

The Aftermath of the 1745 Jacobite Rebellion: How British Reformatory Measures and Chief  
Complicity Destroyed Clanship in the Scottish Highlands

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## Abstract

This paper focuses on the aftermath in the Highlands of the Battle of Culloden in 1746, when Scottish Jacobite rebels were defeated by the army of the Duke of Cumberland. It mainly addresses how British reformatory measures deteriorated the relationship between clan chiefs and their clansmen, to that of landlord and tenant. I argue that the acts meant to modernize and reform the Highlands laid the groundwork for the damage, but the final blow was carried out by the clan chiefs themselves. Clan chiefs and other leaders in Highland society saw an opportunity to profit from the clan lands they were entrusted with and abandoned their role as paternalistic caretakers for their clansmen so they could act as commercial landlords. This social upheaval forced many to abandon the Highlands in search for more opportunity in the Lowlands of Scotland or in the British overseas colonies. My research comes from both secondary sources accessed through online archives, and published primary sources also found in online archives. I used the British Periodicals Archive, Eighteenth Century Collections Online, and the National Library of Scotland to locate sources. From these archives I obtained newspaper and magazine articles, letters, a trial report, and books published by authors in Great Britain during the eighteenth century. This research is significant because it may shed some light on why Scotland has been seeking independence from the United Kingdom for the last fifty years, and why the issue has been exacerbated by Brexit.

## Introduction

The Scottish Highlands have recently come into the spotlight for its rich history and wild landscape. Despite the popularity, many people do not seem to understand how Scotland came to be fully integrated into the United Kingdom, nor how Highlanders went from living in a feudal-tribal system to being a fully industrialized nation. The story of how Scotland lost its independence to Britain is a centuries-long tale full of marriages, betrayals, executions, and rebellions. But the event that finally brought the Scottish Highlanders under the full subjugation of Great Britain was the 1745 Jacobite Rebellion, specifically the defeat of the Highland Jacobites at the Battle of Culloden in 1746.

Scotland was technically united with England in 1603 when James VI of Scotland was crowned King James I of England, Scotland, and Ireland. But those Scots that lived in the Highlands never really acknowledged nor cared who was technically their king. They lived in a feudal-tribal way of life that made the highest point of authority for most Highlanders their clan chiefs.<sup>1</sup> Feudal tribalism is the integration of feudalism with the social structure and values of tribalism. The feudal part is when nobility, such as clan chiefs and other Scottish lairds, are officially granted land by the Crown, and those who live on the land are tenants of the nobility who work in exchange for protection. Clanship differed from traditional European feudalism because they also had tribal values such as organization based on kinship and communal ownership of land. While the chiefs technically “owned” the land because the Crown said so, cultural beliefs in the Highlands stated that land was owned by the clan as a collective. At this time, this situation was specific to the Highland region. The rest of Western Europe had moved beyond feudal systems. Even in the Scottish Lowlands a cultural revolution had occurred that

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<sup>1</sup> F. Clifford-Vaughan, “Disintegration of a Tribal Society: The Decline of the Clans in the Highlands of Scotland,” *Theoria: A Journal of Social and Political Theory*, no. 43 (December 1974): 73.

promoted the English way of life as more civilized and productive than the ancient clan system. The remoteness of the Highlands prevented any such cultural changes taking place among the Highlanders.

When Charles Stuart led his Highland supporters in his failed attempt to regain the throne for his father, he unknowingly triggered the collapse of the clan system. Fed up with the constant rebellions and the wild nature of Highlanders, the British unleashed a series of reforms that were meant to pacify and civilize the Highlands. I propose that while the collapse of the clan system was caused by the British reformatory measures, because many of them cut at the root of chief authority, ultimately severing the relationship between clan chiefs and their clansmen, it was also caused in part by the clan chiefs themselves. When they lost their authority as clan chiefs, many abandoned their old role of paternalistic caretakers for their people and embraced the British establishment to ensure they made a profit from clan lands. This shift had an even more detrimental effect on the relationship between chiefs and their clansmen, and it led to the emigration of thousands from their ancestral homes in the Highlands in what is now known as the Highland Clearances.

## **Methodology**

Archival research was the most valuable method of research for this project. Much of the primary source material was found in online archives from The United Kingdom, such as the British Periodicals Archive, Eighteenth Centuries Collections Online, and the National Library of Scotland. Letters, newspaper articles, and official government reports were the most useful, because they gave the closest accounts of what was happening to the common folk in the Highlands. Because the rate of literacy in the Highlands during the eighteenth century was so low, except those from wealthy families who were educated in the Lowlands, it is difficult to

find sources from the average Highland resident. Another challenge of research on this topic is the lack of sources that did not come from the British or British supporters. Censorship among the Highlands was pretty tight after the rising, and even those who published anti-British writings had to use aliases in order to avoid being punished. Due to all of these research challenges, the only useful sources were those about the Highlands, rather than from the Highlands themselves, as is the case in many colonized nations.

However, one collection of sources that provided the closest account of life from the Highland perspective after the rising was Mrs. Grant's letters that were published by the National Library of Scotland.<sup>2</sup> Anne Grant was born in Edinburgh in 1755 to her father Duncan Macvicar and her mother Catharine Mackenzie, both of strong Highland blood. She spent ten years of her life in North America where her father was stationed in the 77<sup>th</sup> Regiment. Her family then moved back to Glasgow, Scotland in 1768, and Anne remained there until her marriage to Reverend James Grant. After her marriage she moved to Laggan in Inverness-shire, right in the heart of the Highlands. Mrs. Grant wrote many letters to friends in the Lowlands during her time living in the Highlands. While there she made it her mission to help her neighbor, Mr. Steuart of Allanton, collect first-hand materials he could use to write a history on the rising. She wrote all of her findings in this collection of letters. Her letters tell stories about how the lives of ordinary Highlanders changed after the rising, and also how the relationship between clan chiefs and their clansmen also suffered significant changes.

Newspapers and magazines from the period were among the easiest types of sources to locate, and useful in getting basic facts about certain events and the opinions of those in Britain and the Scottish Lowlands on the events taking place. I used articles from *The Quarterly Review*,

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<sup>2</sup> Anne Grant, "Letters written by Mrs. Grant of Laggan concerning Highland affairs and persons connected with the Stuart cause in the eighteenth century" in *Publications of the Scottish History Society XXVI: Wariston's Diary and Other Papers*, ed. J.R.N. MacPhail (Edinburgh: Edinburgh University Press, 1896): 253-330.

*The Celtic Magazine*, and *The Scots Magazine*. It was beneficial to find newspapers from Scotland, but many were published in the Lowlands, and were therefore not sympathetic to the plight of Highlanders. The downside of newspapers is that they often reflect the biases of those in charge of publications, so many of these publications are clearly anti-Jacobin, but still useful for finding basic facts.

The last group of primary sources that I located are books published in the early nineteenth century. I found a case of abuse of tenants on clan lands that resulted in the trial and conviction of the accused but getting the actual government report was not possible. Due to the pandemic, I could not travel to a library to see the report, and it was not digitized. So, I did a quick search on the internet and found that the report had been published as a book in 1869, and that it was free to access via GoogleBooks.<sup>3</sup> The other book I found was written by the Scottish Lord Kames that details the reformatory agricultural policies enforced by the British as well as the opinion of the Scottish aristocracy about the Highlanders.<sup>4</sup>

## **Literature Review**

This paper utilizes one general history on the time period and a book of essays on the economic history of Scotland, but the vast majority of sources are individual scholarly articles. The transformation and modernization of the Scottish Highlands has been a topic of interest among scholars for some time, beginning with the 1869 book *History of the Rebellion of 1745-6* by Robert Chambers. This work offered a broad history on the rising, with the last few chapters

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<sup>3</sup> Michael Anderson, *Report of the Trial of Patrick Sellar Esq., Factor for the most noble the Marquis and Marchioness of Stafford. For the Crimes of Culpable Homicide, Real Injury, and Oppression* (Edinburgh: 1816), <https://search.proquest.com/historical-periodicals/sutherland-evictions/docview/3515960/se-2?accountid=14784>.

<sup>4</sup> Henry Home, Lord Kames, *Sketches of the History of Man* (Indianapolis, IN: Liberty Fund, 2006). Accessed February 1, 2021. ProQuest Ebook Central.

dedicated to the aftermath.<sup>5</sup> I chose this book because Chambers was a Scottish scholar, and while doing my research I found that much of the primary source information about the 1745 rising, such as public journals, “The Culloden Papers,” and a collection of documents labeled “The Stuart Papers”, were monopolized by Chambers and his publishing company, W. & R. Chambers. This book is one of the earliest and most accurate scholarly accounts of the rising. Chambers argues that the laws passed in the parliamentary sessions after the Battle of Culloden appear to be cruel, but that they were extremely effective in placating the Highland population. In the last few chapters, Chambers also covers specific laws and acts that were passed, as well as covering their perceived effect on the Highland populations from his perspective 120 years later.

*The Transformation of Scotland* (2005) is an edited collection of essays that looks at the economic development of Scotland with a historical context, starting in the year 1700.<sup>6</sup> The first five chapters analyze the economic modernization of Scotland including agricultural improvement. The third chapter, “The Transformation of Agriculture: Cultivation and Clearance” by T.M. Devine, has a specific section on Highland development leading up to the rising, as well as the failure of British ‘improvements,’ which led to the Clearances and later on, famine. This book is useful to my research because it explains how the economic system of the Highlands prior to the rising was turned into an industrial system that exploited the region’s natural resources. The author also goes into detail about what the crofting system is, as well as what specific industries became the Highlands’ main economic output, such as kelping, herding, fishing, and textiles.

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<sup>5</sup> Robert Chambers, *History of the Rebellion of 1745-6* (London & Edinburgh: W.&R. Chambers, 1869).

<sup>6</sup> T. M. Devine, C. H. Lee, and G. C. Peden, *The Transformation of Scotland: The Economy since 1700*, Edinburgh: Edinburgh University Press, 2005.

Other scholars have focused on the Clearances through the study of visual culture and public history. One article highlights the propaganda the British government used to justify the drastic measures taken to reform the Highlands. “Imaging the Scottish Highlands” by Amy Gazin-Shwartz argues that illustrations of the eighteenth- and nineteenth-century Scottish Highlands served to paint the region as primitive and backwards as a way to justify the measures taken by the British government to modernize the region.<sup>7</sup> She examines specific paintings and photographs of the Highlands and its occupants, pointing out that many portraits depict people doing menial labor meant to highlight the poverty, primacy, and struggles of rural Highland life. This article also shows the effects of the reformatory measures in the form of the Clearances. Her analysis shows that landscape photographs taken later on in the nineteenth century are completely devoid of people, because they had been cleared off their land during the process of the Scottish Agricultural Revolution.

Laurence Gouriévidis’s article, “Representing the Disputed Past of Northern Scotland: The Highland Clearances in Museums,” argues that interests from various social groups shape the way the Highland Clearances have been portrayed and by extent, shape the memories and collective identities of the people associated with it.<sup>8</sup> For example, Scottish museums and heritage centers’ portrayal of clan lairds is openly critical of the power held by the landowning class, which calls into question the long-held belief that chiefs were paternalistic caretakers of their clan after Culloden, forcing the community and clan descendants to reassess their collective beliefs. This article is useful because it draws attention to the fact that the improvements that

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<sup>7</sup> Amy Gazin-Schwartz, “Imaging the Scottish Highlands,” *Historical Archaeology* 41, no. 1 (2007): 92-105.

<sup>8</sup> Laurence Gouriévidis, “Representing the Disputed Past of Northern Scotland: The Highland Clearances in Museums,” *History & Memory* 12, no. 2 (Fall 2000):122-41.

took place on the Highlands led to severe social tensions, especially between clan leaders and their clansmen.

One specific trend I found in the literature is that the Scottish lairds and clan leaders eagerly took part in the reformation of the Highlands as a way to further protect Scottish interests. An article written by C.B. Bow, titled “The ‘Final Causes’ of Scottish Nationalism: Lord Kames on the Political Economy of Enlightened Husbandry, 1745- 82,” argues that the Scottish philosopher, politician, and author, Lord Kames, used agricultural reform to gain autonomy and a strengthened Scottish nationalism within the British empire, as well as fostering a sense of patriotism that had faded since the 1707 union with England.<sup>9</sup> This article details how the feudal clans were transformed into a commercial economy that fed into the bigger British mercantile system. It also shows how the British government wished to reform the Highlands, and how many Scottish lairds were more than willing to take part in order to secure national interests within parliament. Another piece that adds to this argument is Andrew Mackillop’s “The Political Culture of the Scottish Highlands from Culloden to Waterloo.” Mackillop argues that the Scottish Highland lairds formed a mutually beneficial relationship with the fiscal-military state of Great Britain.<sup>10</sup> He asserts that prominent Highlanders became politically active during this time in order to ensure Highland interests, as well as their own, received attention in the British Parliament, while the British benefitted from their access to land, agriculture, and men to fight in their armies. This article offers more insight into the nature of the relationship

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<sup>9</sup> C.B. Bow, “The ‘Final Causes’ of Scottish Nationalism: Lord Kames in the Political Economy of Enlightened Husbandry, 1745-82,” *Historical Research* 91, no. 252 (May 2018): 296-313.

<sup>10</sup> Andrew Mackillop, “The Political Culture of the Scottish Highlands from Culloden to Waterloo,” *The Historical Journal* 46, no. 3 (September 2003) 511-532.

between Highland lairds and the British government after Culloden, as well as how this relationship had an effect on the relationship between lairds and their tenants.

Another trend in the scholarly literature on the aftermath of Culloden is the argument that Highland clan chiefs abandoned their traditional role of paternalistic caretakers of their tenants to that of commercially invested landlords in the British mercantilist system. F. Clifford-Vaughan's article, "Disintegration of a Tribal Society: The Decline of the Clans in the Highlands of Scotland," examines the Scottish Highland clan system, specifically the relationship between clansmen and chief, and how clan chiefs transformed into commercially invested landlords.<sup>11</sup> He argues that the intimate trust needed to sustain a tribal lifestyle crumbled under the cultural change taking place in England and the Scottish Lowlands, because chiefs became more interested in making a profit from their land ownership rather than providing for their clan. This article highlights the external forces that influenced the end of clanship in the Highlands. Also, "Primitive Accumulation and the Scottish *clann* in the Old World and New" by Rosemary E. Ommer backs up this assertion. Ommer argues that external and internal forces, such as changing culture in the lowlands, the implementation of a capitalist market system, and the assumption of land ownership by chiefs all contributed to the decline of the traditional Highland clan system.<sup>12</sup> Despite these changes, the need for community aid and kinship in the harsh environment of British overseas colonies encouraged Scottish immigrants to return to an older and familiar way of life. This article also gives a chronological explanation of why and how the clan system fell apart, as well as a deep examination of the institutions and values that were necessary to maintain a clan.

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<sup>11</sup> Clifford-Vaughan, 73-81.

<sup>12</sup> Rosemary E. Ommer, "Primitive Accumulation and the Scottish *clann* in the Old World and New," *Journal of Historical Geography* 12, no. 2 (April 1986): 121-41.

These sources mostly focus on the physical impact of the reformation of the Highlands, such as the Clearances, the renewed political investment of prominent Highlanders, and the economic implications of the transformation to a mercantilist economy. They also explore how the clan system collapsed within a few generations. But there is a gap in the scholarship about how British measures severed the reciprocal relationship between clan chiefs and clansmen. There also seems to be a lack of connection between when British laws first destroyed the authority of clan leaders through the acts passed directly after Culloden, and the final destruction of the clans through agricultural reforms that resulted in thousands of Highlanders being forced out or abandoning their ancestral homes, as there was little the land could offer them after British “improvements.” Through my research I will explore the idea that Britain sought to destroy the connection between chiefs and their clansmen directly with the laws passed after Culloden, but then were able to take a more indirect approach as clan chiefs easily bought into the establishment they were offering, bringing about the destruction of their own way of life in an attempt to profit from the changes taking place.

### **Brief History of the Relationship Between England and Scotland to 1745**

To understand what led to the 1745 rebellion and the Highland Clearances, a lesson on the history between England and Scotland is necessary. The clash between England and Scotland has been taking place over the last one thousand years. Early on, England was determined to carve out a great empire that would eventually stretch across the entire globe, but started with conquering its neighbors on the British Isles. In 934 the first invasion of Scotland was undertaken by King Æthelstan.<sup>13</sup> For the next 700 years, England would repeatedly try to bring

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<sup>13</sup> Sarah Foot, *Æthelstan: The First King of England* (London: Yale University Press, 2011), 164.

Scotland under its rule, mostly unsuccessfully. Not until 1603, would England finally succeed in uniting the two nations under one throne.

Mary Stuart, Queen of Scotland had the greatest claim to the English throne after the death of her cousin, Mary Tudor, because she was the closest relative who had a male heir. However, as it happened, her other cousin and Mary Tudor's younger sister, Elizabeth I, would be crowned the next reigning monarch of England.<sup>14</sup> Elizabeth constantly saw her cousin as a threat to her legitimacy, because Mary had taken two husbands and had a male heir, while Elizabeth never got married nor had any children. In 1587, Elizabeth captured Mary. The English judiciary tried and beheaded Mary for crimes against the English Crown.<sup>15</sup> In a turn of events, Elizabeth went on to name Mary's son, James Stuart, as her heir, since she still had no children of her own. Upon her death in 1603, James was crowned King James I and VI of England, Scotland, and Ireland, officially uniting the three kingdoms.<sup>16</sup>

The relationship between the Stuart monarchs and Highland clan chiefs was a delicate one. The chiefs relied on the crown for land grants and chiefs had to be "recognized" by the Court of Lord Lyon, which was in charge of heraldry and arms. However, the crown had little to no control over what happened in the Highlands. Per the practice of Heritable Jurisdiction, the clan chiefs were the main point of authority for legal and cultural conflicts within their lands. There were a few monarchs who tried in vain to control the Highlanders, most notably King James I and VI in 1609 with the Statutes of Iona.<sup>17</sup> There are eight provisions within the statutes, including requiring the education of the children of Scottish gentleman in the Lowlands where

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<sup>14</sup> Penry Williams, *The Later Tudors: England 1547-1603* (Oxford: Oxford University Press, 1995), 229.

<sup>15</sup> *Ibid.*, 384.

<sup>16</sup> *Ibid.*, 385.

<sup>17</sup> Julian Goodare, "The Statutes of Iona in Context," *The Scottish Historical Review* 77, no. 203 (1998): 32, accessed March 2, 2021. <http://www.jstor.org/stable/25530804>.

they would be taught in English, providing support for Protestant ministers, and prohibiting the carrying of pistols and other handguns in public places. Naturally, the Highlanders did not follow any of these provisions, except the practice of educating noble children in the Lowlands. The Highlands were an area of constant strife for the Scottish crown and later the English crown as well. Highlanders have a culture and way of life that is significantly different from what was normal to their southerly neighbors, and they are also not fond of outsiders trying to change that way of life. Clan chiefs tried their best to keep peace with the Crown, but overall preferred to have autonomy when it came to running their clan.

In 1688, James the II and VII was deposed in the Glorious Revolution and replaced by his daughter Mary and her husband William of Orange.<sup>18</sup> James's rule was not favored by many in England because he was a Catholic, while the rest of England was staunchly loyal to the Church of England. It was at this time that the ideal of Jacobitism came into existence. Jacobitism was a movement that worked towards the restoration of the Stuart male dynasty to the British throne. Most Scots were and are to this day Catholics, so their support of the Stuarts was religiously motivated as well. Because William and Mary had no children, when William died in 1702, he was succeeded by Mary's younger sister, Anne Stuart.<sup>19</sup> It was under her reign that the 1707 Act of Union was passed, that combined the parliaments of Scotland and England into the Parliament of Great Britain.

Despite being ruled by one monarch and governed by one legislative body, many Highland Scots did not recognize the authority of the British government and still operated under the clan system. A clan was a group of people that shared lands and kinship, and that worked

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<sup>18</sup> Trevelyan, G. M.. *England under the Stuarts* (London: Taylor & Francis Group, 2002), 428.

<sup>19</sup> *Ibid.*, 450.

together to ensure the survival of everyone who had taken an oath of clanship and their families. Clans were headed by a clan chief that provided everyone in the clan with shelter, food, and other basic necessities for survival, and in exchange, their clansmen promised to work the land and to follow their chiefs into battle. Chiefs were often also Scottish lairds, someone who owned a large estate, which they divided among their tenants, who were then responsible for working the land. Although clan leaders were legally the owners of clan lands, territory in the clan system was always communally owned.<sup>20</sup>

Queen Anne died in 1714 without any heirs, making her the last official Stuart monarch. The throne then passed to her closest, Protestant, male relative, per the 1701 Act of Settlement. This man was her second cousin, George I of the House of Hanover. During George's rule, the first Jacobite rebellion took place in 1715-1716, led by the son of the deposed King James II and VII.<sup>21</sup> James III and VIII, known as the "Old Pretender," was not content to lose his family's throne to his German cousin, so he turned to his supporters in Scotland to back him in his bid to regain the throne.<sup>22</sup> He was unsuccessful and spent the rest of his life in the Vatican with the Catholics that still recognized his line as the legitimate rulers of Britain.

In the years 1745-1746 in the Scottish Highlands, Prince Charles, son of James III and VIII, led an army of Highland Scots who were proclaimed Jacobites in the Second Jacobite Rebellion against King George II of Hanover.<sup>23</sup> On April 16, 1746, after months of victories, the Jacobite rebels were defeated on Culloden Moor by the army of the Duke of Cumberland. What

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<sup>20</sup> Ommer, 125.

<sup>21</sup> John L. Roberts, *The Jacobite Wars: Scotland and the Military Campaigns of 1715 and 1745* (Edinburgh: Edinburgh University Press, 2002), 15.

<sup>22</sup> *Ibid.*, 19.

<sup>23</sup> *Ibid.*, 73.

followed was first the trials and executions of ranking members in the Jacobite army, many of whom were the leaders of clans themselves. Clan chiefs, who participated but were not executed, were stripped of their titles and estates, which were then sold to further agricultural reform in Scotland, displacing not only their families, but also all of the families who were tenant farmers on their land.<sup>24</sup> A good number of common Jacobite soldiers were also executed, but the majority were imprisoned or commuted to penal transportation to the British American colonies under the Traitors Transported Act 1747.<sup>25</sup> Next, the British government ensured the destruction of clan chief authority with the Heritable Jurisdictions Act 1746 that stripped all powers of governance from feudal clan lairds and the Act of Proscription 1746 that banned all highlanders from bearing arms. As well as ending the authority of clan chiefs, the British understood the only way to guarantee that the proud Highlanders would never again rise in rebellion against the Crown was to strip them of their highland identity. So, they passed the Dress Act 1746, which banned the wearing of tartans, the playing of bagpipes, and the speaking of Gaelic in public places.

### **Removing Chief Authority**

One thing that the British noted about the average Highland resident was that they mostly felt indifferent towards whatever monarch was reigning at the time.<sup>26</sup> Their loyalty was to their clan chief first and foremost. This assessment of the relationship between chief and clansmen did not go unnoticed by many who visited the Highland clans. Anne Grant of Laggan moved to the Highlands of Scotland in 1779. While she was there she collected many first-hand accounts of what happened after the suppression of the rebellion. She wrote these stories down and sent them

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<sup>24</sup> Ibid., 195.

<sup>25</sup> Ibid., 193.

<sup>26</sup> Clifford-Vaughan, 77.

as letters to a friend in the Lowlands. In one of her letters, she describes the time when the clan Cameron refused to fight for King George II, exclaiming to the British lieutenant “that they would follow him [chief Lochiel] wherever he went, but would obey no other leader.”<sup>27</sup> Most of the Jacobite soldiers did not join the rebellion because they had a stake in who sat on the throne. They joined the rebellion because their chiefs had pledged themselves to this cause, and they themselves had taken an oath to follow their chiefs into battle, wherever it may be. Noting this undying loyalty to their chiefs and their clan above all else, the British decided that the only way to ensure the full subjugation of the Highland clans was to erode all authority that the clan chiefs held.

One of the first reformatory measures that Parliament passed was the Act of Proscription of 1746, which banned Highlanders from being in possession of “broad sword or target, poignard, whinger, or dirk, side pistol, gun, or other warlike weapon.”<sup>28</sup> While at first glance, it would seem that this legislation would not have a direct effect on chief authority, in fact, it was quite the opposite. One of the main duties of the clan chief was leading his people into battle. Mrs. Grant noted in her letters that Highlanders, “cherish both that martial ardour and that pathos of patriotism.”<sup>29</sup> If it was now against the law for anyone within the clan to bear any sort of arms, including the chief himself, then a huge part of the chief’s cultural authority was rendered completely obsolete because he no longer had the ability to defend his clan lands or to give a “display of valor” that “produc’d a still closer cohesion and mutual dependence among their followers.”<sup>30</sup>

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<sup>27</sup> Grant, 330.

<sup>28</sup> Act of Proscription, 1746, 19 Geo. 2, chap. 39.

<sup>29</sup> Grant, 288.

<sup>30</sup> *Ibid.*, 299.

After the Act of Proscription, Parliament passed the Heritable Jurisdictions Act of 1746, which stripped away the legal authority held by clan chiefs over the members of their clan. Before the rising, clan chiefs had the legal authority and responsibility to administer justice to anyone within their clan they felt had broken the law, as well as appointing sheriffs. This authority was previously protected under the 1707 Act of Union as it was recognized as a form of property rights. This jurisdiction was passed from father to son when the title of chief was also passed down, hence why it is “heritable.” The measure that passed in Parliament was an act that got rid of the chiefs’ judicial jurisdiction and passed it on to the courts of Great Britain.<sup>31</sup> Now stripped of the cultural and legal authority chiefs had previously held over their clansmen, not much was left for clan chiefs in the way of relating to their clansmen as more than just landlords.

The only thing left that tied chiefs to their clansmen was the bond of kinship. Everyone within any given clan was related to one another in varying degrees either through blood or marriage. The way they expressed this kinship was through their clan tartans. Each clan had a different color tartan, and you could identify which clan one belonged to by their tartan. Well, this flimsy link between clan chief and their clansmen was apparently too much for the British. As a part of the Act of Proscription, Parliament also passed the Dress Act of 1746, which eliminated all aspects of Highland culture that separated them from the English. This act banned wearing tartans or any other form of plaid, with exceptions for soldiers in the 42<sup>nd</sup> Regiment, which will be discussed later. It also banned the speaking of Gaelic and the playing of bagpipes in public.<sup>32</sup> Punishment for being caught doing or wearing any of the aforementioned resulted in

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<sup>31</sup> Heritable Jurisdictions (Scotland) Act, 1746, 20 Geo. 2, chap. 43.

<sup>32</sup> Abolition and Proscription of the Highland Dress, 1746, 19 Geo. 2, chap. 39, sec. 17.

finer, imprisonment, or indentured servitude on the plantations in the New World colonies of the Caribbean, North America, New Zealand, or Australia.

While the goals, as stated by the British, for the above legislation were “for rendering the Union of the Two Kingdoms more complete,” as well as preventing any future rebellions, even British citizens understood that their true purpose was to sever the relationship between chiefs and their clansmen so the people of the Highlands would look to the Crown for support and guidance rather than their clans.<sup>33</sup> In an 1816 publication of the British *Quarterly Review* titled “The Culloden Papers,” a British journalist comments, “Clanship, however, with its good and evil, is now no more. Its harsher features disappeared, after the promulgation of the laws in 1748, which struck at the root of the chiefs’ authority, both patriarchal and feudal.”<sup>34</sup>

The most dramatic and long-lasting reforms that the British would impose on the Highlands that had an even more profound impact on the relationship between chiefs and their clansmen, however, was the forced imposition of a mercantilist economic system with the British government at the center. Before the rebellion, the Highland clans had lived in what is known as a satisficer economy that seeks to produce without surplus.<sup>35</sup> Their only goal was to produce enough goods that everyone in the clan would be provided for, but no more because they were not seeking to make a profit. The role of clan chief in this system was to make sure that there were people working the land and to ensure none of his clansmen or their families went without food, shelter, water, clothing, etc. They were viewed by clan members as benevolent patriarchs, but really the relationship was symbiotic. The people worked the land, fought for chiefs, and if

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<sup>33</sup> Heritable Jurisdiction (Scotland) Act

<sup>34</sup> “Culloden Papers,” *The Quarterly Review* 14, no.28 (January 1816): 331.

<sup>35</sup> Ommer, 128.

they, at any point, felt the chief was abusing his power, they had the right to replace him, so the chief was supposed to always care for his clansmen unless he wanted to lose his position. But with the introduction of a capitalist market system, the role of clan chief as a patriarchal caretaker disappeared as they bought into the British establishment.

### **The Agricultural “Revolution”**

To the British, reforming and modernizing the Highlands meant that the Highlanders were forced to participate in the British mercantilist system. The most beneficial manner, for the British, in which to achieve this goal was to turn the Highlands into a crofters’ society and use their sprawling mountains herding, labeling this policy The Scottish Agricultural Revolution.<sup>36</sup> In order to reform the agricultural practices in the Highlands, the British needed to gain access to the lands held by the Scottish lairds and chiefs. In some instances, it was simple. For example, all chiefs that participated in the rising were stripped of their lands and titles, so Parliament evicted the families living on the land, opened it up for herding and hunting, and appointed estate factors (property managers) to look after the lands.<sup>37</sup> In other cases, chiefs-turned-landlords saw an opportunity to make a place for themselves within this new regime. Many willingly lent their lands without much regard for the families that had lived there for generations.<sup>38</sup>

The Countess of Sutherland has been a controversial figure in Scottish history for her role in the eviction and resettlement of thousands of her tenants. She resided at Dunrobin Castle, which was the family seat of the Sutherland earldom, as well as the family seat for clan Sutherland. The Countess, known as Elizabeth Leveson-Gower, succeeded her father in 1766

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<sup>36</sup> Devine, 88.

<sup>37</sup> "The Debate on the Annexation-Bill Continued." *The Scots Magazine* 14 (October 1752): 465, <https://search.proquest.com/historical-periodicals/debate-on-annexation-bill-continued/docview/5960411/se-2?accountid=14784>.

<sup>38</sup> Clifford-Vaughan, 75.

when she was only a year old after both her parents died of a fever. She was the only surviving child of the late Count, and actually took an active role in the management of her estate when she reached adulthood. Due to the conventions of the time, when she was married in 1785 to George Granville Leveson-Gower, he officially took control, but not ownership, of the estate. Despite the technicalities, her husband still let her manage much of the estate's business, including the clearances of her tenants.

In 1807, when most of her tenants' leases expired, she began the process of resettling her tenants on the coast, though they had resided for generations deep in the mountains.<sup>39</sup> The tenants were not fond of this new policy, and dissatisfaction with the head of the family began to brew. In 1811, the Countess hired a new factor to oversee the resettlements and to prepare the land for herding. The new factor was a man named Patrick Sellar. Sellar became notorious on the Sutherland estate for his violent methods of eviction. In the 1816 report for his trial held before the Inverness Circuit Court of Justiciary, Sellar was accused of culpable homicide, real injury, and oppression. The victims of Sellar claim he burned pastures, barns, mills, kilns, and houses, as well as violently turning people out of their homes, leaving them without shelter, food, or water. One instance resulted in the death of an elderly man named Donald M'kay.<sup>40</sup>

The response of the tenants was as to be expected of upset Highlanders. They started violent revolts, that resulted in the Countess petitioning the British army for assistance.<sup>41</sup> Eventually the military quelled the protest, but the resentment the displaced tenants felt for the

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<sup>39</sup> A.M., "The Sutherland Evictions," *The Celtic Magazine* 8, no.85 (November 1882): 37.

<sup>40</sup> Michael Anderson, *Report of the Trial of Patrick Sellar Esq., Factor for the most noble the Marquis and Marchioness of Stafford. For the Crimes of Culpable Homicide, Real Injury, and Oppression*, 7.

<sup>41</sup> Gazin-Schwartz, 102.

Countess lingered.<sup>42</sup> Only sixty years prior, the lands of clan Sutherland had been communally owned by everyone, but now the family heads were assuming ownership and making decisions for everyone. This is only one of many examples when the heads of old clan lands sacrificed the happiness of the families who had lived on their lands for generations in order to become a part of the British aristocratic establishment. For their cooperation with the crown, the Countess and her husband were given the title of 1<sup>st</sup> Duke and Duchess of Sutherland. Including the titles, a number of marriages to prominent heiresses made the Sutherlands one of the richest aristocratic families in Great Britain.

As well as displacing thousands of tenants, some clan leaders sold their men into the service of the British army in return for money and status.<sup>43</sup> Mrs. Grant of Laggan tells her friend in her letters of a Simon Fraser of Balnain who betrayed his men into the service of the 42<sup>nd</sup> Regiment, also known as the Highland Regiment. It was comprised entirely of Highland men who were too desperate not to take Britain's offer of pay for service. For his contribution, Fraser was given a rather sizeable income and the position of general for the regiment.<sup>44</sup>

The forceful transition to a mercantilist economy in the Highlands had a detrimental effect on the relationship between clan leaders and their clansmen. Once chiefs were able to shirk their responsibilities as caretakers for their tenants, many took the opportunity to secure themselves a place within the new British establishment. In the process, their tenants lost their homes and sometimes their lives, causing irreparable damage to the ancient relationship that had ensured the survival of both parties for centuries.

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<sup>42</sup> A.M., "The Sutherland Evictions," 40.

<sup>43</sup>"London." *The Scots Magazine* 9 (April 1747): 193, <https://search.proquest.com/historical-periodicals/london/docview/5966971/se-2?accountid=14784>.

<sup>44</sup> Grant, 275.

## Clearances

The evictions of the Sutherland estate were, unfortunately, a dramatic example of what was taking place all over the Highlands at this time. The combination of the British reformatory measures and the Highland chiefs abandoning their role as paternal caretakers led to a widespread depopulation of the Highlands, known as the Highland Clearances.

The Clearances happened in two different phases. The first phase of the Clearances took place immediately after the rising from about 1750-1815. During this phase, Highland landholders abandoned their previous method of land tenure, which was known as a runrig system.<sup>45</sup> In this system, clan chiefs divided land into townships that were overseen by tacksmen who were then responsible for dividing the land for tenant farmers. The exact way in which these rigs worked varied from township to township, but the one thing that was necessary for a successful rig was communal cooperation, much like what had existed in the clan system. As mentioned before, this system was abandoned in favor of large-scale pastoral farms, which allowed landlords to charge more for rent. Tenants were moved off of pastoral land into crofting communities usually on the coasts.<sup>46</sup> Crofting communities differed little from the satisficer economy Highlanders had been living in for some time; however, crofters were often only given a few acres of arable land with some surrounding area for livestock. Crofters were not meant to have all of their needs met just through farming and were encouraged to take up jobs in industries like fishing, kelping, or textiles.<sup>47</sup> The diminishment in status from a farmer to a

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<sup>45</sup> Bow, 303.

<sup>46</sup> Devine, 88.

<sup>47</sup> Gouriévidis, 125.

crofter was a blow to peasant communities, but at this point the Clearances were characterized by relocations rather than outright evictions.

In the second phase of the Clearances, approximately 1815-1850s, forced movement of people took a more sinister turn. The archives of the John Gray Centre in Haddington, East Lothian reports that during this period, Scotland lost 10-47% of its natural population increase every decade in the 1800s due to forced emigration or emigration resulting from evictions.<sup>48</sup> This was due to the fact that during this time landlords switched to more draconian methods, evicting the poorest crofters, while maintaining leases for those who could afford higher rents. During this time period, crofting communities also dealt with overpopulation, a collapse in the kelping industry, and a potato famine that hit the Highlands in the mid-nineteenth century. Without much chance for prosperity in their ancestral homes, desperate Highlanders were forced to leave via “assisted emigration” where landlords paid for their passage, or chose to leave in the hopes they would have a chance at happiness elsewhere. Most emigrants braved the journey to Canada, the United States, Australia, or New Zealand.<sup>49</sup>

The callousness of those in positions of power are highlighted by the comments from Henry Home, Lord Kames. Lord Kames was a Scottish writer, philosopher, advocate, judge, and a central figure in the Scottish Enlightenment. He also had a large part in the agricultural reforms during the Scottish Agricultural Revolution. When addressing the thousands of families being displaced during the Clearances, he felt that they were an acceptable cost of ‘progress’ because “Our highlanders at present are rude and illiterate; and were in fact little better than savages.”<sup>50</sup>

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<sup>48</sup> “A brief history of emigration & immigration in Scotland”, 05 November 2014, Library Museum Archive, John Gray Centre, Haddington, East Lothian, United Kingdom, 1, <https://www.johngraycentre.org/about/archives/brief-history-emigration-immigration-scotland-research-guide-2/>.

<sup>49</sup> Ibid., 2.

<sup>50</sup> Lord Kames, 216.

Because the way Highlanders lived was considered backwards and primitive, the methods of reformation, no matter how violent and inconsiderate, were justified as necessary by those in England and the Scottish Lowlands.<sup>51</sup> Not willing to be reduced to the status of second-class citizens along with the common people, owners of clan lands ignored the pleas of their people for support so they could make a successful future for themselves in the new economic and political systems being put into place.

### **Conclusion**

The reformatory measures enacted by the British government were indeed harmful to the Highlanders and their relationships with clan chiefs. However, the research shows that this was not the sole cause for the collapse of the Highland clan system. Eager to profit in some way from the changes taking place and to have a different fate from that of the average Highlander, clan chiefs abandoned their role as caretakers for their clansmen. They transformed into commercial landlords who were willing to lose the trust and respect of their clansmen for the sake of progress and their own self-preservation.

Clan chiefs participated in the downfall of their own way of life, but it is entirely possible that this was a calculated move on the part of the British. European colonizers often pitted one social group against the other as a way of destabilizing their way of life and preventing any unification against them. The same tactic was used in Rwanda by Belgian colonizers. Using Western scientific racism, Belgian colonizers gave unique privileges and benefits to certain social groups over others.<sup>52</sup> In this case they gave the Tutsi tribe better treatment than the Hutu tribe, because the people of the Tutsi tribe had more European features such as thinner noses and

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<sup>51</sup> Gazin-Schwartz, 97.

<sup>52</sup> Peter Uvin, "Prejudice, Crisis, and Genocide in Rwanda," *African Studies Review* 40, no. 2 (1997): 96.

lighter skin. These ethnic tensions created by colonizers persisted into the modern era, and they reached a crescendo in the 1990s with the Rwandan genocide.

British tactics to control the Highlands constitute a clear case of colonization. The only difference is that Rwanda achieved independence from their colonizers in 1962, but Scotland has not. Multiple efforts have been made by the Scottish National Party (SNP) to gain independence from Britain, starting in 1979 and with the most recent referendum being held in 2014.<sup>53</sup>

The ratification of Brexit in 2019 has brought even more attention to the issue of Scottish independence. Brexit is the formal policy name for the withdrawal of the UK from the European Union. Many believe that Brexit is a conservative reaction to rising numbers of immigrants from lesser developed nations within the Union, but its imposition will have consequences for travel, business, and trade. Scottish independence has become more prevalent in Scottish politics since the ratification of Brexit, because Scotland has been in talks with leaders of the E.U. since 2014 about applying for their own membership with the Union separate from the UK.<sup>54</sup> While the UK was still a part of the Union, it was already logistically complicated. With the UK no longer a part of the Union because Brexit went into effect on January 1<sup>st</sup>, 2021, it is almost impossible for Scotland to join without first receiving independence from the United Kingdom. To this day, British colonial rule over Scotland continues to work against Scottish interests.

In 1997 when the UK returned Hong Kong to Chinese rule, Prince Charles lamented “such is the end of Empire.”<sup>55</sup> But it is not accurate to claim that the British Empire is well and

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<sup>53</sup> “The Devolution Debate This Century,” Scotland Referendum, BBC, accessed February 8, 2021, <http://www.bbc.co.uk/news/special/politics97/devolution/scotland/briefing/c20scot.shtml>.

<sup>54</sup> Glen Campbell, “Scottish independence: How Brexit has changed the debate over EU membership,” Scotland Politics, BBC News, last modified February 3rd, 2020, <https://www.bbc.com/news/uk-scotland-scotland-politics-51357050>.

<sup>55</sup> “Charles’ Diary Lays Thoughts Bare,” UK News, BBC, last modified February 22, 2006, [http://news.bbc.co.uk/2/hi/uk\\_news/4740684.stm](http://news.bbc.co.uk/2/hi/uk_news/4740684.stm).

truly over when Scotland has been denied independence for the last forty-two years. It is not fair nor accurate to label them part of the “United Kingdom” when sizeable populations in both Northern Ireland and Scotland want no part of it and continue to resent British control over their nations. If we are to really claim to be living a postcolonial era, then Scottish independence is not only justified, but necessary.

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