classes of name in the Highlands appears to throw more light on the matter.

In one class, of which many are to be found in the List of Prisoners, the individual merely had an alias or alternative name. For example, one man in Dr. Mackay's list is shown as 'John M'Alister alias Grant,' and he, it is suggested, may have been a M'Alister settled in the Grant country or a John Grant, son of Alastair Grant, and hence known as John MacAlister. The classical case of this, mentioned in *The Lyon in Mourning* (vol. iii. 152), is that of John M'Donell, one of that gallant band of eight refugees in Glenmoriston who gave shelter to the Prince at Coiraghoth. According to his colleague, Patrick Grant, this John M'Donell

'was really and truly a Campbell, having changed his name to that of Mack Donell upon his coming to live in the bounds and under the protection of the family of Glengarry, it being the usual custom . . . to take the name of the chieftains under whom they live.'

How far this explanation covers all or most cases of aliases is doubtful, but it certainly applied to some individuals, and especially to those with proscribed surnames, such as M'Gregor.

The suggestion made above that some of the 54 men called Grant shown in the State Paper are really identical with some of the individuals bearing colour names in Dr. Mackay's list is, however, not accepted by the learned author of *Urquhart and*

Glen Moriston. He says, speaking of that list, that it was prepared for the information of Sir Ludovic Grant, and that care was taken to give the true names of the persons and their characters—that is whether the individuals were ‘honest’ or otherwise. If ‘honest’ they were more likely to escape further punishment than if they were ‘willing’ rebels.

When, however, we find Francis Farquharson of Monaltrie habitually known in the Jacobite army as ‘Baron Ban,’ and Coll MacDonell, younger of Barisdale, as ‘Colin Roy,’ and Alexander MacDonell, younger of Glengarry, as ‘Alastair Ruadh,’ it does not seem improbable that a ‘common highlander’ known to his friends and acquaintances as Roy, Dow, Buy, etc., might actually have possessed the surname Grant.

As a further example of an application of the methods employed with the object of discriminating between the 19 John Grants shown in the official list, and of showing that there were neither more nor less than that number, the following analysis may be given.

In the first place there was the Rev. John Grant who was sent to Tilbury. His name appears in the return of the ship *Dolphin*, which took him from Inverness. His subsequent history appears in the quoted references in *Origins of the '45*.

Then the List shows, in its regimental column, that there are 15 John Grants in Glengarry’s regiment, one in Lochiel’s, one in Roy Stuart’s; also an individual who was expressly stated John Roy Grant, shown in the Column of Remarks as a civilian wheelwright, who never left Aberdeen.

Of the 17 regimental John Grants, the single individuals in Lochiel’s and Roy Stuart’s are distinguished from each other by the following factors :

- (a) Their regiments.
- (b) One was confined at Lincoln, the other at York.
- (c) One was transported on 22nd April 1747, the other on 8th May 1747.
- (d) One was 34 and the other 40 years old.
- (e) One came from Lochaber and the other from Moray.

It is fair to assume from the combination of these factors that they were separate individuals.

Excluding those two as obviously separate individuals, there are 15 John Grants in the Glengarry regiment, who have been numbered off in the List. Of these, No. 15 is distinguished from the rest by the fact that he was captured at Duddingston as a deserter from the Jacobite army in November 1745, and was sent to Edinburgh Castle, thence to Carlisle and York, and was finally transported.

Of the remaining 14 individuals, one (No. 10) is distinguished by having come from Glenurquhart and by being 55 years old, while 13 were Glenmoriston men. Of these latter 5 appear in the returns of the transport *Wallsgrave* and the remaining 8 in those of the *Dolphin*.

Of the 5 John Grants in the *Wallsgrave* group one came from Craskie and another from Belnagarn, which distinguished them from each other; the remaining three can only be separated by their ages, 50, 26, and 23 respectively, and by the fact that the three names are shown separately in the Return of the ship.

Of the *Dolphin* group two came from Inverwick and Easter Achlain respectively; the remainder are identifiable by their ages alone, and the fact that the ship's Return shows them, all numbered off.

It is safe to conclude from this analysis that there were certainly 19 John Grants.

2. *The Stewarts, Steuarts, and Stuarts*

Another numerically large group of prisoners was that of 50 Stewarts.

The simplest and most obvious way of breaking up this group would appear to be by the spelling of their surnames, which divides them into 35 Stewarts, 10 Steuarts, and 5 Stuarts. This method, however, is useless, as some of the 'Stewarts' are occasionally shown under one of the alternative forms of 'Steuart' or 'Stuart.' Resort, therefore, must be had to other factors of discrimination.

Excluding Lady Stewart of Burray and Lady Frances Steuart of Goodtrees, there are 48 men to be dealt with.

The 'Alexander' group number five, of whom one was a Dundee merchant and another a sheriff officer of Perth; their prison history is quite clear. Another was a deserter from the Scots Fusiliers. A fourth was a 'mariner' from Strathspey, and the fifth was a footman to the Prince, and every detail of his career after his capture is quite well known.

There are 2 Allans, one from Perthshire and the other from Argyllshire; and a single Andrew. There was one Archibald, the well-known Jacobite Lord Provost of Edinburgh.

The fact that there were 2 Daniel Stewarts, both in Roy Stuart's regiment and both captured at Carlisle, might be suspicious were it not that both names occur together in one State Paper showing the captures.

Of the 4 Davids, Major David, of Lord George Murray's regiment, cannot be mistaken. Two belonged to Lord Lewis Gordon's, but one was taken at Carlisle and was transported,

while the other was taken at Inverness and sent to London, where he turned King's Evidence, and was released.

Only one Charles and one Donald appear in the lists.

Of the 3 Duncans, two belonged to Roy Stuart's; but one was a Breadalbane cattle-herd who was sent to London and transported, the other was a Dunkeld tailor who was taken at Carlisle and saved his life by enlisting. The third belonged to a different regiment, *i.e.* Ardshiel's.

There is one each of the name Finlay, Hugh, Patrick, Simon, and Thomas.

Besides Sir James Stewart of Burray, who is easily identifiable, there are six bearing this Christian name, all belonging to different units.

There were also 9 Johns, all of whom can be distinguished by their regiments and their different prison histories.

There were 2 Roberts, distinguished by the facts that one was an officer, and that their disposal was quite different; and of the 4 Williams the same may be said.

There can be little doubt, then, that the number of men bearing this surname and appearing in the List of Prisoners was as stated.

NAMES OF FRENCH PRISONERS

The names of French prisoners also present considerable difficulties in identification, whether the individuals concerned were really native Frenchmen or Scots in the French Service. In the case of both difficulties arise. In the first place the French lists present remarkable misspellings of Scottish and British names generally; on the other hand, when Scottish and English clerks attempted to take down the names of Frenchmen or French-speaking Scots, still more remarkable errors crept in. And although every effort has been made to avoid falling into error, it has not always been possible to ensure success in this respect.

As an example of careless rendering of names by an English or Scottish clerk may be taken the name 'Mirobel,' unaccompanied by a Christian name or rank. This individual was Mons. Mirabelle de Gordoun, a French Engineer. It would not be difficult to overlook the connection between the two names and to fall into the error of showing them as two individuals.

Again, a man called ' Missin ' in the French Service might be a Frenchman until it is found that his Christian name was ' Taddy.'

Another name which appears frequently is ' Barnaval,' of whom a considerable number, probably all related, appear in the French units and Irish ' picquets.' Their real name was Barnwell, who originally came from Ireland.

The identification factors in the French Service generally are too few to enable a certain conclusion to be drawn as to the number of persons in a group bearing the same surname. ' French Service ' is so often shown without a regiment that the regimental factor fails; the place of capture is often shown as ' at sea'; and age, place of origin, and occupation rarely enter into the tables.

CHAPTER XIII

THE JACOBITE ARMY

1. RECRUITMENT

THE Jacobite army consisted of three classes of men.

In the first there were the men who came out under the Clan system, who formed the bulk of the so-called 'Clan' units of the Highlands.

The second consisted of men who were liable to serve under the terms of their land tenure. These men formed the bulk of the units raised by the Duke of Atholl, Lord Lewis Gordon, and Lord Ogilvy, which might almost be called Feudal units.

Superimposed on these was the Voluntary system. There was a very large number of Volunteers, joined for any one of the many reasons which impel men of all nations and in all times to embark on military adventure.

There were units composed entirely of these men, such as Roy Stuart's, Baggot's Hussars, Stonywood's 'Aberdeen battalion,' and the English Manchester regiment. But it is probably a fact that as many more enlisted voluntarily in the units of the other classes, *i.e.* the Clan units and the Feudal ones. In the lists of prisoners such individuals are often styled 'Volunteers.'

The officers naturally fell into the same three groups, though probably the Volunteer class among them was a disproportionately large one.

The 'forcing out' of men

A plea frequently put forward by prisoners was that they had been forced out. The plea was, however, rarely accepted by the Courts which tried them. The State Papers

also contain numerous appeals by individuals or their friends on the ground that they were not merely pawns in the game but unwilling ones, and that *force majeure* had caused them to enlist.

The petitions show the degree of duress employed in raising men for the army.

An example is one by the Rev. James Robertson, dated 31st May 1746, in favour of 15 men of his parish of Lochbroom who were lying in Tilbury Fort (*S.P.Dom.*, 94-241). He says that they resisted the attempts of Barisdale and others to induce them to come out, and fled to the hills for safety. On the 17th March, however, Keppoch and his men

'unexpectedly surprized the poor people, snatching some of them out of their beds. Others, who thought their old age would excuse them, were dragged from their ploughs . . . while some were taken off the highways. One I did myself see overtaken by speed of foot, and when he declared he would rather die than be carried to the rebellion, was knock'd to the ground by the butt of a musket and carried away all bleed [*sic*].'

Only two of these men, Hector Mackenzie and Captain Colin Mackenzie of Cromarty's regiment, successfully pleaded duress at their trial (*Allardyce*, ii. 429, 470).

Again, the Rev. William Gordon, of Alvie, reported (*S.P.Dom.*, 83-391) that of forty-three parishioners only three went voluntarily; the rest were forced, sometimes by 'violent methods such as burning their houses, carrying off their cattle, and breaking their heads.'

Of the raising of Lochiel's regiment some interesting information is contained in an 'information' dated 17th August 1745 from John MacDonald, younger of Dalchosnie, Bunrannoch, who had enlisted in Lord John Murray's company of Lord Loudoun's regiment (*Norie*, 1905).

The document reports as follows :

'That upon Thursday the 15th August Cameron of Kinlochlyon [Kinlochleven, or Callart?], Cameron of Blairchierr, Cameron of Blairmachult, Cameron of Glenevis, and Cameron

alias MacKalounie of Strone, heads of the several tribes of the name of Cameron, came from Lochiel's country and entered Rannoch with a party of servants and followers to the number of about 24, and went from house to house on both sides of Loch Rannoch . . . and intimate to all the Camerons, which are pretty numerous on both sides of the loch, that, if they did not forthwith go with them, they would that instant proceed to burn all their houses and hough their cattle ; whereupon they carried off the Rannoch men, about one hundred, mostly of the name of Cameron, amongst which were nine of the recruits listed by the informer for Captain Murray's company. . . . Likewise there was an express sent from Alex MacDonald of Keppoch, the 15th, intimating to Alex Macdonald in Drumchastle and Alexander MacDonald of Dalchosney, the informer's father, both in the Duke of Athole's lands of Bunrannoch, that if they did not immediately go and join him, Keppoch, they would be proceeded against with burning and houghing as above. . . .'

It is interesting to note that, later in the campaign, the informer, young Dalchosnie, threw over his allegiance to George II. and joined Keppoch. His father, his uncle, and Drumchastle were all killed at Culloden.

These methods of recruiting men were common to the 'Feudal' as well as the Clan units.

In the raising and keeping of the Atholl Brigade up to strength Dr. Blaikie has shown that threats of destruction of property, sometimes carried into effect, played a most important part (*Perthshire in the '45, Tullibardine, ii.*); and Dr. Mackay indicates that similar measures were adopted in the case of the Grants of Glenmoriston and Glenurquhart (*Mackay, 494-498*). The reports of the trials at Southwark (*Allardyce, ii.*) afford further testimony to the same effect.

Much more evidence of the same sort is to be found among the State Papers.

Thus in depositions against old Lady Nairn and her daughter, Mrs. Robertson of Lude, Alexander Robertson stated that he 'bheoved to enlist in Lord George Murray's rebell regiment of Atholemen or pay £50 Scots.'

Charles Robertson, tenant of Runroy, said Mrs.

Robertson had threatened to burn his house and effects if he did not join; and Neil Kennedy said that masterful lady had 'challenged' him and six others for deserting and 'was demanding £5 sterling of each of them for having deserted.' (*S.P.Scot.*, 34-26.)

One consequence of this forcing of men into the army was that they were sometimes ignorant even of the name of the unit they had joined. For example, Donald Beaton, a Tírce man, stated that 'he was with the rebels two or three days and knows not the regiment' (*S.P.Dom.*, 90-65).

It might be assumed that the Jacobite army was a 'forced' one, in a sense which differentiated it from the Government army of regular troops, or from the irregular armed bodies such as Loudoun's regiment or the County Militias raised immediately after Culloden. But this assumption would be incorrect.

As regards the Regular army of the eighteenth century—to say nothing of the Regular Navy—force, sometimes economic, sometimes judicial, supplemented voluntary enlistment to an extent of which we have no certain knowledge. And even the Whig clansman who found himself in one of Loudoun's Highland companies was not generally there because he desired a military career. The Macdonald serving under Loudoun was, essentially, as much a 'forced' man as his kinsman serving the Prince; but the forcing in the one case was that of the Chief, and in the other that of the Chief's son, or nephew, or kinsman. And the same would apply equally to a Grant serving under his Whig Chief and to a Grant who had been 'influenced' by his laird in Glenurquhart or by young Glengarry's armed escort.

This is proved by the desertions of men from Loudoun's and from Lord John Murray's Highland regiments to the corresponding units in the Prince's army; and a casual reference to the List of Prisoners will show how commonly such deserters are found serving on the Jacobite side.

Some future writer will perhaps express surprise at the existence of conscription in the armies of Europe during

the war of 1914-18; and the curious will observe that Great Britain itself had to pass from a period of voluntary enlistment to one of conscription by way of an intermediate stage in which many men were 'influenced' to serve, not by a leader they knew, but by young women and old men.

So long as vassalage existed, whether that of a Feudal or a Clan system, the performance of the military obligation might always be described as 'forcing'; and it is in that sense that the term is used in the Jacobite prisoner Records. That the exercise of the superior's claim on his vassal or of the vassal's recognition of that claim—both of which were perfectly well recognised institutions—should have been held to have no bearing on the question whether the 'common man' was or was not guilty of high treason in levying war is one of the amazing features of English administration of justice. The convictions obtained automatically at Carlisle or Southwark would not have been obtained in Edinburgh; and that no doubt accounts for the decision to transfer Jacobite prisoners to England for trial.

Redemption of Service

Closely connected with the matter of forcing out is that of redemption of service by money payments of which numerous examples are to be found in the reports of trials at Southwark (*Allardyce*, ii., *passim*).

Thus Alexander M'Growther said he had paid a guinea to be exempted, but without success; Walter Mitchell's offer of 10 guineas was refused; and Charles Gordon's father, on offering money for his son, was told by Glenbucket that he wanted men, not money.

Hiring out of men

The State Papers frequently refer to men as having been 'hired out by the County,' which probably indicates that, when required to raise men, a County found it could

best do so by engaging men in the open market. Many such men were to be found in Lord Ogilvy's regiment. In a few cases—*e.g.* John Millar and Charles Mather—the individual was hired out by his employer, in substitution no doubt for himself.

Volunteering

Apart from the operations of the Feudal and Clan systems, voluntary enlistment was an important element in the raising of the Prince's army. In the cases of the Cavalry units, the Manchester regiment, Roy Stuart's, and certain others, it was the normal system of service.

As examples, Adam Hay of Pitsligo's Horse said that when he joined Moir of Stonywood's regiment he brought 14 volunteers with him; and Robert Reid admitted that he had offered men as much as 5 guineas to join with him.

Even when no bonus was offered, the volunteer was to be obtained in the towns. The most notable example of this was the raising of 180 men of the Manchester regiment by one Sergeant Dickson, who went on ahead of the Prince's army accompanied by his mistress, a drummer, and a blunderbuss (*Johnstone*, 64) and beat up recruits in Manchester.

Enlistment of English Prisoners

There is abundant evidence, both from State Papers and from contemporary records, that the enlistment of English soldiers into the Jacobite army was a policy definitely adopted after the battle of Prestonpans. The following extract, in regard to this policy, is of interest.

On 4th October 1745, an 'Information' was submitted by one Robert Bowey, mariner of Prestonpans, in which he states:

'On Friday last 27th Sept. he was at Edinburgh and there saw about 200 soldiers with the livery of H.M. King George go down under guard to the Abby, and shortly after saw about 40 carried away under guard to Gordon Castle (*sic*) . . .; and the remainder were set at liberty, and this deponent saw many going about at large with white cockades along with the rebels,

by reason whereof it was said that they had all initiated with the Pretender and were in his service.'

The English Government looked with the gravest disfavour on Jacobite officers who succeeded in inducing the King's soldiers to transfer their allegiance to the Prince. That this is not commonly done in modern warfare must be admitted; that it was habitually done in Continental warfare of the eighteenth century is equally certain. Henderson, the apologist for the Duke of Cumberland, comments bitterly on the attempts made, with considerable success, after Prestonpans, to induce prisoners to enlist in the Jacobite Army; he goes so far as to mention certain units as having received many such men, induced thereto by the exhortations of Col. Roy Stuart and Capt. George Hamilton of Redhouse of Baggot's Hussars. Stuart escaped abroad after Culloden, otherwise he would certainly have gone to the scaffold; Hamilton was captured at the rearguard action of Clifton, on 18th December 1745, and confined at York. Strong evidence was brought in his favour at his trial in respect of his humane treatment of English wounded after Prestonpans; but this plea, which was successful in certain other cases, was of no avail in face of his activity in inducing the English prisoners to enlist in the Prince's army; and he was hanged.

The Oath of Allegiance and Abjuration

Whether it was the general practice in all regiments of the Jacobite army to make men take an oath on joining is not known; but it was certainly so in the case of the Duke of Perth's regiment, when that unit was first raised.

The 'Oath of Allegiance and Abjuration' ran as follows:

'I solemnly promise and swear in the presence of Almighty God, That I shall faithfully and diligently serve James the Eighth, King of Scotland, England, France, and Ireland, against all his Enemies, forreign or domestick

'And shall not desert or leave his service without leave asked and given by my officer. And hereby pass from all

former alledgeance given by me to George Ellector of Hanover. So help me God.' (*Fraser Papers*, 274.)

This oath was subscribed by 5 officers and 189 men, and it is interesting to note that no less than 106 of the men were able to write their own names. This must be regarded as a tribute to the education of Scotland in 1745.

2. PAY OF THE ARMY

According to Home the Jacobite army was at first paid at the following daily rates : Captain, 2s. 6d. ; Lieutenant, 2s. ; Ensign, 1s. 6d. ; Private, 6d. This does not tally, however, with the statements of men who turned King's Evidence at the Southwark trials. Thus, while John Urquhart deponed that he 'received the pay of 6d. from the defendant as his officer,' another man, Alexander Forbes, stated, 'I received my pay of 8d. a day at Carlisle'; and a third, Archibald Lauder, said, 'I received 7d. a day during the time I was in Carlisle' (*Allardyce*, ii. 387, 460, 471).

According to Browne (iii. 123), the front rank of each clan regiment was composed of 'persons who were considered gentlemen, though without fortune or means,' who were paid a shilling a day, and were also better armed than the men in the rear rank.

The authority for this statement is unknown, but no reference to the fact has been found in the accounts of trials of prisoners.

It is possible that the Cavalry were better paid than the Infantry ; in the case of Kilmarnock's, a list of men and the pay due to them shows that the sergeants got eighteenpence and the troopers one shilling a day.

The discrepancy in rates cannot be reconciled.

As the campaign progressed and funds got low, the men's pay fell into arrears or was paid in kind. Shortly before Culloden, Elcho says, the Prince

'hade begun to pay them in meal, which displeas'd them so much that they sometimes threatened to leave him, and often disobeyed orders' (*Elcho*, 298).

Even this method of payment appears to have failed at the end, for it is notorious that on the day of the battle of Culloden the majority of the men were starving.

3. COMMISSIONS AND COMMISSIONED OFFICERS

The granting of blank commissions was not by any means peculiar to the Jacobite army. It was the method adopted by the English Government itself when raising the regiment composed of independent companies in September 1745. The Lord President was authorised to issue twenty such commissions for raising companies in the Highlands, and these were distributed by him amongst the chiefs on the Whig side.

The Prince did the same thing, not only in the Highlands but elsewhere; and one of the charges against Dr. Archibald Cameron, who was executed on 7th June 1753, was that when he was captured he was found to be in possession of blank commissions signed by the Prince, for distribution at his own discretion.

John Daniel describes how the Duke of Perth offered him a commission in his regiment, or, alternatively, in the Manchester regiment, subsequently commanded by Francis Townley.

Superior commanders in the Jacobite army in fact seem to have delegated their power of granting commissions to regimental commanders, and, at the trial at Southwark of Andrew Wood, one of the Crown witnesses stated that the prisoner 'was to have a commission as Captain in Roy Steuart's regiment upon condition he should raise 50 men for the rebel service.' Another witness, however, said he saw Wood 'receive his commission from the Pretender's son' (*Allardyce*, ii. 453, 454).

Commissions, in some cases at least, were expensive to the holders, who were under obligation to raise men. Thus Thomas Watson, Lieutenant in Ogilvy's regiment, when upbraided by John Bruce for joining the Prince, was said to have informed Bruce that 'it had cost him £100 in raising the few men he did' (*ibid.*, 466).

Captain Andrew Wood, as stated above, was given a commission on condition of raising 50 men (*ibid.*, 458). This expenditure he said he had to meet 'out of my own pocket.' Again, when under trial at Southwark, Captain George Fletcher, Manchester regiment, stated that his commission had cost him 150 guineas (*ibid.*, 389).

The fact, admitted on trials of officers, that they had paid for their commissions is liable to be misunderstood. Apart from the obvious fact that the Prince's army was desperately in need of money at all times, the custom of paying for commissions, and for promotion from one rank to another, was in general vogue in the Regular Army at that time and for long years after. The War Office published regularly the value of commissions, and, in 1773, that of an Ensign of a 'marching regiment of Foot' was £400, and of the Foot Guards £900 (*Military Guide*, 292-5). That the Prince's army adopted similar measures, on a much reduced scale, is not surprising.

Leaving aside the Chiefs and their families, who naturally supplied an important part of the commissioned officers of the Clan regiments, and the county gentlemen who raised units, large or small, in other parts of Scotland, the supply of officers for the Jacobite army was, to a great extent apparently, a regimental arrangement.

The lists show numerous individuals styled 'gentlemen,' who were generally either officers in regiments or volunteers in the ranks of *corps d'élite* such as Elcho's or Balmerino's Life Guards. There was no snobbish significance, however, in the use of that term. It was recognised that a 'gentleman' had to earn his living, unless he happened to be of independent means. And so the lists show names of individuals who in one record are shown as 'gentleman' and in another as 'innkeeper'—a most respectable profession which, in the greater part of Scotland in the past, was often adopted by younger sons.

The indictments of officers at the Southwark trials in 1746 afford numerous examples of this. As Lord Rosebery has pointed out, in his introduction to *Persons concerned*

in the Rebellion, we know that Alexander M'Growther, besides at least three aliases, was styled 'gentleman, otherwise farmer, otherwise yeoman,' and George Ramsay as 'gentleman, otherwise labourer.' Again, among the officers of the Manchester regiment, Thomas Chadwick was not only a gentleman but a tallow chandler, James Gadd or Gedd was also 'a printer, otherwise type founder,' and Thomas Siddall did not think it beneath him to earn an honest living as a peruke maker.

An analysis of the social position of the officers of a regiment is of interest. Taking, as an example, Lord Ogilvy's, the Angus regiment, the Lieut.-Colonels of the two battalions, Thomas Blair of Glassclune and Sir James Kinloch, Bt. of Meigle, were landed proprietors, as were the Majors, Robert Fletcher of Ballinshoe and James Rattray, yr. of Rannagulzion. One officer, Lieut.-Colonel Innes, an elderly man who had been out in the '15, and who was A.D.C. to Lord Ogilvy, was by profession a road inspector at Cullen, Banff. The Adjutant of the first battalion, Captain James Stuart or Stewart, was also of a landed family and had been in the Regular army.

Of the other 20 captains, of whom there is certain information only, eight were of the landed gentry class, viz.: Sir John Wedderburn, Bt.; James Carnegie of Balmachie; David Gardyne, yr. of Lawton; Alexander, brother of Sir John Kinloch; John Kinloch, yr. of Kilry; John Ogilvy of Inshewan; Thomas, son of Sir John Ogilvy of Inverquharity, and Thomas Ogilvy of Eastmill.

Of the rest nine were farmers, but some of them owned part of their lands. They were William Farquharson (Broughdearg), Patrick Grant (Shielhill), John Ogilvy (W. Lethnot), John Ogilvy (Lochmill), William Ogilvy (Meikle Kenny), John Robertson (Crandart), Alexander Shaw (Achavan), and his brother William Shaw (Little Forter), and Robert Young (Leuchland).

The remaining three were merchants, namely David Ferrier, David Ogilvy (Coul), and Patrick Wallace (Arbroath).

There were 21 Lieutenants, of whom six belonged to the

landed class, viz. : Alexander Bowar of Meathie ; Thomas Crichton, son of the Laird of Ruthven, Alyth ; Patrick Lyon of Ogil ; James Macduff of Turfachie ; Charles Sibbald, a gentleman of St. Andrews ; and James Stormonth of Lednathie. Eight were tenant farmers, namely John Brown (Belshan), Alexander Farquharson (Inzion), John Farquharson (Over Scyth), David Fenton (Little Kenny), George Milne (Balbathie), David Ogilvy (Shannaly), John Ogilvy (Rechilhill), Thomas Ogilvy (Little Kenny). One William Campbell was a ' seaman,' though he was the son of a sheriff-substitute ; and John Lindsay was a surgeon's apprentice from Montrose. Patrick Laird was a vintner in Meigle and Thomas Watson a tobacconist in Arbroath. James Ogilvy was a miller and George Smith a wright, and John Wishart a general merchant.

Of the 19 Ensigns only five belonged to the landed class, viz. : James Arrat of Faffarty, James Carnegie of Balmachie, John Ogilvy of Quick, Thomas Ogilvie, yr. of Eastmill, and James Stormonth, yr. of Kinclune. Seven were merchants, viz. : James Aikenhead, James Ballingall, Thomas Birrell, John Erskine, James Mather, George Patullo, John Shepherd ; and three were farmers, viz. : Robert Ferrier (Arbroath), John Shaw (Ravernie), Robert Walker (Bolshan). Andrew Black was a ' ground officer,' Alexander Mather a brewer ; of the others no definite information is available (*Mackintosh*, Lord Ogilvy's Regiment).

The above list is not complete as regards the two battalions, but it gives an idea of how no particular class had the privilege of serving the Prince as officers in that regiment.

To what extent Lord Ogilvy's can be regarded as above or below the average of the Lowland units as regards the social status of its officers it is very difficult to say. It is the only unit of whose officers there exists even an approximately complete list, owing to the researches of Mr. Mackintosh. But the lists show that in many regiments the junior officers, at least, came from the trading and skilled mechanic class.

4. THE COMPOSITION OF CLAN UNITS

It has been shown above how larger or smaller bodies of men were brought in and merged in Clan or other units, thus more or less losing their individuality.

For example, the Grants of Glenurquhart and Glenmoriston were merged into the Glengarry Regiment, and the Robertsons of Struan in the Atholl Brigade.

But, whether in the case of large or small Clan units, the popular idea that the men mostly bore the Clan surname is completely fallacious. This is shown by the lists of surrenders, escapes, etc., preserved in the State Records.

Taking the Mackintosh regiment as an example, the Records show that 50 men surrendered after Culloden to Lord Loudoun, 57 to 'Mr. Grant' in Dalarossie, and 23 to the Whig Grants in Moy. The names of the 130 men who laid down their arms are given, and it is possible to arrive therefrom at an idea of the surname composition of the regiment. The surnames were as follows :

Mackintosh, 34; M'Gillivray, 13; M'Bean, 7; M'Pherson, 4; Macdonald, Forbes, and Cameron, 3 each; Stewart, 6; Shaw, 3; M'Lean, 2; M'Queen, 2; Robertson, 1; Davidson, 1; Ferguson, 1; M'Beath, 1; Mackenzie, 1; Macphail, 1; Gow, 2.

The remainder were M'Andrew, M'Finlay, Kennedy, M'Conchy, Creighton, Bailly, Dow, More, Glass, Reid, Michael, Munro, one each; and no fewer than eleven Smiths (*S.P.Dom.*, 92-354). It will, however, be kept in view that most of these men belonged to the confederacy of Clan Chattan, of which Mackintosh was 'Captain.'

This analysis, which has been given *in extenso* as a good example of those lists, shows that it would be inaccurate to consider that this regiment was wholly or even largely composed of men of that name; as a matter of fact, assuming the 130 men who surrendered were representative of the regiment, the number who bore the surname of Mackintosh was 26 per cent. At the same time it must not be overlooked that men with names expressing colour,

such as Dow (black), Glass (grey), or trades such as Gow (smith), or some physical characteristic such as More (big), may actually have had the surname, but were known by what were virtually nicknames.

Another group of 25 men of these men from Daviot and Dunlichty surrendered to the Parish Minister, the Rev. John Campbell, on 17th May 1746. They consisted of Mackintosh, 4; M'Gillivray, 3; M'Cheandry, 3; Cameron, M'Bean, and Maclean, 2 each; M'Conchy, M'Queen, Shaw, Forbes, Creighton, and Dow, 1 each (*S.P.Dom.*, 92-357).

Finally, in another group of 56 men from Moy, Aberarder, Kincairn, and Dunmaglass, who came in on 7th June, there were only 15 men with the surname Mackintosh; the remainder were mostly of the other surnames already indicated. Altogether, then, out of 211 belonging to the regiment who surrendered after Culloden, only 53 bore the Clan name (*S.P.Dom.*, 84-50).

The same applies even to the Macdonalds. Thus, out of 98 Keppoch Macdonalds who surrendered to Lord Loudoun, only 48 were so called; the remainder were Macphersons, Campbells, Stuarts, MacArtairs, and M'Gilvantic (*S.P.Dom.*, 92-359).

On the other hand, of 80 men of the Glengarry regiment who surrendered on 15th May, 57 were Macdonell or Macdonald (*S.P.Dom.*, 83-274).

The surrender of 44 men of Stratherrick with their arms took place on 17th May 1746. These men belonged to Lord Lovat's regiment and consisted of 23 Frasers from Ardochie, Borlum, and Knoekie, and 13 M'Tavishes from Aberchalder. The remainder were Camerons and Mackenzies (*S.P.Dom.*, 83-295).

The Macpherson unit was stronger in men of its own surname than most of the Clan units. Thus of 139 men who surrendered there were 73 Macphersons; but the remainder bore names which came from all over Scotland. Whether this implied wide recruiting wherever they went or the presence in their country of considerable numbers of 'incomers' is a matter for argument.

There were other cases where numbers of men of the

same surname surrendered. Thus in May 1746 a small party of 20 men all bearing the surname of M'Martin—a sept of the Camerons—surrendered (*S.P.Dom.*, 92-346); they of course belonged to Lochiel's regiment. Another group of the same regiment, from Achnacarry and the neighbourhood, consisted of 20 Camerons and a solitary Mackenzie (*S.P.Dom.*, 83-363).

5. DESERTION

The lists contain numerous references to deserters—that term including two quite distinct classes—*i.e.* the men who deserted from the Prince's army, sometimes more than once, and the men who joined the Prince after deserting from the English army.

Desertion from the Prince's Army

Desertion was no doubt the bane of the Jacobite army; and it often occurred on a wholesale scale at every stage of the campaign. Instances are numerous and well authenticated. As early as 27th August 1745 John Murray of Broughton mentions the desertion of a number of Keppoch Macdonalds :

'not from any reluctance they had to the undertaking, but on account of a private quarrel they had with their Chief.' (*Murray*, 175.)

Again, Mrs. Robertson of Lude having forced out and dispatched a body of her tenants to join the Prince in September, every man with one exception is said to have deserted on the road to Edinburgh. The lists, too, indicate, inferentially at least, that there was a steady drain of individuals deserting from the camp at Duddingston. Thus, 8 Camerons of Lochiel's regiment were picked up by the country folk in October, making their way across the Pentlands, just before the advance into England; and others were arrested at Duddingston, Dalkeith, and

other places in the neighbourhood after the departure of the Prince.

Lord George Murray was perfectly aware of the necessity for stringent action in regard to this matter. The first recorded Order, issued to the army generally on 10th October 1745, stated that the Major of each regiment

'should publicly intimate if any Private Man is taken half a mile from the Camp or Quarters where they are in, shall be treated as a Deserter and punished according to the law of war, unless they have a permission in writing from their Captain.'

A Captain or other officer of each company was also to report all desertions from his command to the Major every day (*A.H.R.J.*).

Active steps were taken to recover deserters from the Prince's army, as far as this was possible.

The Lord Justice Clerk, it is true, writing to Newcastle on 19th February 1746, spoke sneeringly of these efforts in the following terms :

'The clans who took the road to Inverness are much dwindled in their numbers, as we say by desertion, as the rebels say by parties to bring back their deserters and levy more men.'

The fact is that the recovery of deserters and the raising of fresh men went side by side, and fuller information regarding the procedure adopted is to be found in the section dealing with Recruitment (p. 269).

One interesting little document, however, may be quoted to show that parties were given passes when they were sent to fetch men back :

'EDINBURGH, Sept. 28th, 1745.

'Rob Don, Angus Bain, Duncan Kennedy, Angus M'Eann vic Alister, John M'Phadrick, John M'Ean, Donald Riach, Charles Grant, James Roy Grant. Permit ye above men to pass from this to Glengairie, being a parting south, to bring back diserters. Given and authorised by me

Donald MacDonald of Lochgarry.

'To all yt these may concern, civill and military.'

[*Drummond Norie*, 1905.]

English Army Deserters in the Jacobite Army

There was also the class of deserters from the English forces, and the number of these shows that the English army, as well as the Jacobite, had to face the trouble of desertion. Apart from the fact that considerable numbers of English prisoners taken after Prestonpans were induced to join the Prince's army (*see ENLISTMENT OF ENGLISH PRISONERS*, p. 274), there are papers in the Records showing that there was a good deal of desertion by individuals.

Thus, writing on 21st November 1745 from Edinburgh, General Handasyde reported as follows :

'The foot with me will I think do well ; but the dragoons I am jealous of, not without reason, five having deserted since yesterday. Added to this a damned rebellious spirit and a disposition to robb everywhere. I only wait to take some of them, and the decree of their fate shall be put in execution after the court martial. Of the two, Hamilton's is much worse.'

Several of these men were captured during the course of the campaign, and their disposal by the English military authorities shows a rather surprising inconsistency, considering the severity of punishments for even minor offences in the army of the time. A few were handed over when caught and were hanged, instances of this occurring at Stirling, Perth, and in Edinburgh. Others, perhaps through oversight, shared the lot of the ordinary prisoners and were transported in due course.

A typical example of this class is that of Alexander Douglas, who admitted he had

'deserted from the King's Army in Flanders, enlisted with French, came over to Scotland with Lord John Drummond, and was apprehended robbing a minister's house eastward of town of Perth in the retreat of the rebel army.' (*Addl. MSS.*, 24900-80.)

His ultimate fate is unknown.

At Inverness, immediately after the battle of Culloden, however, there was a great haul of deserters who were discovered among the Jacobite prisoners. Many of them,

probably the majority, had come over like Alexander Douglas with the 'French units,' having deserted from English regiments in France and Holland. Others, in Loudoun's and Lord John Murray's, probably deserted to their Jacobite kinsmen during the operations in the Highlands.

A good many references to these men appear in the Duke of Cumberland's Army Orders.

On the 17th April 1746 an Order was issued directing the Serjeant-majors of all the English regiments to come into Inverness and to visit all the prisoners, 'taking the names of those who had been in any of the Regiments in our Service.'

Drumhead courts-martial were also convened to meet the following day to try such deserters. Fifteen men were brought to trial and condemned to death, and the sentences were carried out on the 20th and 21st April (*Cumberland Orders*). Again on 19th April a Sergeant of each unit was ordered 'to visit the French prisoners who came in last,' to search for deserters among them.

For reasons not stated, 11 deserters of Guise's Regiment were released and sent back to duty on the intercession of 'Mr. M'Bean, Minister of Inverness.' A few days later a similar concession was made in the case of several men of other regiments; and, generally speaking, about half of the men sentenced to death for desertion and 'enlisting with the rebels' were pardoned and remanded to their regiments.

During the stay of the English army in Inverness, from the 17th April to its departure to Fort Augustus on 23rd May 1746, 30 men were actually executed for desertion and joining the Prince.

The records of these military executions are incomplete, except in so far as the men taken at Culloden are concerned; but, including at least four deserters who were found among the French prisoners in Edinburgh Castle and hanged, and a few others in Stirling and Perth, the total cannot have been fewer than 40. (*See EXECUTION LISTS*, p. 143.) Among the individuals shown in the lists some

half-dozen or more have against their names the statement that they were 'handed over to Ensign . . . of . . . Regiment.' This can only indicate that they were deserters from the English army, who were to be transferred to military custody for disposal. What happened to them is not known.

The position of some of the English soldiers taken prisoner by the Jacobite army at Prestonpans was an embarrassing one. If they resisted the offer to transfer their allegiance to the Prince they were treated as prisoners of war; but when, having escaped, they tried to rejoin their own army, they were liable to grave suspicion.

As an example the cases of Thomas Harvey and William Roberts of Lascelles' regiment are of interest. They had been captured at Prestonpans. Roberts had been in hospital for some weeks and then escaped to Carlisle. There he met Harvey, who, having refused to enlist in the Prince's army, had been sent to the Canongate prison. When a party of English prisoners was being transferred to Blair-Atholl he managed to escape to Carlisle. Both men stated that they had served during the siege of that town by the Prince and that, on the capitulation, they escaped over the walls and went to Stafford, where they offered to enlist. Apparently their story was not well received, and they found themselves under a military guard at Coventry, where they were handed over on 8th December 1745 to the local prison (*S.P.Dom.*, 81-29). Here they were shown as suspected deserters. They were probably made over to the military authorities for disposal, as no further reference to them appears in the Records.

It is remarkable that when men known to be deserters from the English army fell into the hands of the English authorities, they were sometimes treated as Jacobite prisoners, instead of, as in the majority of cases, being handed over for disposal to the military authorities.

An example is that of William Connolly, an Irishman who was captured at Carlisle. A deserter from the Scots Fusiliers, he joined the Prince's Army before the battle of Prestonpans. It was stated at his trial in York that

he had 'advised to kill the redcoats, especially of Lee's regiment, because they would know him again'; and he appears to have killed at least one English soldier. Instead of handing him over to the military authorities he was tried as a Jacobite prisoner, convicted, and executed at York on 1st November 1746.

6. ARMS AND EQUIPMENT

The arms of the Jacobite army are often referred to specifically in the State Papers, and the information from this source raises some interesting matters for speculation.

All writers appear to agree that, after the initial stages of the campaign, the ordinary clansman carried a musket, sometimes a sword, or a dirk, or both, and a pistol.

Shortly after Culloden, when groups of men were surrendering with their arms, official lists were prepared giving details of the weapons in the possession of each man.

Thus, on 17th May 1746, 44 'Stratherrick people'—consisting of Frasers, M'Tavishes, and a few Camerons and Mackenzies—surrendered, and handed in 27 guns, 3 swords, 6 pistols, and a single dirk; ten of them had no arms at all (*S.P.Dom.*, 83-295).

On the same day 25 men of Daviot and Dunlichty parishes handed in their arms to Mr. John Campbell, minister. These arms comprised 10 guns, 4 swords, 12 pistols, and no dirk. Every man had some weapon and four of them had two (*S.P.Dom.*, 92-357).

Another group consisted of 23 Mackintoshes, Frasers, and others of the parish of Moy. They surrendered 16 guns, 13 swords, 4 pistols, and 2 dirks (*S.P.Dom.*, 92-358).

About the same time 20 M'Martins surrendered to the Earl of Loudoun and gave up 16 guns and 2 swords (*S.P.Dom.*, 92-336), and 20 Camerons at Moy gave up 16 guns and one sword (*S.P.Dom.*, 83-363).

A large party of the Glengarry regiment, 77 in number, surrendered on 15th May; they gave up 65 guns, 26 swords, and 4 dirks (*S.P.Dom.*, 83-274).

Finally 98 men of Keppoch's regiment came in and gave

up their 98 guns, but only 22 swords and a dirk (*S.P.Dom.*, 92-359).

In course of time it was discovered that the surrenders of arms had not had the expected result. Writing to Newcastle on 11th February 1747, Lord Albemarle forwarded a report by Campbell of Airds, in which the latter describes the condition of Badenoch as follows :

‘They have still plenty of arms, for, when they surrendered, they gave up only some rusty useless arms, and still kept the good fresh arms. Such of the Frasers . . . as were in the late rebellion are at home, having got protection on account of having surrendered their arms.

‘They have Arms as they only delivered up the worst.’ (*Albemarle*, i. 370.)

In fact the English military authorities met with the same difficulties in 1746 as have modern Governments in dealing with the problem of the disarmament of the frontier tribes of the N.W. Frontier of India, and met with as little success.

It is evident, from these reports, that the men concerned either deliberately refrained from surrendering their swords and dirks to anything like the same extent as they did their guns ; or, alternatively, that only a comparatively small portion of the men possessed them at all. It is inconceivable that the disarming policy which had been put into action all over the Highlands after the '15 had really resulted in the number of those weapons available for their successors of the '45 being too small for each man to have either a sword or a dirk ; it may have been that, just as the Lochaber axe had tended to disappear as the musket came into use, so the same tendency was making itself felt in regard to the ‘*arme blanche*.’ It is unlikely that Loudoun, or Loudoun’s men, who were intimately acquainted with the country, would have assented to a partial surrender of arms and the retention of swords and dirks ; on the contrary, as payment was made by the Government for arms collected, they were themselves financially interested and would have insisted on every available weapon being brought in.

The explanation, whatever it may have been, is not traceable in the State Papers ; the fact, however, that the clansmen of the '45 appear to have been often lacking in what has generally been regarded as *par excellence* the traditional armament opens up a field for further research.

A considerable number of arms of all sorts fell into the hands of the English army after the action of Culloden, and, on 19th April, an Army Order was issued regarding them :

'No officer or soldier to conceal any firelocks, fusees, or broad swords, but carry them all to the Train, where they will receive half a crown for every firelock and one shilling for every Broad Sword.

'The Train to pay the same price for Swords and firelocks which will be brought in by the Country People.

'French or Spanish firelocks or bayonets and cartridge boxes to be delivered by the Train to Ensign Stewart of Lascelles' Regt. ; he is to distribute them to the Prisoners of our Army released here.' (*Cumberland Orders*, 19.4.46.)

This Order suggests that, from the military point of view, the imported French and Spanish firearms were regarded as of greater value than the ordinary guns in the possession of the Jacobite soldiers, many of which were probably heirlooms of doubtful effectiveness.

Targes

No specific reference has been discovered in the State Papers to the Highland 'target' or 'targe,' which was certainly carried by many if not all the men in the Clan units.

From the absence of such reference to them it must be presumed that, at the surrenders of arms above referred to in the weeks succeeding the action, no demand was made for the targes.

That the carrying of targes, however, was not confined to the Clan units is proved by the 'Orderly Book' of the Adjutant of Lord Ogilvy's Regiment (*A.H.R.J.*, vol. ii. Special Number, p. 2). In the Regimental Orders for 11th October 1745, it is stated that

'My Lord Ogilvy, Colonel, orders that all the officers of his regiment provide themselves in Targets from the armourers in Edinburgh.'

The men appear to have received theirs as a free issue, as the City of Edinburgh was ordered to provide 2000 'targets' for the use of the Prince's army, in addition to 1000 tents and 6000 pairs of shoes.

Ammunition

The only accurate information that we have in regard to the scale of ammunition issued to the men is derived from the same source.

The first reference to such a scale appears in the Orders for 4th November 1745, when the regiment was at Peebles marching to England. It is there stated that 'Every man (is) to have 12 shot.'

The same order, contemplating perhaps the possibility of men practising musketry on the roads as they advanced, added: 'It is forbid above all things to shoot sheep, hens, etc.' Again, at Stirling, on 14th January 1746, a sergeant and two men are detailed 'to meet Major Gordon at the Burrow Port (*i.e.* Town Gate) to get out powder and ball, which ammunition is to be carried to the main guard, where it is to be divided among the different Corps.' If a fatigue party of two men and a sergeant sufficed to draw the ammunition for an infantry battalion which was, at the time, engaged in trench operations against Stirling Castle, the scale per man must have been very small.

Even so, it appears the private soldier was criminally careless of his ammunition. On 11th March 1746, at Gordon Castle, an Order is issued stating that 'it is forbid the soldiers to fire their guns in the streets'; and, on 9th March, Lord John Drummond was compelled to draw attention to a complaint that men 'are continually firing their guns; they come even to Gordon Castle and kill the cocks and hens at the door'; and he enjoins Commanding Officers 'to severly punish those who are guilty of it for the future.'

From the modern point of view, the scale of ammunition per man appears absurdly inadequate. But that of their opponents was not much better—only 24 rounds. In an Army Order of Cumberland, dated 6th May 1746, a Return is called for, showing how much ammunition is needed to complete the men's equipment.

It may, perhaps, be unnecessary to point out that the fixed ammunition, as we know it now in the form of the rifle cartridge, did not then exist. All that was issued to the soldier was his dozen rounds of spherical bullets, his powder, and a certain amount of brown paper for holding the charge. References to the drawing of the necessary supply of paper from the Ordnance Store when regiments went out to 'practice,' occur frequently in Cumberland's Orders.

Bayonets

Although no references to the issue of bayonets appear either in the lists or in the Orderly Book of Lord Ogilvy's Regiment, there is evidence that they were part of the armament of some units of the Prince's army. Thus, on 6th March 1746, Capt. Alexander Stuart, of Lord Mark Kerr's Dragoons, wrote to his brother describing an expedition from Aberdeen 'to destroy a Magazine of the Rebels at Corgarff which lies near the head of the Don.' They found the place abandoned, but discovered 367 firelocks and 370 bayonets which they brought back, besides ten thousand musket balls and 32 double barrels of 'exceeding fine Spanish powder' (*Allardyce*, ii. 310).

Haversacks and Canteens

To the foresight of that fine soldier, Lord George Murray, was due the provision of haversacks to some at least of the Prince's army.

As regards canteens, their existence, in Ogilvy's regiment at all events, is indicated by an Army Order issued at Tweeddale on 4th November 1745, which said :

‘Majors are prayed to take care that the Soldiers have water enough in their cantines when parting, that they may have no pretext to quit their ranks.’

The Rev. John Bisset, who had a remarkable eye for military detail, describes how 300 men of Lord Lewis Gordon’s regiment marched out to attack Inverury, when ‘they had on their wallets and pocks, in a posture of marching’ (*Bisset*, 362).

APPENDIX A

LIST OF PERSONS IN THE FIRST ACT OF ATTAINDER, WITH THEIR DISPOSAL (19 Geo. II., cap. 26, *see* page 52)

1. Alexander, Earl of Kellie	Surrendered, released 11 Oct. 1749
2. William, Viscount of Strathallan	Killed at Culloden
3. James Drummond, eldest son of Alexander, Lord Forbes of Pitsligo (<i>sic</i>)	Escaped capture
4. David Wemyss, Lord Elcho	Escaped to France
5. Simon Fraser, son of Lord Lovat	Surrendered, conditionally pardoned
6. Lord George Murray	Escaped to France
7. Lord Lewis Gordon	Escaped to France
8. James Drummond, Duke of Perth	Died at sea, 13.5.46
9. James Graham, late of Duntroon (Viscount of Dundee)	Escaped to France
10. John, Lord Nairne	Escaped to France
11. David, Lord Ogilvy	Surrendered, tried, and conditionally pardoned
12. Lord John Dunmore	Killed at Culloden
13. Robert Mercer of Aldie	Escaped to France
14. Sir William Gordon of Park	Captured, subsequently pardoned
15. John Murray of Broughton	Escaped to France
16. John Gordon of Glenbucket	Escaped to France, died in 1748
17. Donald Cameron, younger, of Lochiel	Captured in 1753, executed
18. Dr. Archibald Cameron	Surrendered, released 11 Oct. 1749
19. Alexander Cameron of Dungallon	Captured, released with- out trial
20. Donald, son of Ranald Macdonald of Clan- ranald	Escaped
21. Donald Macdonald of Lochgarry	Killed at Culloden
22. Alexander Macdonald of Keppoch	Captured, finally re- leased 1762
23. Archibald, son of Coll Macdonald of Baris- dale	Surrendered, released 11 Oct. 1749
24. Alexander Macdonald of Glencoe	Escaped
25. Evan Macpherson of Clunie	Killed at Culloden
26. Lachlan MacLachlan of Castle Lachlan	Captured, released after Jan. 1749-50
27. John Mackinnon of Mackinnon	

APPENDIX A—*continued*

28. Charles Stewart of Ardshiel	Escaped to France
29. George Lockhart, son and heir of Lord Carnwath	Escaped to France
30. Laurence Oliphant of Gask	Escaped to Sweden
31. Laurence Oliphant, younger, of Gask	Escaped to Sweden
32. James Graham, younger, of Airth	Escaped to France
33. John Roy Stuart	Escaped to France
34. Francis Farquharson of Monaltrie	Captured, conditional pardon
35. Alexander M'Gillivray of Dunmaglass	Killed at Culloden
36. Lachlan Mackintosh, merchant of Inverness	Captured at Culloden, transported
37. Malcolm Ross, son of Alex. Ross of Pitcalny	Escaped
38. Alexander Macleod, son of John Macleod, Advocate	Escaped
39. John Hay of Restalrig, W.S.	Escaped to Italy
40. Andrew Lumsdale or Lumsden, son of William Lumsdale, writer	Escaped
41. William Fidler, Clerk to the Auditor's Office in the Exchequer of Scotland	Escaped to France

NOTE: The spelling of the above names has been modernised.

'Lord John Dunmore' is probably meant to indicate William Murray of Taymount, afterwards 3rd Earl of Dunmore.

James Graham was 6th titular Viscount of Dundee. See also page 53 *supra*.

APPENDIX B

‘LIST D,’ CONSISTING OF PERSONS GUILTY OF
TREASON ACCOMPANYING THE LETTER (*S.P.Dom.*
97-101) OF THE LAW OFFICERS, DATED 22ND MAY
1747 (*see* page 54)

<p>Robert Anderson, Esqr. Thos. Blair of Glasclune Sir Alexr. Bannerman of Eskie (Elsick), Bt. Alexr. Blair, Writer in Edin- burgh William Cummin [Cumming], the younger, of Pitully William Drummond of Calendar Sir Wm. Dunbar of Durn, Bt. John Fullerton, the younger, of Dedwick (Dudwick) Alexr. Garrick (Garioch) of Mergie 10 Arthur Gordon of Carnousie John Gordon of Abachie James Gordon of Glasterum Francis Gordon of Mill of Kin- cardin Robert Gordon, the younger, of Logie Robert Graham of Garvock [Garioch] John Halden (Haldane) of Lanrick Alexr. Halden (Haldane), son of the said John Halden (Hal- dane) Andrew Hay, the younger, of Ranes (Ranass) Alexr. Irvine of Drum 20 James Levistone (Livingstone) of Falkirk, Postmaster Alexr. [? William] Moir of Lonmay James Moir of Stonywood</p>	<p>Thos. Mercer, Merchant in Aberdeen Coll M'Donald of Barrisdale Archibald Menzies of Shian Alexr. Murray of Solzary Thos. Ogilvie of East Mill Alexr. Ogilvie of Acheries James Robertson of Blairfetty George Robertson of Fascally David Robertson of Easter Bleaton David Stewart of Kinnachin Charles Stewart of Balechallan (? Ballechin) David Spalding of Ashintully David Smith of Inveramsay Sir James Stewart of Good Trees, Bt. Robert Stewart of Killyhassy (Killiehassie) Donald Smith, of Aberdeen, merchant Alexr. Thompson of Fairfield 40 David Tulloch of Bogton Wm. Vaughan, the younger, of Courtfield, Esqr., in Mon- mouthshire Simon Fraser of Avochnacloy John Fraser M'Gelispick Hugh Fraser, son to Alexr. Fraser of Leat Clan (<i>sic</i>) (Ledclune) James Fraser of Foyers John Dow Fraser of Little Garth Patrick Grant of Glenmoriston 48 John Fraser of Brouick (Bruiach)</p>
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(Endorsed) ‘List of Persons against whom there is sufficient evidence
(D) in Mr. Attorney & Mr. Solicitor General’s Report of May 22d 1747.’

APPENDIX C

LIST OF PERSONS EXCEPTED FROM THE GENERAL ACT OF PARDON (20 Geo. II., cap. 52, *see* page 56)

	Charles, Earl of Traquair		Alexr. Garioch of Mergie
	Alexander, Earl of Kellie		Arthur Gordon of Carnousie
	Robert Maccarty, Earl of Clancarty		George Gordon of Hawhead <i>alias</i> Hallhead
	Sir James Steuart, Bt., of Good Trees		John Gordon of Abachie <i>alias</i> Abochie
5	Sir John Douglas, Bt.	35	Jas. Gordon of Gobardie <i>alias</i> Cobardie
	Sir James Harrington, Bt.		Francis Gordon of Mill of Kin-cardine
	Sir James Campbell, Bt., of Auchinbreck		Robt. Gordon of Logie, the younger
	Sir William Dunbar, Bt., of Durn		James Gordon of Glasterum <i>alias</i> Clasthirum
	Sir Alexander Bannerman, Bt., of Elsick		Robert Graham of Garrick (Garvoek)
10	Archibald Stewart, late Provost of Edinburgh	40	Patrick Grant of Glenmoriston
	Peter Barry, Doctor of Physic		John Graham of Kilmardinny
	Alexander Blair, Writer in Edinburgh		David Hunter of Burntside <i>alias</i> Burnside
	Thomas Blair of Glasclune		John Halden <i>alias</i> Haldane <i>alias</i> Haldon, of Lanrick
	Peter Byers <i>alias</i> Byres of Tonley		Alexander Halden, son of said John
15	James Carnegie of Boysack	45	Andrew Hay, the younger, of Ranus <i>alias</i> Ranas (Rannes)
	Charles Cumming of Kinninmond		Alexr. Irvine of Drum
	Wm. Cumming, the younger, of Pitully		George Kelly
	Roderick Chisholm, of Comar, in Strathglass		Jas. Levistonne <i>alias</i> Livingston, late postmaster of Falkirk
20	Alexr. Cameron of Dungallon		Cole <i>alias</i> Coll Macdonald of Barisdale
	Wm. Drummond of Balhaldie		50
	Wm. Drummond of Callendar		Gregor Macgregor <i>alias</i> Graham of Glengyle
	Jas. Fraser of Foyers		Malcolm Macleod of Rasa
	Simon Fraser of Avochnacloy		Archibald Menzies of Seyan <i>alias</i> Shian
25	John Fraser M'Gelispick		Gilbert Menzies, younger, of Pitfoddles
	Hugh Fraser (son of Alexr. Fraser of Ledclune)		Thos. Mercer, merchant in Aberdeen
	Jas. Farquharson of Balmurrall		55
	John Fullerton of Dudwick, the younger		Wm. Moir of Lonomay <i>alias</i> Longmay
	John Dow Fraser of Little Garth		
	John Fraser of Brewick (late Steward to Lord Lovat)		
30	Thos. Fraser of Gortuleg		

APPENDIX C—*continued*

- | | | | |
|----|-----------------------------------------------------------|----|---------------------------------------------------------------------------|
| | Jas. Moir of Stonywood | | Donald Smith, merchant in Aberdeen |
| | Aeneas <i>alias</i> Angus Macdonald, late banker at Paris | | David Smith of Inveramsay |
| | Jas. Macdonald, brother to Macdonald of Kinloch Moidart | 75 | Daniel Spalding <i>alias</i> Spaldane, of Ashentully |
| | John Murray, late clerk of the Customs at Alloa | | Jas. Stirling of Craig Barnett |
| 60 | Donald Macdonald of Inveroy | | Chas. Stuart of Ballachallan (Ballechin) |
| | John Macdonald, the elder, of Glengary | | David Stuart of Kynnachin |
| | Alexr. Macdonald of Glencoe | | Robert Stuart of Killiharry <i>alias</i> Killyhassy |
| | Robt. Murray of Glencarnock | 80 | John Turner, the younger, of Turner Hall |
| | Thos. Ogilvie of East Mill | | Alexr. Thomson <i>alias</i> Thompson, of Fechfield <i>alias</i> Fairfield |
| 65 | Alexr. Ogilvie of Acheries | | David Tulloch of Bogtown |
| | Thos. Ogilvie of Coul, merchant in Dundee | | Wm. Vaughan, the younger, of Courtfield, Co. Monmouth |
| | John Riddle <i>alias</i> Riddell, of Grange | | Andrew Wauchop <i>alias</i> Warcupp, of Niddrie, Esqr. |
| | David Robertson of Easter Bleaton | | 85 |
| | Geo. Robertson of Faskally | | Alexr. White, the younger, of Ardlehill |
| 70 | Jas. Robertson of Blairfetty | | |
| | Alexr. Robertson of Struan | | |
| | Duncan Robertson of Drum-machean | | |

APPENDIX D

THIRD LIST OF PROPOSED ATTAINDERS

(S.P.Dom., 120-52, see page 58)

No.	Name.	Their Designation.	Office of Employment.
1.	— Aikenhead	younger, of Chaw	—
2.	Andrew Auchinleck	of Cunoquiel, a small estate	A Volunteer
3.	Robert Anderson	younger, of Whitburgh	Commissary at Elgin
4.	Henry Bruce	of Clackmannan	—
5.	David Carmichael	of Balmiddie (Balmedie)	Collector of the land- tax for Perthshire
6.	— Carmichael	of Beiglie	—
7.	— Campbell	Brother to Campbell of Kinloch	—
8.	Charles Colquhoun	Joiner in Edinburgh	—
9.	Robert Douglas	of Scots Craig	—
10.	Thomas Ferguson	of Ballie Kervan or Ballie Achan	Ensign
11.	Archibald Ferguson	His brother	Volunteer
12.	George Hay	younger, of Mount- blairy (15 years of age)	Volunteer
13.	Francis Masterton	of Park Mill	—
14.	Alexander Murray	of Solzarie	Lieutenant
15.	Robert Murray	<i>alias</i> M'Gregor of Glencarnock	—
16.	— Murray	Son of Richard Mur- ray of Midlothian	—
17.	Donald M'Leod	of Bernera	—
18.	Alexander M'Kenzie	of Ardloch	—
19.	Thomas Robertson	of Muckley	—
20.	John M'Kenzie	of Tyrradon	—
21.	Robert Robertson	of Woodshiel	—
22.	John Smith	of Balcharrie	—
23.	Patrick Smith	Brother to Smith of Methven, near Perth	—
24.	— St. Clair	of Scots Afdal	Captain (very active)
25.	Robert Stewart	of Killichassie	Lieutenant
26.	Sir James Stewart	of Burray (since dead)	—
27.	Alexander Stewart	Writer in Edinburgh	—
28.	David Weymis	of Fingask	—
29.	Richard Warren		—

APPENDIX E

UNITS OF THE JACOBITE ARMY

CAVALRY

The Life Guards

THE Prince's Life Guards consisted of a squadron of horse organised in two troops, which formed a 'Corps d'Élite' with a special uniform of 'Blue turn'd with Red.' It was commanded by Lord Elcho, who had raised the original first troop. Both troops originally consisted of landed gentlemen and their servants, and they provided their own arms, accoutrements, and horses. As the campaign progressed the numbers dwindled as the difficulty of getting horses became more acute.

When raised in Edinburgh during the Prince's stay there, the total strength was probably about 160 of all ranks; at Culloden it is doubtful if more than half a troop was present.

This unit was very hard worked during the campaign, patrolling ahead of the army.

The First, or Lord Elcho's Troop

According to Henderson, the apologist of Cumberland, 'three fourths of Elcho's regiment' was composed of deserters from the English army. This statement, if true at all, is certainly a gross exaggeration; had it been true it is inconceivable that the fact should not have been stated in the remarks against some at least of the men of this unit who were captured (*Henderson*, 262).

Second, or Lord Balmerino's Troop

After Lord Elcho's troop of Life Guards had been raised there were found to be sufficient gentlemen to form a second, which was given to Lord Kenmure. He having deserted the Jacobite cause immediately after joining, the command was given to the Hon. Arthur Elphinstone, who became sixth Lord Balmerino on his brother's death on 5th January 1746. For some time it was styled the 'Elphinstone Troop' (*Henderson*, 171).

The troop, by the time the Prince reached Inverness, had dwindled away to nothing.

Baggot's Hussars

This unit consisted of a troop of about 70 men raised partly in Edinburgh during the Prince's stay there.

John Murray of Broughton was the titular Colonel, but the troop was universally called Baggot's Hussars, after John Baggot, an officer of the French Service, who commanded them with great energy and enterprise.

It consisted of

'gentlemen, in huzare dress with furred caps, long swords or shabbers (sabres), and limber boots' (*Woodhouselee MS.*, 83).

Though not shown in the official list, it accompanied the army to Derby. It first appears as an escort to the Duke of Perth when he was sent on his abortive mission from Lancaster to Scotland for reinforcements. John Daniel says of this unit :

'Baggot was of infinite service to the Prince, as also were his horse, for their conduct was daring and few of them would have scrupled to go to hell's gates to fetch away the Keys' (*Origins*, 202).

The troop was sent north on its return from England and was most energetic in impressing horses and raising the levy money in Banff and Aberdeen, where the men were not well spoken of by the inhabitants (*Origins*, 151).

Like all the Prince's Cavalry, it dwindled rapidly in strength through want of horses, and it is doubtful if many of them took part in the action at Culloden (*Lyon*, ii. 277).

John Daniel, however, says he saw the ground near him 'covered with the dead bodies of many of the Hussars' (*Origins*, 214).

Lord Kilmarnock's Horse

This corps, whose strength probably never exceeded 100 of all ranks, was also called the 'Horse Grenadiers,' the 'Perthshire Horse,' and 'Strathallan's Horse.' It was organised in two troops.

Its nucleus was a body of 36 men from Perthshire brought in by Lord Strathallan, which was present in reserve at the battle of Prestonpans (*Tullibardine*, ii. 323). It was raised to about 80 men while the Prince was in Edinburgh.

When Strathallan went north to assemble reinforcements while the Prince marched into England, the command of the

troop was given to Lord Kilmarnock ; and, on that march, Elcho estimates the strength as 130 of all ranks.

By the time the Prince reached Inverness the troop had ceased to exist as a Cavalry unit. The men were dismounted and turned into Infantry, and their few remaining horses were handed over to a squadron of FitzJames' Horse, which had arrived in the country without any horses at all.

One document (*S.P.Dom.*, 82-142) shows the names of the men who composed the troop on 16th March 1746 ; they consisted of 1 quartermaster, 1 sergeant, 42 men, and 8 recruits who had just joined. It also shows the pay owing to these men for the previous four weeks ; the rate of pay for the men was a shilling a day, the sergeant got eighteenpence and the quartermaster two shillings.

The officers consisted of Oliphant of Gask, who acted as Lieutenant-Colonel, Major Haldane of Lanrick, and the sons of these two officers, who commanded the two troops (*Tullibardine*, ii. 323).

Lord Pitsligo's Horse

Lord Pitsligo, along with a considerable number of Banffshire gentlemen, joined the Prince about 9th October in Edinburgh. They formed a troop of 132 Horse and two companies of Infantry. The latter were merged in the Duke of Perth's regiment, while the Horse continued under Pitsligo's command.

The troop served throughout the operations until the army reached Inverness, when, like Lord Kilmarnock's, it was dismounted in order to provide horses for the squadron of FitzJames' Horse.

ARTILLERY

The first reference to Artillery as a separate arm was at Carlisle, when the garrison captured by the English included a group of 16 men who were definitely so styled. Some of these belonged to the French Service, but no officer was shown among them, although probably the Irishman, Sir Francis Geoghegan, was in command. One of these gunners, Archibald Kennedy, jeweller's apprentice, was executed for his share in the defence.

After Culloden, among the French officers who surrendered as prisoners of war, were two who were stated to belong to the French Artillery (*Addl. MSS.*, 29674-209).

There is no indication of how the Artillery was served at the siege of Stirling and elsewhere ; but it must be borne in mind that, in those times, Artillery was not a specialised service.

It was, throughout the campaign, an extemporised arm ;

and the English army itself was not much better supplied. At the trial of Sir John Cope evidence showed that his guns were practically ineffective at Prestonpans, because he had no gunners and had failed to borrow any from the Castle; and later, Walter Grossett, in his accounts of money spent for the Government, says that the English army could not advance to Falkirk 'being in great want of gunners.' He was called upon to supply them and went to Bo'ness 'and brought from thence Ten sailors for that purpose who had been Gunners on board Men of War' (*Origins*, 362).

When the army marched into England it had six 1½-pounder 'cohorn' captured from Cope at Prestonpans, and six Swedish field-guns, 2- to 4-pounders, sent over from France with French gunners (*Johnstone*, 57). During the winter six more guns came over from France, some of which, according to Bisset, had been captured by the French from the English army at Fontenoy (*Bisset*, 351). Seven (or ten) were also taken at Falkirk. According to the Chevalier de Johnstone two of these were 18-pounders, two 12- and two 6-pounders.

That the Artillery of the Jacobite army was not only ineffective but an actual embarrassment is shown by the history of the campaign, as well as by contemporary writers. The rearguard action of Clifton was brought about by the breakdown of the Artillery transport, and at Stirling it was useless.

The Chevalier de Johnstone, in his Memoirs, has given an account of his own experience in that arm. He resigned the onerous position of A.D.C. to Lord George Murray and joined the Duke of Perth's regiment with a company he had himself raised. He was thence transferred, along with three other companies of the regiment, to the Artillery:

'a situation as fatiguing as that I had quitted, as I was frequently obliged to pass the night in the open air, without any shelter, in the most severe weather in the midst of winter, when any of the waggons happened to break down from the badness of the roads, in order to take care of the artillery, whilst the workmen were repairing the waggons' (*Johnstone*, 63).

Captain John Burnet of Campfield, who took a prominent part in the defence of Carlisle as a gunner officer, is stated to have 'belonged to the Artillery Company at Woolwich,' which suggests he was a deserter. He was convicted and sentenced to death at Southwark, but was ultimately reprieved and banished.

John Finlayson, a 'Mathermatik instrument Maker' in Edinburgh, was 'employed about the rebel artillery.' He was captured at Culloden and sent to London, but was released, and was in Edinburgh in August 1747. In one return he is described as an 'engineer.'

ENGINEERS

How this arm of the Service differed from the Pioneers cannot be stated. The duties were usually carried out by French officers trained for the purpose, e.g. M. Mirabelle de Gordon and Colonel Grant.

William Maxwell of Carruchan, Kirkeudbrightshire, however, acted as Chief Engineer of the little Jacobite garrison left in Carlisle. He succeeded in escaping when the place surrendered.

Another Engineer officer was Lieut. William Dow of the Duke of Perth's regiment, who belonged to the Pioneer section of that unit. He was sent to Perth prison on 3rd January 1717 and was said to have 'acted under the French Engineer' (*J.R.*, Perth). He was released in July 1747.

PIONEERS

When the army was on the march to England a small body of 50 Pioneers was extemporised from among those men of the Duke of Perth's regiment who were 'gardeners, carpenters and other workmen, to serve as Pioneers and to march at the head of the Artillery' (*A.H.R.J.*, 13).

At the trials at Southwark one of the Crown witnesses against Sam Maddock deponed that he had joined the Manchester regiment as Ensign and was subsequently made a Lieutenant of the Pioneers drawn from that unit (*Allardyce*, ii. 439).

Another Pioneer officer was Captain Andrew Blood (or Blyde), of whom a Crown witness deponed that

'he marched with the Pioneers, who went before the rebel's Artillery and baggage and mended the roads for them to pass. They mended the roads between Macclesfield and Leek . . . and between Kendal and Penrith on a mountain; and again about two miles north of Shap.'

This officer pleaded guilty and was hanged on 30th July 1746 (*Allardyce*, ii. 444).

No reference to this arm occurs in the later operations. At the siege of Stirling 'fatigues' of 50 men were detailed from various regiments to construct 'fascines' (*ibid.*, 38), and trenches were dug by 'workmen' drawn from the ranks (*ibid.*, 43).

During the Stirling and later parts of the campaign the direction of the engineering operations was in the hands of French officers. One at least of these, M. Mirabelle de Gordon, proved to be entirely incompetent. After Culloden, an officer, de Saussay by name, a 'French engineer,' surrendered as a prisoner of war (*Addl. MSS.*, 29674-210).

ATHOLL BRIGADE

The history of the Atholl Brigade is very typical of that of the Jacobite army generally, and shows clearly the difficulty of raising men on the one hand and of retaining them on the other. The popular belief that men flocked to the Prince's colours is, like so many popular ideas, unsupported by facts; and, from the time of the Prince's landing to the fall of the curtain on Drummoissie Moor, the army fluctuated in strength and composition to an extent which makes it impossible to estimate with any approach to accuracy what its 'ration strength' was at any particular moment.

That this is not due to the absence of records is clearly shown by the letters of Lord George Murray to his brother, the Jacobite Duke William, and to the subordinate leaders of the Atholl Brigade (*Lord George Murray, passim*). Crushed with work and responsibility, performing—as he says—the duties of three men, that devoted and gallant servant of the Prince was compelled to write dozens of letters during the campaign, cajoling, entreating, threatening, to raise the necessary men in his brother's country and to recover those who, having joined the colours, took the first opportunity to desert.

Lord George's letters are confirmed by the correspondence of 'Commissary' Bissett, factor to James, Whig Duke of Atholl, who kept his master well informed of the progress of events.

Before the beginning of September Duke William had issued orders to his vassals to present themselves and their followers for service with the Prince.

On 2nd September he ordered George Murray (or M'Gregor) of Coinneachan 'to raise for His Majesty's use my Tennants and Wadsetters of Glenalmon'; and similar instructions were sent to Alexander Stewart of Glenbucky and Robert M'Gregor [or Murray] of Glancairnaig as regards his 'Vassals of Balquhidder and tenants there.' On the 4th September he wrote to Baron Reid of Straloch and other vassals from Dunkeld, drawing their attention to the fact that

'As . . . you and the rest of my Vassalls & tenants do not bestir yourselves with that activity that becomes Loyal Subjects . . . I once more require you peremptorely . . . to raise in arms all the men you can, and meet at Pitlochrie' (*Atholl*, iii. 21).

The recipients of these orders found themselves in a difficult position. George M'Gregor raised about 40 men in Glenalmond, but they joined the Duke of Perth's regiment.

On 10th September Lieut.-Col. Spalding of Glenkilrie wrote to Duke William, saying he had done his best, but

' I am verry sorry that I have to say that there is a greater difficultie to raise the Men of this countrie than ever I see'd before ' (*ibid.*, 24).

Other leaders at different times sent similar replies.

Again, on 15th September, John Stewart of Stenton said he had been to Dunkeld but

' the whole inhabitants there are quite degenerat from their ancestors, and not one spark of loyalty among them ; not one of them will stir without force . . . the Laighwood men have neither arms nor willingness ' (*ibid.*, 32).

Meanwhile Lord Nairne had succeeded in getting together a unit from Dunkeld whose strength is variously stated as 250 and 450 men. This battalion was the first of the three which together composed the Atholl Brigade ; and, though it was sometimes known by Nairne's name, it usually bore that of Atholl. It joined the Prince at Holyrood on 18th September 1745, and was present at Prestonpans.

Writing to Duke James on 15th October, Bissett described the Prince's force ' upon the haughs of Prestonpans.' He is not altogether a reliable witness, owing to his strong anti-Jacobite bias ; but, as an eye-witness of the battle from a safe position, he probably had opportunities of obtaining information. In the unit commanded by Lord George he says there were ' about 450 Atholl men, including Sir Robert Menzies, Ashintully's and Fascallie's commanded by Lord Nairne . . . being press'd men and having deserted before the action . . . and what did not desert before have all deserted since.' This estimate does not agree with that in Lord Elcho's narrative, which showed that the Nairne battalion numbered 350 men, Lord George Murray's own battalion 350, and one commanded by Menzies of Shian 300 men (*Elcho*, 270). The two accounts are obviously irreconcilable.

However this may be, Lord George was much concerned at the rapid reduction of his strength by desertion, and, three days after the battle, wrote to his brother to ' intreat you may make up our two battalions to 500 each, and wish Mr. Mercer had one of the same number.'

Bissett, in a letter to Mr. Harrison, dated 28th September 1745, throws light on the plans devised by Duke William :

' He propos'd one man out of each merkland, which would have raised 1100, to be divyded in two regiments, one for Lord Nairne the other for Mr. Mercer of Aldie, and altho' the greatest force and violence was used, he only got about 500 raised for Lord Nairne, who mostly deserted. This Oblidged my Lord Tulliberdine to return to Atholl, and he hath been ever since imployd in finding out deserters and sending them back ; and now he is endeavouring to raise the other regiment for Mr. Mercer and . . .

abridges each of them that disobey to pay £5 sterling. In order to make up this money they are obliged to sell their bestiall at half price' (*Atholl*, iii. 48).

The Duke eventually succeeded in joining the Prince at Dalkeith about 1st November with 600 men, and the whole were formed into a brigade of three battalions, nominally commanded by Lord Nairne, his brother the Hon. Robert Mercer of Aldie, and Archibald Menzies of Shian. Later in the campaign a fourth weak battalion was added. The brigade consisted not only of the Duke's Atholl men, but of those of Sir Robert Menzies of Weem under Menzies of Shian, and Duncan Robertson of Struan's men under Donald Robertson of Woodshiel (*ibid.*, 299).

On the march to England desertions were rife.

Bissett, writing on 30th November, says :

' Lord George's regiment, being Ashintully's men and the Strathardle, Blackwater, & Forest of Arde men, were by desertion reduced to 60 men.

' Mr. Mercer's regiment is reduced to 120. . . . There are still about 200 remaining of Lord Nairne's regiment, by reason that they were the vassall's men who joyn'd the rebells . . . and, their masters, being along with them, were at pains to keep them from deserting ' (*ibid.*, 97).

Desertions, for obvious reasons, ceased during the expedition to England, but, on the return of the Prince's army, they recommenced with devastating effects, and gave Lord George Murray unceasing anxiety.

Writing from Falkirk on 11th January 1746, Lord George tells Duke William he has heard ' of a great desertion among your people,' and urges that those who have gone home ' be exemplarily punished, either in their Persons or Effects, or both ' (*Lord George Murray*, 138); and again, from Bannockburn, on 16th January, he says, ' We are quite affronted with the scandalous disertion of your men ' (*ibid.*, 141).

The result was that, at the battle of Falkirk on 17th January, the Atholl Brigade, which the English Intelligence Department had estimated to be 1000 strong, was actually only able to parade 600 men (*Elcho*, 370; *Atholl*, iii. 145).

The unfortunate Duke meanwhile did his best to raise men. Writing to his brother from Blair Castle on 27th January, he complains of the ' unspeakable difficulty ' he is experiencing with the ' refractory people in these parts ' ; but he was apparently too weak to ' make the examples ' suggested by the more masterful Lord George. On the 7th February the Duke sent to Gregor Murray or Macgregor ' a general Crosstarie (Fiery Cross) order for raising all the able-bodied men in Glenalmond '

(*Atholl*, iii. 191); but the result does not appear to have been very marked. It was not until Lord George with his own battalion and the Macphersons raided his brother's country in 1746 that he succeeded in getting together 500 fresh men, with whom he returned north on 2nd April.

At Culloden, the brigade, which occupied the right of the line, was estimated by Elcho to have been 600 strong, and its losses were very heavy. It is impossible to reconcile the various estimates.

Home the historian says the casualties among officers of the Brigade were 32; Stewart of Garth shows 19 killed and 4 wounded; while the Duke of Atholl estimated 24 killed and 10 wounded from the Atholl estates (*Tullibardine*, ii. 331).

It is interesting to see from the casualty lists that the composition of the Brigade was not by any means purely territorial. Out of 17 prisoners taken in Lord George Murray's own regiment only ten were Perthshire men, the remainder were from Inverness-shire, Aberdeenshire, Nairn, Angus, Argyll, and one from Ireland (*Atholl*, iii. 289).

The history of this Brigade has been given at some length as representing the difficulties the Prince had to deal with. Others, even the pure Clan units, were in like case.

Bannerman of Elsick's

This unit was raised by Sir Alexander Bannerman, Bt., of Elsick, who, according to Elcho, was appointed Lord Lieutenant of the Mearns, where it was largely recruited.

A party of these men came from Peterhead to Aberdeen in the Spanish ship which brought ammunition. They were 'intended to possess Aberdeen and bring up this loading' (*Origins*, 148).

It is doubtful whether they retained their individuality or were merged into Lord Lewis Gordon's Regiment. Finlayson's map of Culloden shows the unit as a separate one in the second line, with Glenbucket's on their left (*Itinerary*, 97).

Lochiel's

The first reference to Lochiel's regiment appears when a party of Camerons took charge of the prisoners captured by the Keppoch and Glengarry men from two companies of Royal Scots on 16th August. In the afternoon of the 19th August 1745, Lochiel brought 750 men to join the Prince at Glenfinnan.

When the army reached Dalnacardoch on 30th August, Lochiel dismissed 150 men, on the ground that they were not

sufficiently armed. The regiment had already had a few men wounded the previous day when a party was sent to try to surprise the barracks at Ruthven. On the 4th September Lochiel marched 30 miles and entered Perth and proclaimed the Prince, who was still at Dunkeld. During the night of 17th September, Lochiel, commanding a mixed force of 900 men, went ahead from Corstorphine and entered Edinburgh. They overpowered the City Guard without any fighting, posted guards at the gates, and awaited the arrival of the remainder of the army next day.

They took a prominent part in the battle of Prestonpans, and on 6th October were reinforced by a draft which again brought their strength up to 740 men (*Browne*, iii. 122). During the march to Edinburgh their strength had fallen to about 500 men, which was the number usually estimated to have been in action at Prestonpans; Elcho, indeed, puts it at only 269, and says only 500 took part in the march to Derby. Elcho, however, almost invariably underestimated strengths. During the absence of the army in England a fresh draft of 300 men was raised by Ludovic Cameron of Torcastle (*Elcho*, 321). This reinforcement brought up the strength to 800 men at the battle of Falkirk.

The regiment took part in the capture of Fort Augustus and the unsuccessful siege of Fort William.

It was just in time for the disaster of Culloden, having arrived at Inverness on the evening of the 14th April, after covering fifty miles in two days. In the action it was about 700 strong, and was stationed next to the Atholl Brigade on the right of the front line.

Chisholm of Strathglass'

This was a small unit, probably numbering about 100 men, which joined the Prince on his arrival at Inverness, under the command of Roderick Og, fifth son of the Chief, Roderick, who was not himself 'out' in the '45 (*Origins*, 99 and note). They served at first with Lord John Drummond's column at Fochabers. Elcho says that at Culloden they were 200 strong and were stationed in the first line to the right of Keppoch's Macdonalds (*Elcho*, 432). Other accounts, however, credit them with a strength of only 80 men, of whom 30 were killed.

Earl of Cromartie's

This, generally spoken of as a Mackenzie regiment, was raised by George, third Earl of Cromartie, and his son John,

Lord Macleod. The first movement towards coming out was shortly after the battle of Prestonpans, when 'preparation such as the making of Highland clothes, providing of arms and ammunition,' was noted. In November 1745 the Earl, having failed to get many men from New Tarbat, went to Wester Ross, where he was joined by his son with about 200 or 300 men from Lochbroom and Coigach.

The regiment joined the Prince at Bannockburn early in January 1746, and was at once employed in escorting French guns and ammunition from Alloa. At the battle of Falkirk Elcho estimates the strength at 200 men, probably below the mark.

After the capture of Inverness a column under Cromartie was dispatched in pursuit of Loudoun. This consisted of his own regiment, along with Glengarrys, Clanranald's, the Appin Stewarts, some M'Gregors and M'Kinnon's, and it was not very successful in keeping touch with the elusive Loudoun. The command was accordingly given to the Duke of Perth. The battalion appears to have remained in Sutherland after the defeat of Loudoun on March 20th, and was consequently not present at Culloden.

On the 15th April the Earl was attacked at Golspie by the Earl of Sutherland's Militia, and his regiment was defeated; he himself and his son were afterwards captured at Dunrobin, and a great number of the men were taken prisoners.

It may be noted here that in all State Papers dealing with men of this unit the spelling of the latter is almost always 'Cromarty.'

Farquharson of Monaltrie's

The Chief of the Farquharsons was Finla, son of Peter Farquharson of Inverey; as he was mentally defective, however, his uncle, James Farquharson of 'Balmurle' (Balmoral), acted as chief. At first the Clan was doubtful about coming out, and waited for a lead from Lovat.

While the Prince was at Edinburgh he was joined on 3rd October 1745 by Francis Farquharson of Monaltrie, 'the Baron ban,' who brought with him 30 men from Deeside, and then returned to help Balmoral to raise more. The Clan mustered at Carnaquhcan, and most of the leading men from Deeside and Braemar turned out, except Farquharson of Invercauld. According to Chambers, 300 Farquharsons joined the Mackintosh unit raised by Invercauld's Jacobite daughter, Lady Mackintosh. Even if that be so, there is no doubt that at least 200 Farquharsons, under Monaltrie and Balmoral, joined the Prince at Balmoral as a separate unit and fought at Falkirk.

They then joined Lord Lewis Gordon's regiment, of which they formed an essential part during the remainder of the campaign. During December 1745 they were actively engaged in the operations at Inverurie, when the force under Macleod was driven across the Spey.

There is some doubt as to whether, at Culloden, the Farquharsons shown by Elcho's plan in the front line, next to the Mackintosh Clan, were the men referred to above, as having joined Lady Mackintosh. If so, the remainder, under Monaltrie, were in column with the Gordons in the rear line on the right flank.

The casualties were numerous during the campaign. Balmoral was wounded at Falkirk, and Monaltrie, who assumed command, was captured at Culloden and sent to London. Although it contained many Farquharsons, the rolls of the regiment included several Macgregors and Gordons.

Lord Lewis Gordon's

The regiment called by the name of Lord Lewis Gordon was a composite one, made up of units collected by Moir of Stonywood, Gordon of Avochie, Farquharson of Monaltrie, James Gordon of Aberlour, Crichton of Auchengoul, and others. Prisoners are sometimes shown under the regimental name, sometimes under that of their own commander.

1. STONYWOOD'S battalion was raised by James Moir of Stonywood in the city and county of Aberdeen, and was sometimes called the 'Aberdeen battalion.' It consisted, apparently, of about 200 men, though Elcho places the figure at 300.
2. AVOCHIE'S, or the 'Strathbogie battalion,' was raised by John, son of Harry Gordon of 'Abachie' (Avochie), and Charles Gordon of Blelack. It numbered about 300 men.
3. FARQUHARSON'S (*see above*).
4. ABERLOUR'S. James Gordon of Aberlour joined the Prince in Edinburgh on 11th October 1745 with two companies raised in Banffshire (*C.M.*, 11th October). Their strength is not known.
5. 'THE ENZIE BATTALION.' This unit consisted of men raised in Enzie by John Hamilton, factor to the Duke of Gordon, who subsequently became Governor of Carlisle; and about 100 men from Strathbogie, raised by David Tulloch, tenant of Dunbennan near Huntly. This battalion appears at one time to have numbered about 480 men and to have joined the Prince on 4th October 1745.
6. CRICHTON OF AUCHENGOUL raised a few men in Banff and Buchan and joined Lord Lewis.

The regiment, with a nominal strength of 800 men, joined the army that was raised during the Prince's absence in England and assembled at Perth and Dunblane. It was present at the battle of Falkirk. When the army went north

the units composing the regiment appear to have been employed separately ; thus Moir of Stonywood and his battalion took an important part against Loudoun in arranging for the passage of the Moray Firth by Cromartie's column.

The difficulty which faced James Moir of Stonywood in raising his battalion, is clearly shown in his correspondence with Lord Lewis Gordon and the leading men in the county, published by the Spalding Club (*Miscellany*, part ix.). This correspondence may be regarded as typical of the problem of recruitment which was ever present throughout the '45.

Lord Lewis Gordon joined the Prince on the 15th October 1745. The *Caledonian Mercury* regarded this as an event of first-class importance, as it considered that

' several gentlemen, not only of the name of Gordon, but many others in the shires of Aberdeen, Banff and Murray, who had declined joining unless some one or other of the sons of the illustrious house of Gordon was to lead them, will now readily come up and join the Army ' (*Mercury*, 16.10.45).

Gordon of Glenbucket's

John Gordon of Glenbucket, a man of over 70 years of age, was one of the first to join the Prince. He had taken part in the '15, when he raised a considerable number of men and fought at the battle of Sheriffmuir. In March 1716 he was forced to surrender and was imprisoned in Edinburgh Castle until October of that year. In 1738, while still Baron Bailie to the Duke of Gordon, he went to Rome with a scheme to raise arms for the King, and appears to have been given a Major-General's commission on this occasion (*Bulloch*, iii. 522).

When the Prince landed, Glenbucket presented himself to him at Glenfinnan and was sent back to raise men in the Braes of Mar. This task he undertook with the greatest energy, and with very little regard for the feelings of the men he pressed into service ; he also commandeered horses wherever he could get them, not sparing those of his master the Duke of Gordon.

On 4th October he arrived in Edinburgh with a unit whose strength is variously stated at 300 and 400 men, from Banff, Glenlivet, Strathavon, and Strathbogie ; with them he accompanied the Prince to Derby. During the march back he stayed behind in the rearguard with Lord George Murray and was in the action at Clifton on 17th December. He was probably at Falkirk, though the regiment is not shown in Elcho's plan ; he then went north to raise more men and to levy money in Cromar and Strathdon.

At Culloden Elcho shows the regiment in the front line, towards the left flank, and estimates its strength at only 200.

After the action it retired in good order to Ruthven, whence it dispersed. Glenbucket was present at the conference of the Chiefs at Loch Arkaig.

Grants of Glenmoriston and Glenurquhart

Immediately after the Prince's arrival these Grants, urged no doubt by the Camerons and by the M'Donalds of Barisdale and Glengarry, showed signs of throwing in their lot with him, regardless of their Whig Chieftain. On the 26th August Major Grant, Governor of the Castle of Inverness, wrote to Sir Ludovic Grant that they had joined Glengarry, 'and I'm afraid some of the M'Donalds and Camerons in Urquhart will follow.'

On 27th August a party of Glenmoriston men joined the Prince at Aberchalder, and they were followed by others and the Alexander Grants of Corrimonie and of Sheuglie, and Alexander Mackay of Achmonie in Glenurquhart. About 100 more men joined at Holyrood; and the whole were merged into the Glengarry regiment, and fought at Prestonpans. Most of the Glenmoriston men are said to have returned home after that action.

Reinforcements were, however, raised during the winter, and joined their comrades at Inverness.

At Culloden 30 Glenurquhart men were killed.

A bloody revenge was taken on them. The survivors of the action, 68 Glenmoriston men and 16 of Glenurquhart, were induced on 4th May 1746 to go to Inverness to surrender their arms under a promise that they should be permitted to return to their homes. They were, however, immediately taken prisoner, and placed on transports, where many of them died. The remainder were transported to America.

Lord Lovat's

Although Lord Lovat sent a message to the Prince soon after his landing assuring him of his services, a considerable time elapsed before his promise materialised. It was not, indeed, until December that the clan, under the command of Simon, Master of Lovat, a lad of nineteen, marched to join the Prince's army at Stirling. Their strength is variously stated; Elcho says they numbered 300 at the battle of Falkirk, while other authorities say there were 600.

A contemporary writer, Daniel Munro, Minister of Tain, says 'the whole posse of Frasers was formed into three regiments' commanded by the Master of Lovat, Charles Fraser, younger, of Inverallochie, and James Fraser of Foyers (*Origins*, 98).

Lochgarry (*Itinerary*, 120) says the regiment, 300 strong, was present in the column, under the Earl of Cromartie, which was sent in pursuit of Lord Loudoun.

At Culloden it served in the centre of the front line, and, according to Elcho, was then 800 strong, and therefore the biggest unit present in the Prince's army. After the action it retired on Inverness, along with the French units.

Macdonell of Barisdale's

Archibald Macdonell of Barisdale, uncle of the Chief, John Macdonell of Glengarry, was not out in the '45, but his eldest son, Coll, took a very prominent part. He first raised men in Knoydart, in the Glengarry country, and with them joined the Prince at Aberchaldar on 27th August 1745. After Prestonpans he returned home and raised between 200 or 300 more, with the assistance of Glengarry's second son Angus, and Alexander Mackenzie of Lentron. These men were Mackenzies of Applecross, Coul, Fairburn, Gairloch, and the neighbourhood; and with these he again joined the Prince at Bannockburn (*Murray*, 441).

The battalion was then merged in the Glengarry regiment in which Coll's son Archibald served as a Major.

Macdonald of Clanranald's

This distinguished regiment has the honour of having been the first to turn out in the '45, when, on 25th July, Alexander Macdonald of Glenaladale was sent to summon Clanranald's men as a guard for the Prince; and they alone served in that capacity at Borradale on 4th August (*Itinerary*, pp. 4, 6).

At the unfurling of the Standard at Glenfinnan on 19th August there were 'three companies,' according to John Murray; this number probably included 150 men brought in by Allan Macdonald of Morar.

The Chief, Ranald Macdonald, took no part in the affair, and the unit was under the command of his son Ranald, with Alexander Macdonald of Glenaladale as his Major. Its first action was to go from Perth to Dundee to proclaim James VIII. and collect public money.

The strength at the battle of Prestonpans was stated officially to be 200, though Elcho estimated it at 250; and it fought in the place of honour on the right flank in the front line.

The regiment consisted of Kinlochmoidart's and Morar's men as well as Clanranald's, and among the officers, besides those mentioned above, were Allan of Morar, his brothers John

of Guidale and Bishop Hugh, and four of the brothers of Donald Macdonald of Kinlochmoidart, viz. Dr. John, Ranald, Allan, and James.

Reinforcements received at Stirling brought the strength up to 350 (*Elcho*, 400) before the battle of Falkirk. After the capture of Inverness by the Prince, the regiment formed part of Cromartie's column in the pursuit of Loudoun. At Culloden the battalion was with the other Macdonalds on the left of the line. The casualties were very great, and large numbers are to be found in the List of Prisoners.

Macdonald of Glencoe's

This small unit, numbering about 120 men, joined the Prince at Aberchalder on 27th August, commanded by Alexander Macdonald of Glencoe. It took part in the action of Prestonpans, and was then merged in the Keppoch regiment. Lochgarry, in his Narrative, also shows 120 Glencoe men as present at the battle of Falkirk in the Keppoch unit; so apparently it was never regarded as a separate command.

Macdonell of Glengarry's

The Glengarry regiment was one of the strongest units in the Prince's Army, as it comprised, besides the Glengarry men proper, those of Macdonell of Barisdale, some Macleods of Raasay, the Grants and Mackenzies in Glenurquhart and Glenmoriston, and the Macdonalds of Scotus.

The Chief, John Macdonell of Glengarry, did not come out himself, and the clan was raised under the command of his second son Angus, in the absence of the eldest son Alastair. With Angus was associated his kinsman, Donald Macdonell of Lochgarry, who acted as Major.

The regiment was 400 strong—or some authorities say 600—and joined the Prince at Aberchalder on 27th August 1745. It took part in the battle of Prestonpans. Before marching into England, Angus, along with his kinsman, Coll of Barisdale, returned home to raise more men; and the command devolved on Donald of Lochgarry until their return to Bannockburn. Lochgarry's narrative (*Itinerary*, Postscript) gives a detailed account of the history and fortunes of the regiment throughout the campaign.

On the march back from England the regiment took a prominent part in the night action of the rearguard at Clifton. When it reached Bannockburn on 4th January 1746 it was joined by 200 or 300 men under Coll of Barisdale, 100 under

Angus of Glengarry, and 100 under Malcolm Macleod of Raasay (*Elcho*, 365). It took part in the battle of Falkirk.

In that action Lochgarry estimates the strength at 1200 men, while Elcho puts it at 800. On this occasion young Angus commanded the corps.

On the accidental death of Angus of Glengarry, after the action of Falkirk, Lochgarry resumed command, and the Regiment was divided into two battalions.

It took part in the rather unsatisfactory operations against Loudoun in March 1746, after which it returned to Inverness. During the brief interval before Culloden the strength fell rapidly, and in that action Lochgarry says he had only 500 men under his command; reinforcements were expected and were actually on the way, but did not arrive in time.

Macdonald of Keppoch's

The Keppoch regiment was raised by the Chief, Alexander Macdonald of Keppoch, his brothers, Major Donald and Captain Archibald, and Donald of Tirnadrish (Tierndrish). They joined at Glenfinnan on 19th August 1745 with 300 men, but a few days later many of the men deserted.

Before actually joining the Prince, the Keppoch men had opened the ball by attacking two companies of the Royal Scots marching to Fort William.

After arriving at Perth, Keppoch and young Clanranald were sent to Dundee, where they succeeded in capturing two ships laden with arms and in collecting some public money (*Tullibardine*, ii. 321).

The strength at Prestonpans must have been very low. On 6th October reinforcements arrived in Edinburgh and brought their numbers up to about 400 men. This included 100 Mackinnons under John Mackinnon of Mackinnon.

The regiment was hotly engaged in the night affair of Clifton on 18th December, when on the rearguard.

At Bannockburn reinforcements were received consisting of 100 M'Donalds of Glencoe, and, according to Elcho, some M'Gregors of Glengyle.

In the action at Falkirk the strength was about 500.

When the army went north the Keppoch regiment formed part of the column which captured Fort Augustus on 5th March 1746, and then tried, but failed, to take Fort William. The siege was abandoned on 4th April, and the force returned to Inverness, very much reduced in numbers by desertion. Elcho, in fact, says there were only 200 Keppoch men present at Culloden.

MacGregors

Some confusion has resulted from the fact that whereas the MacGregors at first appeared both in the Duke of Perth's regiment and the Atholl Brigade, they were ultimately organised as a separate unit, which, in the lists, was styled either 'Glengyle's' or 'Glencairnaig's' (Glencarnock's).

Early in the campaign, on 31st August, a body of MacGregors attacked Inversnaid and captured the garrison (*Elcho*, 284). A few days later a small party, probably about 40 men, under Gregor MacGregor of Glengyle, joined the Duke of Perth's contingent at Dunblane. Dr. Blaikie shows that either at that time, or later, there were two MacGregor companies in the Perth regiment, commanded respectively by Malcolm MacGregor, son of Donald Drummond or MacGregor of Craigruidhe in Balquhiddy, and by Ronald MacGregor, second son of Rob Roy. There was also another and independent body commanded by Robert MacGregor or Murray of Glencairnaig, with his brothers, Duncan and Evan.

These two sets of MacGregors were combined into a single unit in Edinburgh, and were probably 300 strong. They took part in the action of Prestonpans and accompanied the Prince to Derby.

Reinforcements were raised during the Prince's absence, under Glengyle, and Elcho, in his map of the action at Falkirk, shows 800 MacGregors.

The regiment took part in the expedition against Loudoun and did not return in time for Culloden.

Lady Mackintosh's

This was a composite unit raised personally by that prominent Jacobite, Lady Mackintosh.

It consisted partly of men of her husband's clan, and partly of the M'Gillivrays and Farquharsons, and the M'Beans under Major Gillies M'Bain of Dalnagarrie. The regiment was commanded by Alexander M'Gillivray of Dunmaglass.

According to the Marquis d'Eguilles (*Origins*, 101), this remarkable lady raised 600 men, of whom she retained a half for her own protection, and sent the remainder to join the Prince at Stirling.

Lochgarry estimated the strength at Falkirk to be 400.

After the capture of Inverness the regiment accompanied Cromartie on his expedition in pursuit of Loudoun. At Culloden there were 500 men who were stationed in the centre of the first line; they took part in the charge which penetrated

the English front. They lost a great many men in and after the action, including most of the officers (*Lyon*, iii. 56).

Mackenzies (see Earl of Cromartie's)

As already indicated, this numerous clan was represented in many of the Prince's regiments.

The vast majority, judging by the lists, were in the Earl of Cromartie's, but individuals bearing the surname occur in the following units as well:

Lord Cromartie's	83
Glengarry's (Barisdale)	4
Lochiel's	3
Lord Lovat's	2
Duke of Perth's	2
Clanranald's, M'Intosh's, Bannerman's, Lord Lewis Gordon's, Ogilvy's, Kilmarnock's, Glenbucket's, Roy Stuart's—1 each	8
Unidentified	7
	<hr/>
	109

In the contemporary *Account of the late Rebellion from Ross and Sutherland* it was stated that there were 700 Mackenzies serving in the Prince's army during the '45 (*Origins*, 105), but it does not follow that they all bore that surname.

Mackinnon's

John Maekinnon of Maekinnon was the only one of the three Skye Chiefs who went out in the '45. A State Paper says of him:

'he raised near 4 score of his own tenants, and marched as Colonel of them to Edinburgh. He was along with the rebels in their progress to Derby and marched with them back to Culloden' (*S.P.D.*, 96-154).

As a matter of fact, the Chief was not in that action.

He joined the Prince on October 12th in Edinburgh with 120 men who were described by John Murray of Broughton as 'really brave, inured to fatigue, and patient to undergo anything' (*Murray*, 223). They were attached to Keppoch's regiment.

They were not present at Culloden, as they formed part of the column which was sent north to attempt the recovery of the treasure contained in the *Prince Charles*, which had been captured by Lord Reay when that vessel was driven ashore at Tongue on 25th March 1746. The force was surprised, its

commanders and many men were captured, and the remainder dispersed.

MacLachlan's

Lachlan MacLachlan of Castle Lachlan joined the Prince at Holyrood with 180 men on 18th September (*Lyon*, ii. 209). Alexander Macbean says that he had 'near 300 men in the Rebellion' (*Origins*, 85); other authorities show 250 men as present in Edinburgh (*Browne*, iii. 123). The regiment was present at Prestonpans and Falkirk.

It served as a separate unit on the march to Derby; but, before Culloden, the MacLeans were formed into a regiment with them.

At Culloden it fought on the right wing under Lachlan MacLachlan. He made a gallant attack on the English left, and was killed; his body was found behind the English rear. One of his sons, who was acting as A.D.C. to the Prince, was killed (*D.N.B.*, xxxv. 191).

Maclaurins, Maclarens

In the '45 most of this clan served in the Appin regiment, and were commanded by Captain Donald MacLaurin of Inverenty. They suffered considerably at Culloden, losing thirteen killed and many wounded.

MacLeans

The Chief, Sir Hector MacLean of Duart, who was a Major of Lord John Drummond's French Royal Scots, was taken prisoner in Edinburgh in June 1745 and sent to London, where he was treated as a prisoner of war on proving he was born in France (*Origins*, 85). The command of the unit then devolved upon Charles MacLean of Drimnin, who raised 200 men after the battle of Falkirk. Macbean says that 'from Morvern to Kingairloch there came about nine score M'Leans to the rebellion, of whom returned but 38' (*ibid.*).

According to the *London Gazette*, a body of MacLeans set out in October to join the Prince, but was attacked and dispersed by Colonel Campbell of Loudoun's regiment (*Itinerary*, 23).

At Culloden 182 MacLeans were combined with the MacLachlans into one unit (*Lyon*, ii. 209).

Other officers of the regiment were Hector MacLean of Torloisk, James, son of Maclean of Ardgour, and Lachlan Maclean, brother of Kilmory.

Macleods of Skye

Neither Norman Macleod of Macleod, the Chief, nor Sir Alexander Macleod of Sleat came out, whatever their original pious intentions may have been (*Origins*, 44, note 1). Many of their followers did, however, under Alexander Macleod, son of John Macleod of Muiravonside, Stirlingshire, Malcolm Macleod of Raasay, and his brother Roderick, and Donald of Gualtergil (Skye) (*Origins*, 456, *Itinerary*, p. 4).

A small party of them joined at Glenfinnan on 19th August, and later in the campaign Raasay brought 100 more men to Bannockburn, who were absorbed into Glengarry's regiment and served with them.

Macleods of Assynt and Coigach

Some of the Assynt Macleods were raised by Macdonald of Barisdale, but appear to have mostly deserted. A few joined Lord Cromartie.

The Earl of Cromartie also succeeded in raising about 200 Macleods from Lochbroom (*Origins*, 74, 75).

Macphersons

Ewen Macpherson, younger, of Cluny, at that time commanding a company of Loudoun's regiment, decided, after being taken prisoner by Lochiel's men on 28th August 1745, to join the Prince, and was sent home in September to raise his clan. He brought 300 men (*Elcho*, 307) or possibly 400 (*Itinerary*, 23) to join the army at Dalkeith just as it started for Derby.

According to Lochgarry, 300 Macphersons took part in the rearguard action of Clifton on 18th December; that is stated to have been their strength also at Falkirk.

During March 1746 they were employed in holding the passes of Badenoch. On 15th March they joined Lord George Murray in his remarkable raid on the English posts in Perthshire. After that they were left in Ruthven, and were not at the battle of Culloden.

The Angus or Lord Ogilvy's Regiment

David, Lord Ogilvy, son of John, fourth (titular) Earl of Airlie, joined the Prince at Perth early in October 1745. He was at once appointed Lord Lieutenant of Angus and went home to raise men and money. The Earl encouraged his son, and on

3rd October Lord Ogilvy's regiment, 300 strong, arrived in Edinburgh. Home says the strength was 600, while Patullo says 500 took part in the march to England.

Shortly after their arrival, Sir James Kinloch, Bt., was promoted to the rank of Lieut.-Colonel, and was sent home to raise a second battalion. During the absence of the army in England he accomplished this and brought a force of 400 men to Bannockburn in January 1746. The combined strength at the battle of Falkirk was, according to Elcho, 700 men.

Sir William Gordon, Bt., of Park, was also a Lieut.-Colonel and probably commanded the first battalion in England, as he was a member of the Council of War.

The regiment retired north from Stirling in Lord George Murray's column, and arrived at Gordon Castle on 2nd March. Here they remained, patrolling the country and guarding transport, until 24th March, when they crossed the Spey and thence marched to Nairn. On 14th April they retired to Inverness, and were present at Culloden, where, according to Elcho, they formed a unit 500 strong in the second line.

After the action they marched to Ruthven in perfect order; and when the order came for dispersal they continued their march on 19th April to Clova, in their own country, where they disbanded.

To the Adjutant of the first battalion, Captain James Stuart, we owe the order book of the regiment, which gives by far the completest account of the campaign from 10th October to Culloden (*Spalding Miscellany*, vol. i.; *A.H.R.J.*, Special Number, vol. ii.).

A great deal of information about officers and men has been compiled by Alexander Mackintosh (*The Forfarshire or Lord Ogilvy's Regt.*, 1914). He estimated the number killed at 12, 8 wounded, and 43 taken prisoner after Culloden. The latter figure is certainly underestimated.

Duke of Perth's

Lord James Drummond, third (titular) Duke of Perth and, but for his father's attainder, sixth Earl of Perth, joined the Prince on 4th September 1745 at Perth, and thence went back to raise his men. He brought with him to Dunblane 150 men, including some Macgregors. According to Murray of Broughton, attempts were made to raise men in Edinburgh, and on 18th September a 'drum beat up for Volunteers, when a good many entered the D. of Perth's regiment' (*Murray*, 198). In a short time, besides these, there were two companies of Macgregors from Balquhiddy, under Malcolm Macgregor (or Drummond).

These, however, were subsequently withdrawn and formed a separate unit.

At Prestonpans the strength of the regiment was 200 men, according to Elcho; but, by the time the march to England had commenced, Patullo shows it had risen to 750. This increase was largely due to the addition of about 250 men, raised by Sandilands and Charles Moir of Stonywood, who were brought in by Lord Pitsligo (*Origins*, 122). An additional 300 men also were raised and brought in by James Drummond, Master of Strathallan; and there was a company of Robertson of Struan's.

The regiment was not present at the battle of Falkirk, as it was left on duty in the trenches at Stirling. At Culloden it was only 300 strong.

References appear in the Records to 'The Red Coats of Perth's.' This does not mean that they all wore red coats. The probable explanation is that many of the men were English soldiers taken at Prestonpans, and they may have worn their old English uniform (*Henderson*, 262).

In this connection, at the trial of Major James Stewart of this regiment, a witness said that, on the occasion of a military execution at Leith, he heard the prisoner order 'so many of the red coats as he called the King's soldiers, who had the misfortune to be taken at Prestonpans, to shoot the man' (*Allardyce*, ii. 482).

In the *Fraser Papers* (*Scot. Hist. Soc.*, 3rd Series, vol. v.) there is a list of the men who originally joined the regiment and took the oath of allegiance and abjuration. They numbered 5 officers and 180 men, in five companies. One of these, called 'Robertson of Strowan's,' consisted of 27 men.

To an officer of this regiment, the Chevalier de Johnstone, A.D.C. to Lord George Murray, we owe one of the standard contemporary *Memoirs of the Rebellion*.

The Duke of Perth's regiment was apparently responsible to a great extent, at least in the early stages of the campaign, for the safety of the Artillery of the army. As shown above, three companies were detailed for this duty.

Robertson of Struan's

The first mention of the Robertsons is when 140 tenants of Alexander Robertson of Struan in Rannoch joined the Prince in Glenalmond early in September 1745, and were incorporated in what became the Atholl Brigade. The old chief was actually present as a spectator at Prestonpans with his men, but then went home. On 25th September he wrote to his kinsman,

Robertson of Woodshiel (Woodsheal), telling him and his men to join Keppoch's regiment, 'if they please' (*Atholl*, iii. 44).

There certainly was a small body of them in the Duke of Perth's regiment, called 'Strowan's company,' numbering 27 men (*Fraser Papers*, 275), but apparently most of Struan's men were ultimately merged in the Atholl Brigade (*D.N.B.*, xlviii. 406). On 27th September 1745, Lord George wrote to tell his brother, the Duke, that he was sending George Robertson of Fascally back 'to bring up the men to compleat your two battalions' (*Atholl*, iii. 47), and in February 1746, as the army fell back, Fascally and James Robertson of Blairfetty joined with 140 men (*P.C.*, 342).

On the 16th October 1745, Duke William gave a commission to Robertson of Woodshiel 'to be a Colonell of a Battalion of Foot to be raised by you for his majesties service' (*Atholl*, iii., Addenda xxiv.).

Appin Stewart's

This unit, to the number of 260 men, joined the Prince at Invergarry on 26th August under the command of Charles Stewart of Ardshiel, kinsman of the Chief, Dugald Stewart of Appin.

This number took part in the battle of Prestonpans, and, according to Patullo, their strength had risen in numbers to 360 before the march into England.

When the army reached Stirling there was a reinforcement of 150 men under Alexander Stewart of Invernahyle (*Origins*, 86); but there must have been many desertions, as, according to Elcho, only 300 fought at Falkirk.

The regiment formed part of Cromartie's force in the operations against Loudoun in February-March 1746. At Culloden Elcho shows them as 350 strong.

The Stewarts of Appin suffered severely during the campaign. At Culloden they are said to have lost 90 killed and 65 wounded. The branches of the family chiefly concerned were those of Ardshiel, Fasnacloich, Achnacone, and Invernahyle.

Roy Stuart's

This unit, sometimes called the Edinburgh regiment, was raised by a remarkable man, John Roy Stuart or Steuart or Stewart, of the family of Kincardine in Inverness-shire. He had been Lieutenant and Quartermaster in the Scots Greys, and, when refused a commission in the Black Watch, he resigned. He became a Jacobite agent and was incarcerated in Inverness in 1736, but escaped with the connivance of Lord Lovat and

went abroad. He fought on the French side at Fontenoy, in the French Royal Scots. When the Prince came over to Scotland he followed and joined him. Henderson, the author of the *Life of Cumberland*, says he was originally a sergeant in one of the Highland Independent Companies.

Henderson's statements, however, can rarely be accepted without corroboration.

Roy Stuart was present with the Prince in Edinburgh and at once set about raising a regiment locally. Here again Henderson, writing of the Culloden prisoners, says :

' Among the number of prisoners were many who had deserted the King's service. Roy Stuart's regiment was formed mostly of these after the battle of Prestonpans ' (*Henderson*, 262).

However this may be, it appears that he succeeded in raising 450 men. Lord Elcho says the unit suffered greatly from desertion. While still in Edinburgh the Stewarts of Grandtully, a Perthshire unit, joined him.

According to Patullo, the strength of the regiment had fallen to 200 men at Culloden ; but a considerable number had been left in Carlisle as part of the garrison there, and were captured in the fall of the place on 30th December 1745.

Like other Jacobite leaders, efforts were made to capture him after Culloden, and for a considerable time he was in hiding ; but ultimately he appears to have escaped to France along with the Prince (*D.N.B.*, xxxv. 328).

Manchester Regiment

The nucleus of this regiment consisted of a small number of English prisoners of war taken at the battle of Prestonpans ; but the unit consisted principally of men recruited in England. According to Captain Daniel, the English Jacobite, he himself raised about 40 men in Wigan and Preston. In Manchester the bulk of the regiment was raised by an English ex-soldier, Sergeant Dickson, who had joined the Duke of Perth's regiment. The number of these recruits is said to have been 180 (*Johnstone*, 64), but it is doubtful if anything like this number joined. Although they were originally intended as reinforcements for the Duke of Perth's regiment, it was decided to hand them over as a nucleus of the new 'Manchester' regiment, which, it was hoped, the English Jacobites would join. Speaking generally, it may be regarded as the '*ridiculus mus*' of the English Jacobite movement.

The Prince's original intention was to appoint Colonel Geoghegan to the command. It was, however, pointed out

to him that an Irish Catholic belonging to the French Service was not a good selection for an English unit, and the command was then given to Francis Towneley or Townley, also a Catholic and formerly a Colonel in the French Service, who vainly claimed to be a French subject when tried for his life.

Officers were obtained principally from the mercantile community of Lancashire ; and, at his trial, evidence was brought that one of them, Captain George Fletcher, had paid 150 guineas for his commission. The strength of the regiment never exceeded 300 men.

Its career was a brief one. It marched from Manchester to Derby, and thence back to Carlisle, where it formed part of the unfortunate garrison which surrendered to Cumberland on 30th December 1745. Many men had deserted, but the whole of the remainder were taken prisoner, and were the objects of a bloody revenge. Nearly all the officers and sergeants were hanged, and the men transported. Through no fault of its own it had no glorious history, no crowded hour of glorious life ; but it had at least the honour of having been the sole military contribution of England to the Jacobite cause.

APPENDIX F

FRENCH UNITS

THE disposal of French prisoners is dealt with elsewhere. In this place it is only necessary to consider what is meant by the term 'French Troops' in the Jacobite army.

These units form a small but interesting group. They were accepted by the Army and the Jacobite Party as merely the advance guard of large reinforcements to follow. They arrived too late and in too small numbers to exercise much effect on the course of the campaign.

When they landed in Scotland during November 1745, they were at first believed to amount to some thousands of men. Lord Macleod, son of the Earl of Cromarty, in his *Narrative of the Insurrection*, says :

'The truth of the matter is that Lord [John] Drummond was sent from France with his own regiment, and with a picquet of 50 men from each of the six Irish regiments in that service ; and, as part of these troops were taken in their passage by the British cruisers, the whole of this formidable army amounted to about seven or eight hundred men.

'It is true that they had a good number of battering cannon with them, but, in the hurry of their embarkation, they forgot to bring over any mortars, bombs, or Engineers with them. There was indeed two officers who passed for engineers, but the one of them was always drunk and the other was a boy just come from the college' (*Macleod*, 8).

This account omits reference to the 'FitzJames' Horse.'

Here it may be stated that Lord Macleod's somewhat scathing remarks about one of these French Engineers refer to M. Mirabelle de Gordon, Chevalier of the Order of St. Louis. The Chevalier Johnstone had the lowest opinion of his engineering capacity at the siege of Stirling (*Johnstone*, 117). As regards the other, it may be intended to apply to Col. James Grant ; if so it is ungenerous, as that officer was a mathematician who had been employed for many years with Cassini in the Paris Observatory. Had he not been superseded by the incompetent de Gordon and had his plan of attack not been rejected by the Prince, Stirling Castle might have fallen, and the subsequent history of the '45 might have been very different. Michel, writing of de Gordon, sums him up as follows :

' Moitié Français, moitié Écossais, qui ne faisait honneur à aucun des deux pays, malgré la Croix de St. Louis dont il était décoré. . . .

' Il manquait complètement de jugement, de tact, et de sens commun.' (Michel, *Écossais en France*, ii. 433).

Surplus French Officers

The lists bear out the information to be found in the State Papers and Jacobite literature generally in regard to the employment of French officers outside their own units. From the rolls of the French picquets taken at sea it is at once apparent that they had a far higher proportion of officers to men than would have been required for ordinary military duty with the latter. Thus, as shown above, Bulkeley's Franco-Irish picquet had 9 officers to 47 other ranks; and taking the whole of the French troops captured at sea between 25th November 1745 and the following 25th March, there were 84 officers to 728 other ranks.

This disproportion was no doubt intentional, and the surplus above the normal scale was intended for the strengthening of the Jacobite units in respect of the inevitable shortcomings of hastily raised and untrained troops, by drafting into the commissioned grades men with Continental war experiences accustomed to train soldiers.

A prominent example of this attachment to Jacobite regiments was that of Nicholas Glascoe, the proceedings at whose trial are detailed in Allardyce's *Historical Papers*. He was a man of thirty, a native of France, and son of Captain Christian Glascoe of Dillon's regiment. In due course he joined that unit himself, and, in accordance with a regimental custom, he had to learn English. One witness said he spoke an 'Irish sort of English,' but this appears to have been of little use to him, as he normally spoke French and could not understand English easily. He came over to Scotland in Lord John Drummond's regiment and 'was ordered by Stapleton to discipline Ogilvie's second battalion.' He refused to undertake this duty, but was threatened with trial by a Council of War if he did not do so, and it was as an officer of that unit that he was tried at Southwark.

The command of the French force is not quite easy to follow. Lord John Drummond certainly commanded the troops which landed in November 1745, but Colonel and Brigadier-General Walter Stapleton commanded the Irish picquets both then and later.

At Culloden Lord John Drummond commanded the centre of the first line of the army, while Stapleton commanded the whole of the second line.

After the action Lord John was in command of the Frasers, the Irish picquets, and his own regiment, and retired to Inverness. He then appears to have made his escape, leaving General Stapleton, who had been badly wounded, in command. It was the unpleasant duty of the latter therefore to communicate with the Duke of Cumberland, offering surrender and asking for quarter. Stapleton died of his wounds shortly after.

Lord John Drummond's

The French 'Royal Scots' or 'Scots Royal' or 'Lord John Drummond's regiment,' as it was indifferently styled by contemporary writers and in the State Papers, was a regular unit of the French army, raised by and at the expense of the exiled family of Drummond, Earls (and titular Dukes) of Perth and Melfort (*S.P.*, vol. vi. 70; vii. 54). Although Lord John Drummond was the titular commandant, the actual command of the regiment during the campaign in Scotland devolved on his kinsman, Lord Lewis Drummond, son of the *de jure* but attainted Earls of Melfort, a domiciled Frenchman.

To what extent it was recruited from the numerous domiciled French-Scots in France we have no means of knowing; large numbers of men had certainly been raised in Scotland for the French army before the '45, and Lord John himself was in the Highlands on a recruiting mission in 1744. It was no doubt this fact that explained the difficulty which was experienced after Culloden in deciding the status of men of this regiment when they were taken prisoner. Their claim to be French subjects was, in many cases, not accepted by the Crown or Courts, and many of them participated in the 'King's Mercy' in the form of transportation.

The regiment landed at Montrose, Stonehaven, and Peterhead on 22nd November 1745; and, according to d'Eguilles, numbered only 350 men (*Elcho*, 356). This was probably an underestimate, and the strength is generally said to have been 600. But, as a certain number were captured in the *Espérance* by English cruisers, and took no part in the operations, d'Eguilles' estimate of the actual numbers engaged may not have been far wrong. Those captured at sea, as shown by the State Papers, consisted of 22 officers and 60 other ranks (*S.P.D.*, 81-70).

According to the accounts of the capture of the English sloop of war *Hazard* in Montrose harbour (*Lyon*, iii. 18), 150 men first landed in Montrose in one ship, and were followed two days later by Lord John Drummond and 300 more. The first party assisted in the capture of the *Hazard*.

On 9th November Lord John Drummond sent a drummer to General Guest at Edinburgh Castle regarding an exchange of prisoners, but no arrangements were concluded.

The regiment joined the force collected about Perth during the Prince's absence in England, and took part in the operations against Stirling, and was in reserve in the battle of Falkirk. When the army retired north, Lord John Drummond's took the Eastern route by Aberdeen, as a unit of Lord George Murray's column. After the evacuation of Aberdeen it formed part of Brigadier-General Stapleton's force which captured Fort Augustus on 5th March, and then attempted in vain to repeat that success at Fort William.

When the siege was abandoned on 4th April 1746, the regiment returned to Inverness.

By this time its strength had been greatly reduced by desertion, and Elcho estimates that no more than 300 men were present at the battle of Culloden. In that action it was, along with what remained of the Irish picquets, in the centre division of the second line.

When the right wing of the Prince's line was crushed, the regiment advanced in support and was in action for a short time. It then retired on Inverness, and, according to Elcho, 'on the road surrendered themselves prisoners of war.'

In this action Lord Lewis Drummond, the commanding officer, lost a leg.

The treatment of the men varied. Some were from the first regarded as French subjects and treated accordingly (*see* FRENCH PRISONERS, p. 235); others were sent to London, in due course, for further enquiry, and their names often appeared in the transportation lists.

After Culloden Lord Lewis Drummond and seven other officers of the regiment surrendered as prisoners of war (*Addl. MSS.*, 29674-109) and were in due course sent back to France.

FitzJames' Horse

This regiment, belonging to the French Service, was so called after James FitzJames, Duke of Berwick, natural son of James VII., who had been their Colonel. His son Charles, Count de FitzJames, was in command.

It came over from France by squadrons, the intention being that they should land at Aberdeen or Peterhead and be supplied with horses on arrival. Disaster, however, befell the regiment, and in February 1746 most of it, including their commanding officer, was captured in the *Bourbon* and *Charité* by English cruisers, and took no part in the operations at all. These

prisoners numbered 359 of all ranks, and probably represented two squadrons (*Michel*, ii. 433).

One squadron, however, numbering about 130 men, commanded by Captain Shee, effected a landing on 22nd February 1746 at Aberdeen. According to Elcho, it was found necessary to dismount what remained of Pitsligo's Horse in order to mount only 70 men of this squadron; and at Culloden, where they acted as a bodyguard to the Prince, they were probably not more than a troop.

For all practical purposes, therefore, FitzJames' Horse can scarcely be regarded as having taken any active part in the campaign. Like the other French units, it was over-officered, with the intention of serving as a training unit for troops to be raised in Scotland. Although only a single squadron can have been present at Culloden, the officers of the regiment who surrendered as prisoners of war after the action consisted of the Colonel, Sir Jean M'Donell, and ten others (*Addl. MSS.*, 29674).

The Irish 'Picquets'

Jacobite historians always refer to these six units as if they had formed a combined regiment. This is not an accurate account of the part they played in the '45.

They consisted of approximately 50 men each, drawn from the six Irish-French regiments known as Lally's, Rooth's or Ruth's, Clare's, Berwick's, Bulkeley's, and Dillon's. They came over in the convoy under Lord John Drummond's command which landed at Stonehaven, Peterhead, and Montrose, about 22nd November 1745; but, on the way, the ships *Espérance* and *Louis XV.* were captured by English cruisers, and the whole of Bulkeley's and Clare's and the major part of Berwick's picquets were taken prisoner, and took no part in the subsequent operations (*S.P.Dom.*, 81-73).

Only three of these units then, Dillon's, Rooth's, and Lally's, landed with Lord John Drummond; while later, on 22nd February 1746, a small reinforcement of 42 of Berwick's got into Peterhead, along with a squadron of FitzJames' Horse.

Elcho is therefore entirely wrong in stating that their strength at Culloden was 300 men; other Jacobite writers have fallen into the same error. They cannot have exceeded 175 men.

These picquets were generally brigaded with Lord John Drummond's regiment.

They surrendered after Culloden, and most of the men were treated as prisoners of war. The lists of French officers who surrendered included seven of Dillon's, three of Rooth's, six of Lally's, three of Bulkeley's, and six of Berwick's; among the

latter was Lieut.-Colonel Stapleton, who was styled 'Brigadier of the Armies of the Most Christian King' (*Addl. MSS.*, 29674-208). In addition to those regimental officers there appeared in the same list a Captain O'Bryen of the Paris Militia, Pierre Colicno of a Spanish ship, and Charles Douglas, who is styled a 'Captain in Languedoc.' These were no doubt volunteers.

Taking the official list of captures, officers and men, confined in Hull (*S.P.Dom.*, 81-29), dated 7th February 1746, there was a disproportionately high proportion of officers. Thus Bulkeley's had 2 captains, 4 lieutenants, and 2 cadets to 48 other ranks, Clare's had a captain and 2 lieutenants to 46, and Berwick's 2 captains and 2 lieutenants to 41 other ranks.

This overstaffing was with the intention of supplying a much-needed stiffening to the commissioned officers of the Jacobite army, both for regimental and staff purposes.

These Irish units behaved extremely well in the confused action at Falkirk.

The Lally Regiment

This unit was raised by and called after Gerard Lally, son of Thomas Lally or O'Mullaly of County Galway. He was an officer in the army, and, after the surrender of Limerick, 3rd October 1691, went to France and entered the French Service. On 7th July 1707 he was created a baronet by James VIII. His only son, Sir Thomas, appears to have taken part in the '45, but got away after Culloden.

The Dillon Regiment

The 'Dillon' regiment was raised about 1688 by Theobald, seventh Viscount Dillon, and was commanded by his son Arthur in 1690. In 1721 Arthur Dillon was created Earl of Dillon in the Peerage of Scotland and Knight of the Thistle, 1722. He died in Paris, 1733. During the '45 the second son of the first Earl, Henry, third Earl of Dillon, commanded the regiment.



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