

AN ECONOMIC HISTORY OF THE DISTILLING INDUSTRY  
IN SCOTLAND: 1750 - 1914.

by

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The true reason why Highlanders are so fond of  
distillation is that it costs them little labour and  
brings them what they conceive to be profit.

Sir George S. Mackenzie.

A General Survey of the Counties of Ross and Cromarty  
(1810).

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## SYNOPSIS OF THESIS

### An Economic History of the Scotch Whisky Industry to 1914.

I. A. Glen, M.A., B. Litt.

This historical survey of the Scotch whisky industry attempts to cover the period from the late eighteenth century when distilleries first emerge as commercial enterprises in Scotland, through the changes of the nineteenth century to the outbreak of the First World War.

The study opens with a short introduction, which is followed by observations on the nature and state of distilling in Scotland, based on the Old Statistical Account, and by an examination of the legislative framework affecting the industry up to the year 1823. The problems of illicit distillation, such as the attitudes of landowners, and the Excise authorities, the supply of equipment, and whisky smuggling, are treated in a separate section. The proliferation of licensed pot still distilleries in the early nineteenth century is supported by case studies of individual entrepreneurs and their business activities, while the problems of the Lowland capitalist distillers are considered in a section devoted to the enterprises of the Stein family, which spans the years from c. 1780 to c. 1840.

The innovation of the patent still, producing alcohol by continuous distillation, took place from 1826 onwards, and it had profound effects on the structure of the Scotch whisky industry. A consideration of the changes associated with the patent still culminates in a study of the rise of the Distillers' Company Ltd.

A gap in business records from 1840 to 1860 is partially bridged by

material from the New Statistical Account and other contemporary sources, as well as by a review of legislative modifications during the nineteenth century.

The expansion which distilling in Scotland enjoyed from 1870 to 1898 is discussed under the title of 'The Great Distillery Promotion'. This phase came to an abrupt end with the collapse of the firm of Pattisons, Ltd., of Leith, which was a substantial blending and broking organisation. The events of the period 1887 to 1914 are described from the records provided by William Grant & Sons, Ltd., Glasgow, and these demonstrate the problems of establishing a new distillery, and of promoting trade in blended whiskies both in the home market and abroad.

This economic history of the Scotch whisky industry is concluded with an investigation of whisky blending, the conflicts which it provoked, such as the 'What is Whisky Case' of 1905, and the subsequent appointment of a Royal Commission in 1908, whose findings confirmed the arrival of blended Scotch whisky. The account also traces the effect of government interference on the Scotch whisky industry, which has proved such a lucrative producer of revenue and foreign exchange for the British economy.

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INTRODUCTION

Whisky distilling in Scotland has created for itself a special reputation and tradition, and Scotch whisky has been defined at both Scottish and English Law. The industry is not only distinguished by the renown of its product, but also by its adaptability in the face of change - economic, fiscal, political and social; its resilience has enabled it to survive to modern times. A home-made spirit, made essentially for local consumption has been transformed by commercial expertise into a marketable commodity with world-wide recognition and acceptance.

### The Origins

As early as the fifteenth century, a distilled liquor, described as 'aqua vitae', was being prepared in Scotland: references to malt being supplied for the making of aqua vitae occur in the Exchequer Rolls for 1494.<sup>1</sup> When King James IV visited Inverness in September 1506, his Treasurer's Accounts have entries showing that aqua vitae was procured for the King.<sup>2</sup> Other examples relating to the use of aqua vitae are found in the Statutes of Iona (1561), and in the Register of the Privy Council (1615), but it is not clear that this spirit was in fact whisky.<sup>3</sup>

The first use of the word 'whisky' appears in the Account Book of Bailie John Steuart of Inverness in 1755,<sup>4</sup> although 'uiskie' is mentioned as being provided for the funeral of a Highland laird in 1618.<sup>5</sup> Gaelic

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1. Robb, J. Marshall, Scotch Whisky (1950), p. 9
  2. The Scotch Whisky Association, Scotch Whisky, Questions and Answers, (1965), p. 10.
  3. Gregory Smith, Geo. The Book of Islay, Dispositions before a Committee of the Privy Council, Edinburgh, May, 1615, (Edinburgh, 1894), p. 264.
  4. Mackay, W., (ed), The Letter-book of Bailie John Steuart of Inverness, 1715-1752, Scottish History Society, (Edinburgh) (1915), p. 391 and p. 593.
  5. The Scotch Whisky Association, op. cit., p. 10.



literature before 1700 however rarely includes any references to whisky, whose Gaelic equivalent uisge beatha is a direct translation of aqua vitae, meaning the water of life; the drinks of the Highland nobility, praised by the bards, were brandy and wine, especially claret, and this consumption pattern persisted until the mid-eighteenth century.<sup>6</sup> A Gaelic poem of this period gives the impression that the distillation of whisky had only recently become a domestic craft:

The Friend of Whisky

G'e b'e thionnagaim no dh'inntrig  
 Air an ionnaramaid phrisèil  
 'S duine grunn-dail 'na inntinn  
 Bha gu h-innleach-dach glic:  
 Thug o arbhar gu siol e,  
 Thug o bhraich gu ni 's brìghèil',  
 Thug a prais 'na cheo liath e  
 Mach throimh chliath o nan lub tric.

Whoever first devised or discovered the precious instrument, he was a man deep of mind who was inventive and wise: who brought it from corn to grain, who brought it from malt to something more potent, who took it from a pot in grey smoke out through the worm of many bends.

John MacCodrum, North Uist,  
1693 - 1779

Occasionally rent was paid in whisky; a return for the farm of Cross-hall near Campbeltown in 1636 included six quarts of aqua vitae payable by the town of Lochead (Campbeltown).<sup>7</sup> Scott Moncrieff, discussing the early

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6. McDonald A., Story and Song from Loch Ness-side (1914), p. 42  
 7. McKerral, A., Kintyre in the 17th Century (1948), p. 58.

use of aqua vitae in Scotland, noted that spirits were given as part payment for the rental of several farms and mills in Perthshire.<sup>8</sup>

Distilling appears to have become established by the mid-eighteenth century, although as late as 1772, whisky was described as a 'modern liquor', because in former times, ale was in common use.<sup>9</sup> The activity experienced fluctuating prosperity, depending principally upon changes in Excise legislation, and also on the availability of grain supplies.

Whisky was produced in pot or sma' stills of some 10 to 40 gallons capacity, at 'ferm toms', crofts and mills, especially in the Western Highlands and the Hebrides. Distillation became part of a folk tradition, shared by the Highlanders with their kindred in Ireland. Locally grown here, a four rowed barley was especially cultivated for the purpose;<sup>10</sup> there was peat for drying the malted grain in kilns, and an abundance of water both for steeping and mashing, as well as for condensing the distillate. For heating the pot stills, wood was preferred, and oak and pine forests were extant in many Highland areas; peat could be used if wood was scarce as on some Hebridean isles. The spent grains or draff, together with the dregs from the stills afforded a valuable food for cattle.

Distilling was a seasonal pursuit, during the non-agrarian months of late autumn, winter and early spring, when burns were in spate, and the bere harvest had been gathered. Where activities like fishing and kelp gathering competed for the people's attention, women seem to have played a substantial part in making whisky.<sup>11</sup>

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8. Scott Moncrieff, M.N., 'Notes on the Early Use of Aqua Vitae, Proc. Soc. Ant. Scot., 5th Series, Vol. II, p. 266.
9. Pennant, T., A Tour in Scotland and the Western Isles, (1772), p. 194.
10. Parliamentary Papers, Fifth Report of the Commissioners of Inquiry into the Revenue, (1825) VII, Appendix, 68; Duncan Stewart, Factor to the Duke of Argyle, 28 Nov. 1822, p. 188.
11. Robert Armour, Campbeltown, An Illicit Still Maker, 1811-17: Infra:

Legislative Change: 1707-1823

During the eighteenth century, distilling in Scotland began to make the transition from a peasant activity to a specialised industry with a commercial scale of operation. The Board of Excise was instituted in 1707, and it levied a duty of 3d. per gallon on whisky, but ale was the customary beverage of ordinary Scots folk. Fiscal policy however caused the malt tax to be extended to Scotland in 1725 - an episode which was marked by protest, riot and even bloodshed in burghs like Glasgow.<sup>12</sup> Ale thereafter began to give place to whisky.

General Stewart of Garth, writing in 1828, considered that whisky drinking on a large scale was a post-1750 phenomenon,<sup>13</sup> while the Parish Ministers in the Old Statistical Account, also reported the demise 'of good wholesome ale', and the setting up of distilleries, 'those fountains of iniquity'.<sup>14</sup> A major shift in patterns of consumption thus took place during the eighteenth century, leading to increasing demand for whisky, rather than other potable alcohols.

Perhaps the most dramatic developments occurred in Lowland Scotland, where by c. 1770, whisky was not only being consumed in quantity, but also distilled on a very extensive scale in large works like those of the Steins at Kilbagie and Kennetpans in Clackmannan.<sup>15</sup> These distilleries were new capitalist enterprises in the grand manner, using coal for fuel, importing

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12. Hamilton, H., The Economic History of Scotland in the 18th Century (Oxford), 1963, p. 105.

13. Stewart of Garth, D., Observations on the Origin and Cause of Scuggling in the Highlands of Scotland: Quarterly Journal of Agriculture, 1828-9, pp. 360-2.

14. Sinclair, Sir J. (ed.), The Old Statistical Account, Parish of Langholm, XIII, p. 605.

15. The Steins: Capitalist Distillers: infra. See also O.S.A., XIV, Parish of Clackmannan, p. 623.

grain from Scottish districts where it was surplus, and most significantly exporting spirits to London for rectification into gin for the English market. These Lowland distilleries produced rapidly and in quantity, taking raw grain as well as malted barley into the process; quality was a lesser priority. In 1707 the output of spirits in Scotland was computed to be about 50,000 gallons, but by 1760, the volume had risen to over 400,000 gallons.<sup>16</sup> On the grounds of superior quality alone, the way was left open for the small scale pot still distillers to maintain more than a foothold in the market.<sup>17</sup>

Numerous changes in fiscal policy which at times adversely affected the Scottish distillers were enacted in the eighteenth century. Briefly, the impact on distilling came from alterations in duty, in the licence system for distillers, and in regulations governing processes and output. From 1709 to 1742, the duty on whisky was only 3d and 6d a proof gallon, but one effect of the prolonged French wars was the necessity of raising revenue on the one hand, and of reducing home grain consumption in brewing and distilling on the other. The duty on spirits which had stood at 3s. 11 $\frac{3}{4}$ d. per gallon in 1784, had by 1814 been replaced by a levy of £7 16s. on each gallon of a still's content. This form of legislation did not favour the makers of Scotch whisky, for it was influenced by the requirements of English gin makers; the levy was based on the volume of wash placed in the still as compared with the volume of alcohol expected to be produced by it. Small still operators were handicapped because they preferred to use a weak wash which yielded only a small volume of spirits.

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16. Barnard, A., The Whisky Distilleries of the United Kingdom. (1887) p. 5.

17. Halldane, A.R.B., New Ways Through the Glens (1962), p. 183.

Highlanders in particular objected to paying for the privilege of making their own whisky and a flourishing illicit trade developed. Glenlivet, in the Eastern Highlands, became a nucleus of this activity. As the tax rose, so did legislation become impossible to enforce in areas where the Excise officers were despised, and of which they often had only a tenuous knowledge. Smuggling became widespread; 'Highland whisky' became a staple commodity, and Glenlivet prices ruled the market.<sup>18</sup>

Highland whisky was patronised by wealthy and knowledgeable persons, who saw no harm in buying from law breakers who did not take out licences for their stills. The Badenoch gentry malted their own barley, brewed their own beer, and on occasion distilled their own whisky. Brandy and wines were purchased at Inverness, but whisky was got from Glenlivet and Ferintosh at 1s. 10d. per pint.<sup>19</sup> Regarding the latter, the Forbes of Culloden had developed a flourishing distilling business located at Ferintosh on the northern shores of the Black Isle in Ross-shire. The family had obtained a substantial duty concession from the government as compensation for damage to their lands by Royalists in revenge for the family's loyalty to Cromwell's cause. The Forbes built up virtually a monopolistic position so that 'Ferintosh' became practically synonymous with Highland whisky. The lucrative exemption was withdrawn in 1785, leading Robert Burns to lament for 'Thee Ferintosh, O sadly lost.'<sup>20</sup>

Technological improvements in legal distilling led to a vastly increased output by the end of the eighteenth century. The working of

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18. Glen, I.A., *The Scotch Whisky Industry, An Economic Survey 1939-1963*; B. Litt. Thesis, Glasgow, 1963.
19. Grant, I.F., Everyday Life on an Old Highland Farm 1769-1782 (1924) p. 82.
20. Menary, G., The Life and Letters of Duncan Forbes of Culloden (1936) p. 3 and pp. 373 - 4.

stills became so rapid that a logical outcome was the evolution of stills capable of continuous distillation. Rivalry with the close-knit group of London distillers led to marketing problems for the Lowland 'capitalist' distillers, like the Steins and the Haigs. Eventually, the unfortunate Lowland distillers were virtually excluded from the English market by the London distillers combining to hold the price of spirits below the level at which the Scots could afford to export.<sup>21</sup> At the same time, the capitalist distillers found their Scottish outlets eroded by floods of smuggled Highland whisky sold openly in towns like Aberdeen, Perth and Glasgow. Some indication of the flourishing state of sma' still production may be gained from the fact that 859 detections of illicit distillation were made in 1798: probably 4 to 5 times that number continued unchecked.<sup>22</sup>

The hard pressed licensed distillers in the Highlands also suffered adversely during the phase of illicit distillation. Venturers tried to start distilleries in the Northern counties in the early nineteenth century, but bankruptcies and sequestrations recurred, because the entrepreneurs experienced business difficulties compounded of the incidence of duty, the complexities of distilling regulations, and at times their own mismanagement.<sup>23</sup> These licensed distillers had to endure the severe competition of their illegal rivals to whom high duties were a positive encouragement. The whisky from the unlicensed stills was frequently so reputable and full-flavoured that it easily competed in terms of price and popularity with the product of the legal establishments.

21. P.P. Report from the Committee upon the Distilleries in Scotland 1798-9, Second Memorial of John Stein, 7 May, 1799, pp. 689-90.
22. P.P. 1798-9; Recommendations, pp. 512-26 and p. 682.
23. Early Nineteenth Century Distillers: Case Studies: infra.

A decline in the number of Scottish licensed distilleries, from 89 in 1798 to 36 in 1816 was a measure of the difficulties being experienced by the regular industry. A slight revival took place about 1817, when there was a legislative modification, but the breakthrough for legal distilling did not come until after 1823, when recommendations put forward by a Commission of Inquiry were embodied in a new Excise Act and other statutes.<sup>24</sup> The year 1823 is a divide of the utmost significance in the creation of a modern Scotch whisky industry; the government was obliged to reduce the duty to 2s. 4<sup>3</sup>d. per proof gallon in an attempt to suppress the illegal trade, and distilling in stills of 40 gallons capacity or more was permitted - this was modest volume, and hence an inducement to smugglers to comply with the law by purchasing a licence to distil. There then followed a period of consolidation during which licences were taken out; owners of sma<sup>l</sup> stills gradually became owners of legal distilleries, often located on or near the same site.

Inveterate smugglers, like Smith of Glenlivet, lairds like Campbell of Jura and Mackenzie of Seaforth, as well as entrepreneurs, like Fraser of Taynabinch or Stevenson of Oban, began to take out licences.<sup>25</sup> The outcome was that by 1833, there were no fewer than 260 licensed distillers in Scotland.<sup>26</sup> The effectiveness of the Excise establishment was improved; the deployment of Revenue personnel in cutters, and even the military, had a marked deterrent impact. The active support and participation of lairds in the eradication of smuggling was another major factor in the suppression of illicit distilling.<sup>27</sup> Some landowners like the Marquis

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24. P.P., Fifth Report from the Commissioners of Inquiry into the Revenue, Vol. VII, (1823).

25. Early Nineteenth Century Distillers, infra.

26. P.P., Seventh Report of the Commissioners of Inquiry into the Excise Establishment, (1834), Appendix 67, p. 229.

27. Prebble, J., The Highland Clearances (1963) p. 115.

of Stafford in Sutherland, and the Duke of Argyll in Tiree, were prepared to evict tenants guilty of either offence.<sup>28</sup> Better transport and communication also aided the maintenance of law and order, and was to the advantage of most sections of the community, except the smugglers. It thus became safer to pay the standard licence fee of £10 per annum than to take the risk of being caught by the Excise authorities, or the Factor, have one's utensils confiscated, be fined or imprisoned, and perhaps face eviction. Illicit distilling was not finally suppressed until the 1840s in remoter areas of the Highlands and islands; by the end of the nineteenth century, fewer than 20 detections of the practice were being made in Scotland in the course of a year.<sup>29</sup>

Not only was there a remarkable increase in the number of licensed distilleries in Scotland, there was also a notable expansion in the volume of legally made spirits; in 1826, the quantities charged for home consumption as compared with 1820 were 5.9 million gallons as against only 1.8 million gallons. The new regulations had the merit of combining greater security for the Revenue, with the release of the distiller from many of the legal hindrances under which he had conducted his business.

#### Technological Change: 1830-1900

All whiskies, whatever their country of origin, are forms of ethyl alcohol. Due to their different homelands, their raw materials and other constituents may vary, and each will have certain characteristics modified by the method of processing, bonding, and in some instances by blending.

Two types of whisky are produced in Scotland; the first and oldest

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28. Cregeen, E.R., Argyll Estate Instructions, 1771-1805, Scottish History Society, 4th Series, Vol. I, (1964).
29. P.P., Reports of the Commissioners of Inland Revenue: (e.g. 14th Report: 1870, p. 28).



type is pot still or malt whisky made wholly from malted barley. It contains some 0.5 per cent of residuals, such as esters, aldehydes and higher alcohols, which it is asserted give it a distinctiveness and aroma, which mark it off from all other whiskies. It is distilled twice, although in former times, triple distillation was not uncommon.

In the 1830s, a new method of production was introduced into distilling; this was the patent still, mass producing spirit by a continuous process of distillation, whereby wash fed into the apparatus emerged as alcohol. Patent still whisky is made in a Coffey still, named after Aeneas Coffey, an Irish Inspector-General of Excise, who perfected a columnar still in Dublin about 1831. Prior to this date, a Scot, Robert Stein of Kin-cardine in Fife, had also patented a still on the principle of continuous distillation. Early Coffey stills were functioning in Scotland prior to 1836.<sup>30</sup> In the patent still, the distillation is carried out to limit the volume of residual matter in the alcohol to about 0.1 per cent; the resulting spirit has much less character and bouquet than pot still whisky. The second variety of Scotch whisky is thus made in a patent still from a mixture of unmalted barley, and other cereals (e.g. maize) with a small proportion of malted barley. The bland grain spirit yielded by the new innovation was well suited to rectification into gin, or to methylation, but between 1850 and 1860, the practice arose of blending it with pot still whisky to give a cheaper potable alcohol.<sup>31</sup>

The patent still brought mass production techniques into conflict with the craft tradition of the pot still distillers, who would have denied its product the title of whisky. Although a greater initial capital

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30. The New Statistical Account, Parish of Inverkeithing. IX, (1836), p. 244.

31. Wilson, R., Who was the First Blender? W.S.T.R.: 17 January, 1966, p. 46.

outlay was required to establish a patent still unit, there were considerable economies of scale to be reaped; the spirit was reckoned to be one third to one half cheaper to produce than malt whisky.<sup>32</sup> The innovation was quickly adopted in Lowland Scotland, but it is probable that there were no more than 20 distilleries running patent stills at any one time in the region.

The big output of grain spirit led to a glutted market, and fierce competition in the mid-nineteenth century. Differences among the patent still distillers were composed from time to time by quota arrangements and price fixing; the first agreement was concluded in 1856, and this event had a significant outcome two decades later with the formation of the Distillers' Company Ltd., an amalgamation of six Scottish grain distillers.<sup>33</sup> The combine was one of the comparatively few immense business organisations to appear in Britain before 1914. The patent still introduced a new element to the industry, namely the very large technological unit, which changed distilling from a craft to a science.

During the nineteenth century a contraction in the number of malt whisky distilleries took place, which was countered by an almost continuous growth in output for the whole distilling industry in Scotland.

Year	No. of Distilleries in Scotland	Production: millions of proof gallons
1833	243	8
1869	110	14
1897	173	35

Sources: Nettleton, J.A., The Manufacture of Spirit.  
Wilson, G.B., Alcohol and the Nation,  
Appendix F, Table 3, pp. 336-9.

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32. Nettleton, J.A., The Manufacture of Spirit (1913), p. 232 and pp. 261-2.

33. Bruce Lockhart, Sir R., Scotch (1959), pp. 61-2.

The 1823 generation of distilleries was augmented by rebuilding and between 1870 and 1900, by new pot still establishments. The 1890s were marked by a phase of distillery promotion, during which new units proliferated especially in the Speyside area, where they could lay claim to the celebrated name 'Glenlivet' and incorporate it with their own designation.<sup>34</sup>

The increase in distilling capacity was a response to several factors, such as growing urbanisation, rises in real wages, and the availability of capital for investment in consumers' goods. The Highlands were being opened up by the railways, and the bulk movement of raw materials and of the finished product, brought a different dimension to pot still distilling there. Hitherto, it had been the Lowland distilleries and the patent still units, near canals or in estuarine locations, which had enjoyed transport advantages, for assembling raw materials and distributing their output. Another decisive factor was the need to provide malt whisky in bulk for blending purposes. Blended whisky may have begun as a means of absorbing the overproduction of grain spirit from patent stills, but by the 1890s, blended Scotch whisky, sold under distinctive brand names, with appropriate bottles and labels supported by energetic marketing and extensive advertising, had become the *raison d'être* for the industry's rapid expansion. Excessive speculation and unsound promotions induced glut, uncertainty and collapse in 1898, when the failure of Pattisons Ltd. of Leith, precipitated a crisis of such severity that the industry was only recovering from the debacle shortly before the First World War.<sup>35</sup>

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34. Moray & Banff Illustrated (1895), p. 7, and letter from Mr. George S. Grant, Glenfarclas Distillery, Ballindalloch, 18 Oct. 1967.

35. The Failure of Pattisons Ltd., of Leith, 1898: infra.

### Changes in Consumption Patterns:

Until the mid-nineteenth century, Scottish distilling was principally concerned with supplying the home market, with a small export going to England, especially to the London area, and to Ireland. As early as 1850 consignments were being sent to Australia, which became the leading export market for Scotch whisky before 1914. There was keen rivalry for a time between the Scotch and Irish whisky merchants for dominance in the English market, but Scotch whisky succeeded in displacing Irish, just as it subsequently supplanted brandy. In the 1880s Phylloxera and other diseases attacked the French vines from which brandy was distilled; brandy became very scarce and expensive, while imitations undermined its reputation.<sup>36</sup> Whisky entrepreneurs, like the Ushers, and others, seized the opportunity presented to them. Merchants and blenders, like Buchanan, Walker and Dewar were joined by such distillers as the Haigs and Mackies, in promoting blended Scotch whisky in Britain and throughout the world.<sup>37</sup> Before the First World War, there was scarcely a country where Scotch whisky was not available. The Empire, with its Scottish emigres and regiments was a natural outlet; agencies were also set up in Europe, in the United States and in the Far East.

By the opening years of the twentieth century, grain spirit and malt whisky were rarely sold separately as single whiskies, outside restricted areas in Scotland. As early as 1866, advertisements for whisky generally referred to blended whiskies.<sup>38</sup> Although Scotch whisky has been differentiated from other whiskies by legal process, this definition is comparat-

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36. Wilson, G.B., Alcohol and the Nation, (1940), pp. 25-6.

37. The Distillers' Company Ltd., D.C.L. and Scotch Whisky. (1966), pp. 7-8.

38. Barnard, A., The Whisky Distilleries of the United Kingdom (1887), see concluding pages of advertisements (unnumbered).

ively recent. The popularity of blended whisky required that action be taken to define what constituted certain classes of spirits. The problem arose initially in Ireland, where in 1876, Irish distillers complained to the Inland Revenue that Scottish patent still whiskies were being blended with those from Irish pot stills. No action was taken, but in 1891, a Select Committee of the House of Commons, appointed to inquire into 'matters relating to spirits', reported that there was no legal definition of whisky anyway. It declined to formulate one, as there was such a wide divergence in trade opinion. The pot still interests in particular were opposed to the name 'Scotch whisky' being applied either to grain whiskies or blended whiskies from Scotland.<sup>39</sup>

Matters were brought to a head by prosecutions in London in 1905, when publicans selling blended 'Scotch' and 'Irish' whisky were accused of 'not supplying an article demanded'.<sup>40</sup> Although the dealers lost the action, the grain distillers supported them in their appeal, and by propaganda on an extensive scale, they kept the issue before the public. This 'What is Whisky' case was finally examined by a Royal Commission on Whiskey [sic] and other Potable Spirits in 1908-9. Despite conflicting evidence, its decisions appeared to favour the patent still distillers, as no distinction was made between blended Scotch whisky and the exclusively malt variety.<sup>41</sup>

Although duty on spirits for home consumption fluctuated between 1890 and 1900, responding for example to the need to augment revenue during the Boer War, it had stood at 10s. per proof gallon from 1860 until

39. Glen, I.A., Thesis, op. cit.

40. Bruce-Lockhart, R., op. cit., p. 69.

41. P.P., Royal Commission on Whiskey and other Potable Spirits, 1908-9.

190. Whisky merchants had become accustomed to a secure home market, with an annual consumption of Scotch whisky of over 15 million proof gallons a year (compared with 7 million proof gallons in 1960).<sup>42</sup> Total exports of British spirits in 1900 barely exceeded 5 million proof gallons per annum. In 1909 however there began a trend which has continued to the present - the turning away of the Scotch whisky industry from the home market, because of the disincentive effect of a heavy duty on spirits consumption in Britain. This pattern was initiated with the 1909 Budget of the Liberal government, whose Chancellor of the Exchequer, Lloyd George, was a man of strong temperance enthusiasms.<sup>43</sup> A duty increase of 3s. 9d., giving a total impost of 14s. 9d. per proof gallon was placed on Scotch whisky. From this time onwards, the export orientation of the Scotch whisky industry was to become more and more pronounced.

A concomitant development was the growth of bigger business units. The initial D.C.L. merger was the first of several; later amalgamations tended to be for purposes of vertical integration, encompassing malt whisky distilling, blending, marketing and distribution, but the greatest of these did not occur until after the First World War.

#### Locational Change.

Consolidation of the industry after the crisis of 1898-1900 inevitably led to contraction in certain directions. The Speyside distilleries held their own with little change, but of the 20 pot still units which Barnard saw in Campbeltown in 1986, only 2 survive as distilleries to-day.<sup>44</sup>

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42. Birnie, W., Statistics relating to British Potable Spirits (Inverness) 1968.

43. Wilson, R., Seventy Years of the Scotch Whisky Industry, W.S.T.R.: 16 March, 1965, p. 350.

44. Barnard, op. cit., pp. 55-56.

The whiskies from Strathspey have been acclaimed for their excellence - some as single whiskies, like the Glenlivet, Glenfarclas and Glenfiddich, and others for blending purposes. Good transport facilities, barley from the north east counties and abundant water of exceptional purity from granite, schist and sandstone country, together with the peat banks of the upland moors, are factors to which is attributed the success of the 'golden triangle' of distilling.<sup>45</sup> Another crucial factor is of course the accumulated skill and expert knowledge of the craft of pot still distillation: it is the outcome of generations of experience, which ensure the maintenance of a tradition, especially in the persons of the brewer and the stillman, the key employees at such a distillery.

The foci of blending and bottling for the Scotch whisky industry have become concentrated in Lowland Scotland. The Lowland dominance of the commercial functions of the industry was indeed already discernible in the 1750-90 period, when the capitalist distillers conducted their business affairs from towns like Edinburgh and Glasgow. The advent of the patent still reinforced this locational pattern; the innovation was either inserted in existing distilleries, such as Port Dundas in Glasgow, or in a few instances, was installed in new premises like Menzies' Caledonian distillery at Haymarket in Edinburgh about 1855. Compared with pot still units, grain whisky distilleries required much greater volumes of water for processing, greater supplies of cereals, of coal for fuel, and of timber for casks. In contrast to the Highlands, these raw materials were readily procured in the Central Lowlands, either because they already existed there (e.g. coal) or might thence be imported.<sup>46</sup> Furthermore, labour was

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45. Storrie, M.C., The Scotch Whisky Industry, T.I.B.G., No. 31, 1962, p. 93 et seq.

46. P.P., Royal Commission 1908-9: op. cit. Minutes of Evidence, Vol. I (Cd. 41 1) Mr. W.H. Ross, 5042-8, pp. 102-3.

plentiful, and the transport network of canals, railways and roads was more complete. Those towns and cities which were close to grain whisky plants were thus well placed to become the dominant centres of the blending trade: Glasgow, Edinburgh with Leith, and Perth were convenient centres for assembling volumes of malt whiskies from different regions to be 'married' with grain whisky. Furthermore the growing urban markets of industrial Scotland were annually absorbing 6 to 7 million proof gallons of Scotch whisky between 1872 and 1909. A vigorous temperance movement campaigned for a restriction of licences and the control of liquor consumption, but the necessities of a war economy which required alcohol for munitions, and curtailed the production of Scotch whisky, reduced the level of consumption to less than 3 million proof gallons by 1918.

The following study of the Scotch whisky industry during the last 200 years is an historical and an economic one. It is difficult to disentangle and isolate the economics of an industry from its social consequences. Every economic choice is made between competing ends to the attainment of which there are only scarce means. The question of the rightness or morality of the choice is one of which the economic historian is well aware, but of the dependence of the Scottish economy on the success of the Scotch whisky industry there can be no doubt.



A Survey of Distilling in Scotland in 1795.

The Old Statistical Account of Scotland, prepared from reports submitted by the Parish Ministers, affords the earliest survey of the nature and extent of distilling in Scotland. It describes the uneasy co-existence of the Lowland capitalist distillers alongside their Highland rivals, and shows how the interests of both were being undermined by the preparation and smuggling of illicit whisky. Whereas the economic aspects of the developing industry are only partially outlined, the Account is much concerned with the misuse of whisky on the character and morals of the people of Scotland. Here the circumstances surrounding the distillation of whisky in the Highland region will be considered first, and thereafter the situation in the Scottish Lowlands will be examined.

1. The Highland Region:

The cultivation of barley and here for the specific purpose of distilling was typical of many parishes in the northern counties. The entire barley harvest in the parish of Urray was made into whisky, despite the fact that no fodder and little meal was left for winter use.<sup>1</sup> The barley for distilling seems to have been prepared in ordinary meal mills; in Monedie, in Perthshire, two mills operated which were capable of grinding 'here into pot barley pretty well, without any additional machinery.'<sup>2</sup> In Kiltarlity, Inverness-shire where there were no fewer than eight licensed stills, about 2496 bolls of barley were being made into spirits each year, the alcohol produced being bought by whisky merchants from Lochaber, Kintail and Strathglass.<sup>3</sup>

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1. O.S.A., VII, Urray, p. 25 .
  2. O.S.A., III, Monedie, p. 275.
  3. O.S.A., XIII, Kiltarlity, p. 522.

The production of barley was most successful in the drier eastern districts of Scotland. In Elgin parish it is recorded that 'the whole low part of the county of Moray is fruitful in corn .... Besides what is exported by sea, and sent to the Highlands, the licensed stills in the country consume a great quantity.'<sup>4</sup> There were 19 of these stills, with a combined volume of 635 gallons (giving an average individual capacity of about 30 gallons) which were permitted to distil 3865 bolls of bere per annum. A distinction between bere and barley is rarely drawn in the Account. Bere or bigg (*hordeum sativum vulgare*) was a four rowed type of barley, which withstood wet weather satisfactorily, and matured 14 to 21 days earlier than did the ordinary two rowed barley (*hordeum sativum distichon*). Bere could thrive on land too poor to support barley, yielding a return of from 4 to 7 bolls per acre, but barley gave a grain of fuller body, and a higher return per acre.<sup>5</sup>

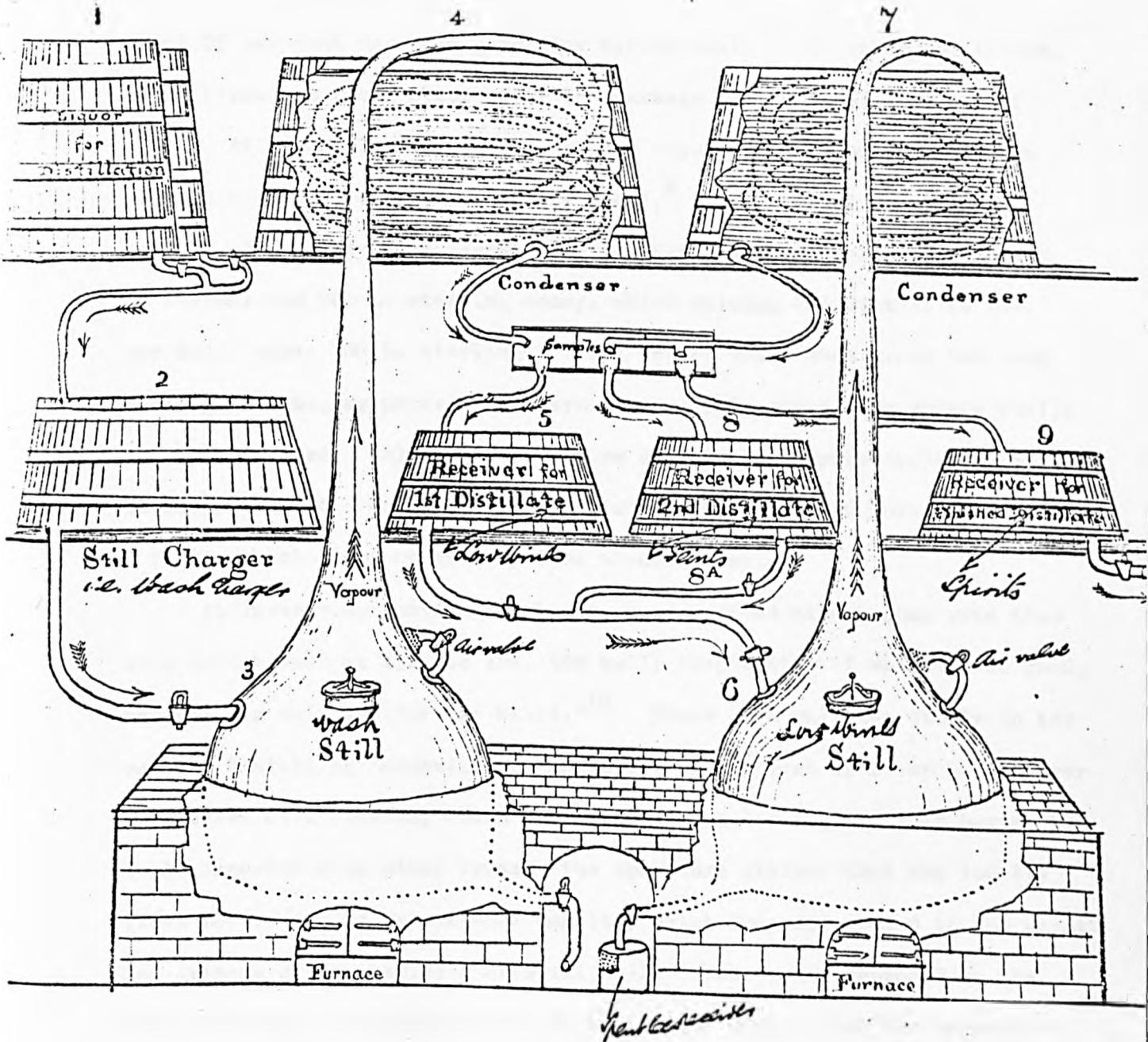
In addition to the stills in the Elgin district, a brewery in the city malted about 1,500 bolls a year. A curious reason is advanced for turning a blind eye to smuggling; if the practice were to be suppressed then the sale and export of barley from Moray would tend to diminish, and this would cause gluts there. A neighbouring parish, Duffus, was also noted for its barley harvest; quantities sent to the Firth of Forth, yielded as good a price as the best Stirlingshire or East Lothian barley.<sup>6</sup>

Regarding the price of barley, which was the main cost incurred by whisky makers, there is some evidence from various Highland areas. In the Badenoch parish of Alvie, barley was available at 1s. to 20s. per boll, reckoned at 9 stone. This was the price level for several years:

4. O.S.A., V, Elgin, p. 9.

5. Handley, J.E., Scottish Farming in the Eighteenth Century (1953) p. 54.

6. O.S.A., VIII, Duffus, p. 385.



## POT STILLS.

Order of working - 1. Vats for crude liquor. 2. Vat for containing liquor for distillation. 3 Still. 4. Worm or Condenser 5. Receiver for product of 1<sup>st</sup> distillation. 6. Still to be charged from No 5 or from No 8. 7. Worm or Condenser. 8 Product of 2<sup>nd</sup> distillation, impure, to be conveyed by 8<sup>A</sup> into No 6. 9. Finished product

about 25 per cent more was given for barley meal.<sup>7</sup> In other localities, price rises had taken place after the passage of the Distillery Act of 1786. At Kirkhill, near Inverness, the consumption of barley had made all grain prices 'very high for the poor',<sup>8</sup> while further north, at Golspie, the yearly rent payable for the Kirklands was 'about 1000 bolls of victual and 200 L. sterling money, which valuing the victual at 10s. per boll, makes 700 L. sterling.' The report shows that grain had been selling at a higher price in the area, especially after more whisky stills had been started. Although there were said to be comparatively few stills in Sutherland, the neighbouring counties of Caithness and Ross had many, a factor which drove up grain prices around Golspie.<sup>9</sup>

At Inveraven, Banffshire, barley was marketed at a higher rate than oats (which sold at 15s. to 16s. the boll) 'especially if weighty and good, and fit for malt and for the still.'<sup>10</sup> There were only two stills in the parish, distilling 'aquavitae or whisky.' The parish of Urray had however 9 licensed distilleries, which consumed so much local grain that barley had to be imported from other areas; the operators claimed that the locally grown barley was of exceptional quality, which they attributed to the warmth and dryness of the parish's alluvial soil. The people depended on the barley harvest, and hence on the distilling of whisky, for the payment of their rents; the stills had the advantage of keeping up the price of grain, which was regarded as a boon to both tenants and landowners.<sup>11</sup>

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7. O.S.A., XVIII, Alvie, p. 378.

8. O.S.A., IV, Kirkhill, p. 122.

9. O.S.A., XXI, Golspie, p. 217.

10. O.S.A., XIII, Inveraven, p. 43.

11. O.S.A., VII, Urray, op. cit.

In King Edward parish, in N.W. Aberdeenshire, rent was also paid in grain, some of which was exported to south and west Scotland: furthermore, when prices were low, 'bear meal' even found a market in Norway. A brewery for ale and porter at Banff, and the sma' stills in the district gave an immediate market for barley. It is again clear that stills not only increased the consumption and price of barley, but conferred other benefits: they supplied whisky 'of a quality greatly superior' to that of 'the larger stills in the southern districts', and indeed 'no less wholesome than foreign spirits.' Two benefits had ensued - namely, a marked decline in smuggling, and improved farm incomes for local agriculture.<sup>12</sup>

Most of the bere harvest at Watten in mid-Caithness was being distilled in the parish, and too much of the product was being drunk by the parishioners 'without bringing what it otherwise might into their pockets.' Here it was customary for an individual to draw 3 bolls of malt, and to pay the owner of the still for the use of his equipment. Besides having a marketable commodity, he could then sample as much as he pleased during the manufacture of the whisky.<sup>13</sup>

In the West Highlands distilling was also creating an inflated demand for bere or barley. By 1795, next to the herring fishing, the major activity in Campbeltown, Kintyre was the making of whisky, and output was computed as follows:-

	No. of Stills	Bolls Distilled	Produce in Gallons
In the town	22	5,500	19,800
In the country	<u>10</u>	<u>2,134</u>	<u>6,350</u>
	32	7,634	26,150

12. O.S.A., VI, King Edward, p. 404.

13. O.S.A., XI, Watten, p. 269.

These figures indicate that the average output of each pot still was about 800 gallons per annum, while  $3\frac{1}{2}$  bolls of grain were yielding a gallon of whisky. The greater part of the grain used in the sma' stills was raised in the parish; the local contribution was put at 5,000 bolls. The spirits were disposed of throughout the Highlands, which was 'gainful to a few individuals but extremely ruinous to the community', because it consumed 'their means, hurts their morals, and destroys their understandings and their health.'<sup>14</sup> Scarcities of grain were occasionally caused:

To this trade we owe the want of wheat or flour of our own, which takes yearly out of the place about £2000.

Meal had therefore to be bought in, because so much of the harvest was destroyed by distilling. On the other hand, very handsome gains are reputed to have been made by distillers; the encouragement of whisky exports was desired, as this would at least help to pay for cereal imports for food.<sup>15</sup>

Recurrent scarcities of grain were troublesome in Argyll; for example, Pennant observed that despite the quantity of bere raised, there was a dearth, the inhabitants of Kintyre 'being used enough to convert their bread into poison', distilling annually six thousand bolls of grain into whisky.<sup>16</sup> In 1782-3, the harvest failed, and acute distress was caused among the poor of the Burgh of Campbeltown. The Commissioners of Supply took steps to forbid the making of whisky, at the same time ordering all

14. O.S.A., X, Campbeltown, p. 556.

15. Ibid.

16. Pennant, T., A Tour in Scotland and the Hebrides, (1772), p. 194.

private stills throughout Argyll to be confiscated.<sup>17</sup> The distilling of whisky was again prohibited from 1795 to 1797 due to grain shortages during the French Wars, but by 1800, 20,000 bolls of bere were said to be converted into whisky each year in Argyll - one half being distilled in Kintyre, and one third in Campbeltown alone, without a single licence being taken out by the still owners.<sup>18</sup>

In Islay, the quantity of whisky which was made was reputed to be very large, and the signs of excessive consumption were visible on the island. To distilling was ascribed a major cause of the people's poverty - 'for the barley that should support the family of the poor tenant, is sold to a brewer for 17s. the holl, and the same farmer is often obliged to buy meal at 1£ 3s. sterling, in order to keep his family from starving.' When maltsters knew that a tenant was in difficulties they were prepared to make small advances on condition that the tenant disposed of his barley or bere crop at the cheap rate. Meanwhile, those persons who could afford to wait for payment until they delivered their grain, received 20s. or more per boll for it.<sup>19</sup> This type of transaction also persisted in Killean and Kilchenzie in West Kintyre until after 1820. There the Campbeltown maltsters enjoyed a buyer's market, taking bere from the poorer farmers at a low price which they had previously fixed among themselves.<sup>20</sup>

A similar criticism of distilleries is voiced for the parish of Glenorchy and Inishail. There one distillery functioned, which destroyed

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17. Colville, D., *The Origin and Romance of the Distilling Industry in Campbeltown*, A Paper read to Kintyre Antiquarian Society, 23 Jan. 1923.
18. Smith, J., *A General View of the Agriculture of Argyll*, (1805), p. 92.
19. *O.S.A.*, IX, Kildalton, p. 296.
20. *N.S.A.*, VII, Kilchenzie and Killean, pp. 390-1.



grain, and thereby deprived people of bread. As distilling was so widespread in Argyll, over 40,000 bolls of meal were being imported to the county each year; had no spirits been manufactured, the meal imported would have been trifling in amount, according to the Accounts.<sup>21</sup>

The spoliation of grain by distilleries might have been mitigated had the spent grains or draff been used for feeding livestock, but experience in the parish of Urray showed that no use was made of distillery waste, although the only resource of significance was stated to be black cattle; so long as grass and winter keep were deficient the stocking could not be increased.<sup>22</sup>

The problems created by grain growing for the distilleries are summarised in the report for Urquhart and Glenmoriston:

The bear is generally distilled into whisky, but it may be questioned, whether the profit attending this branch of business be not counterbalanced by a degree of idleness and dissipation, with which the distillery of spirits is attended ... it is difficult to say how the bear could be disposed of to advantage in any other way than by distillation, as the people are unacquainted with brewing it into beer, and that too many prefer whisky to ale or porter, though this be fortunately wearing out. If manufactured into meal, that meal would scarcely find sale among Highlanders, who never use it when oatmeal can be found.... And of course, bear would give a very inferior price to what is given by distillers.<sup>23</sup>

The fuels employed in the making of malt whisky were various. At Moulin, a Perthshire parish, the growing scarcity of peat moss was largely attributed to the distilling of whisky; indeed one still consumed as much

21. O.S.A., VIII, Glenorchy & Inishail, p. 340.

22. O.S.A., VII, Urray, op. cit.

23. O.S.A., XX, Urquhart & Glenmoriston, pp. 305-6.

peat as would have served five families.<sup>24</sup> Ardclach in Moray is described as so abounding 'with moss for peats, and moss fir', that prior to the passing of the 1786 Distillery Act, a considerable number of persons had been lured into 'making whisky in a smuggling way', with attendant excesses. Even in 1795 there were 5 licensed distilleries operative in the parish.<sup>25</sup>

Summary:

Throughout the Highlands, the stills appear to have been mainly of 30 gallons content: Killearnan (Ross-shire) had 7 licensed sma' stills of that capacity, Moulin had 2, and Urray had 9 of a similar volume; in Urquhart and Glenmoriston, one or two licences for stills of from 30 to 40 gallons were taken out, when the bere harvest was sufficient for distillation. It is clear that although these units were of such limited size, local barley or bere supplies were often depleted by distilling, and in some areas, even fuel became deficient.

II. Organisation:

An insight into the organising of distilling is given in the Urray report. It is stated that the normal practice in distilling was for 'from 5 to 10 or 12 tenants' to operate a still jointly; by this means, each had an opportunity of distilling his own barley crop, or if that should prove inadequate, surplus grain was purchased from neighbours to make up a share. As it was so uncommon it was especially remarked that 'one man only in the parish occupies a still without partners.'<sup>26</sup>

24. O.S.A., V, Moulin, p. 61.

25. O.S.A., IV, Ardclach, p. 153.

26. O.S.A., VII, Urray, op. cit.

A table of occupations in the account for Kildonan shows that six distillers 'in Co. with 1 Pot, Excise L. 30 sterling', operated in the parish.<sup>27</sup> The 'group practice' system in distilling must have been general in crofts and ferm touns, a fact borne out by the Still Books of Robert Armour, of Campbeltown.<sup>28</sup>

At Tomintoul in Banffshire, which was a village of 37 families, the Duke of Gordon left the people at liberty 'each to pursue the occupation most agreeable to them.' Hence the people not only made spirits, but 'all of them sold whisky, and all of them drank it.' The other mainstay of the economy was cattle and sheep rearing. The sole manufacture was however whisky, and the fact that the inhabitants were '40 measured miles' from the nearest seaport added to their difficulties in developing their resources.<sup>29</sup>

A careful examination of Highland distilling is presented for the parish of Killearnan in Ross-shire. There were 7 licensed stills of the standard 30 gallon size, yielding an annual revenue of £315, but at the same time 'consuming a very considerable proportion of the produce of the parish.' With regret it is recorded that the price of 'ardent spirits' had not risen in proportion to the increase in the tax on whisky, as the increase was not being passed on to consumers, but was absorbed by the distillers.<sup>30</sup>

Because the sma' still owners had generally no capital the minister noted that they were often obliged to sell their whisky at a considerable disadvantage. Nevertheless, they supplied the local market so abundantly

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27. O.S.A., XXI, Kildonan, p. 74.

28. The Still Books of Robert Armour, Campbeltown, 1811-17, infra.

29. O.S.A., XII, Kirmichael, p. 439.

30. O.S.A., XVII, Killearnan, p. 351.

that those who did have some capital could not take advantage of it by holding stocks of whisky until demand should force up price, giving a reasonable profit margin, and thus a viable return on their capital. Barley is said to have been selling at a guinea a boll, while the price of a gallon of whisky was only 3s., and it was actually retained in draw houses at 3s. 8d.; this was the same price at which it was marketed prior to the levying of an additional tax on each still in 1786. Hence it is concluded that the tax had had no effect in rendering spirits 'more inaccessible to the lower ranks', and it was evident that the tax was being paid out of distilling profits, and the consumer's pocket was untouched.

There then follows in the Killearnan report an analysis of the cost of working a 50 gallon still, using an allowance of 188½ bolls of barley. It was the practice to process 4 bolls at a time in a still of this kind.

The table thus shows:-

4 bolls pay about ...	£0	19	0
The price of barley ... averaged at 19s. being for this quantity ...	3	16	0
Price without including carriage for 3 or more miles ...	0	10	0
	<hr/>		
	£ 5	5	0
 Candles, bandages, tear and wear of distilling utensils ...	0	5	0
Attendance for 8 days and 8 <u>nights</u> . carriages to and from mills, expence of malting, the kiln drying, &c., &c., valued at	0	10	0
	<hr/>		
Total expense	£ 6	0	0

The minister reckoned the average yield as '19 Scotch or 36 English gallons': the average price was reported to be 15s. 4d. per Scotch gallon (or 3s. 4d. per English) giving a total income of about £6. The waste for cattle fodder was worth about 5s., a sum which was 'in fact the only profit to be derived from distilling.'<sup>31</sup>

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31. Ibid.

As the returns were deduced to be so low, it was questioned whether there should be so many distilleries in operation. Once again, investigations showed that whisky making was 'almost the only method of converting ... victual into cash for the payment of rent and servants'; whisky was in fact the staple commodity. For their part, the sma' still owners did not attempt to make an accurate estimate of costs, not bothering to lay 'the proper value on their time and trouble', regarding everything over and above the expenditure on fuel and barley, plus the tax, as clear profit. They rated the perquisite of 'tasting the quality of the manufacture during the process' very highly.<sup>32</sup>

#### Marketing and Social Consequences:

The main markets for Highland whisky appear to have been local ones - people consuming the produce of the local stills, but a growing and more widespread demand was also being supplied from some parishes. For instance, Highlanders from 'Lochaber, the extensive west coast of Ross-shire and the Isle of Sky' came to Urray to buy up spirits at 10s. to 14s. per Scotch gallon. The inhabitants of Kiltarlity found that their whisky was sought after by merchants from Lochaber, Kintail and Strathglass, while Camobeltown whisky was reputed to be sold throughout the Highlands.

The retail outlets for whisky were numerous and diverse; the report for Monedie (Perthshire) shows that the quality of the public houses varied greatly. One public house existed in the parish, which 'rather deserves the name of a two-penny house, as there is no entertainment to be had in it, but ale and Scots spirits.'<sup>33</sup> Meanwhile, in Moulin, there were two licensed 30 gallon stills, but no less than 24 licensed retailers of 'ale, beer, and other exciseable liquors.' This proliferation was roundly condemned

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32. Ibid.

33. Ibid., III, Monedie, p. 275.

as being unfavourable to the health and the morals of the people. Yet few deleterious effects due to the superabundance of drink were obvious, because 'even at weddings, and on holidays, instances of persons drinking to excess are few', and a drunken squabble was rare. The general custom of sealing a bargain or settling a debt with a dram of whisky was noted. The people of Moulin seemed moderate in their habits considering that 'at the fairs every house, hut and shed ... is converted into a dram-shop.'<sup>34</sup>

The report for Ardelach also contains favourable comments on its five licensed distilleries; while the production of so much whisky might be thought harmful, this had not been proved in the parish. Indeed, the advent of licensed stills had put paid to those who had been 'in use of making whisky in a smuggling way, and so had an opportunity of drinking more than was proper for them.'<sup>35</sup> Similarly, in Urray, a sympathetic view was taken of distilling. The economic necessities to which the people were exposed were appreciated, and it was believed that they were less corrupted by distilleries than one might expect. Even if the effects were to be aggravated, distilling must be continued 'until some other manufacture be established in its stead, whereby the people will be enabled to find money to pay their rents.' Dram shops were a nuisance in every village, being the resort of the young and idle. Some were little better than tippling huts, being maintained by persons who could not afford to pay fines, let alone buy a licence. No effective means had been found for their suppression.<sup>36</sup>

Improvements had however occurred in certain districts; on the Isle of Sanlay in the Shetlands, it was stated that a beneficial change in the condition of the poor had been observed, due to the decline in whisky

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34 ibid., V, Moulin, p. 18.

35 ibid., IV, Ardelach, p. 153.

36 ibid., VII, Urray, op. cit.

drinking, only a quarter was being consumed as formerly, because the landowners had worked energetically to check sales of liquor. During the 1760s, there were at least 'a dozen or more alehouses in the Isle of Sanday', which by the 1790s had fallen to five; the decrease had contributed both to the improved industry and conduct of the people. They were spending less money on spirits, and much more on 'buying fine cloaths', a practice which was pardoned as being 'a more venial and excusable way of expending it.'<sup>37</sup>

Because intemperance was so prevalent around Cromarty, the local proprietor had erected a brewery which was designed to give the people 'at an easy rate', the chance of having 'a wholesomer and less noxious liquor', than whisky; it was regretted that the low price of spirits had undercut beer 'among the lower ranks.' Hence improvement was expected in changes in taxation, which would transfer the duty on coal to spirits - the inhabitants would thereby suffer a reduction in 'what heated them internally', by being given 'more easy access to comfortable heat of an external nature.'<sup>38</sup>

The attitude of the landowner was crucial. In Alvie parish, the people were 'much addicted to drinking whisky', and hence 'at their public meetings (such as burials &c) squabbles are frequent.' There were no less than 13 dram houses in the district, without a county or excise licence, to the serious prejudice of 'the purse, constitution, and morals of the natives.' The laird was disinterested, and lived at a distance, as did the sole Excise officer responsible for the area.<sup>39</sup> The Islay parish of Kildalton had a 'peculiar privilege' which affected distilling on the island. The Campbells of Shawfield, who were landed proprietors there had obtained it so that 'This

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37. O.S.A., VII, Aithsting & Sandsting, p. 502.

38. Ibid., XII, Cromarty, p. 255.

39. Ibid., XIII, Alvie, p. 376.

island hath a liberty of brewing whisky, without being under the necessity of paying the usual excise duty to the government.' There was no Excise officer on the island. Not only were the islanders drinking to excess, but to distilling was attributed a major cause of the people's poverty, 'for the barley that should support the family of a poor tenant is sold to the brewer for 17s. the boll, and the same farmer is obliged to buy meal at 1£ 5s. sterling, in order to keep his family from starving.' The poor thus incurred debts, and had to ask for advances from brewers and distillers against their barley crop, whereas other grain growers could receive a higher rate for it, if they sold their crop on the open market.<sup>40</sup> The laird subsequently tried to establish a brewery, and confiscated private stills.<sup>41</sup>

Justices of the Peace, who were often also landed gentry, could also take action to control dram shops. At Kirkhill, changes in distillery legislation had driven up barley prices, and caused the district to be inundated with whisky, as the sale of spirits distilled in a particular area had been confined to that area. Consequently, the excess of whisky without a wide market had cheapened it to 9s. per Scots gallon or 4d. per English pint. It had also increased the temptation to smuggle the spirits to other districts, while the temptation to drunkenness had also become strong. Alehouses and dram shops thrived, there were eight in the parish, until the Justices of the Peace shut them down, leaving only two of these 'seminaries of vice and idleness', so that travellers on the main road might be accommodated.<sup>42</sup>

Unlike the situation in Alvie, at Bower in Caithness, the number and vigilance of the Revenue officers was commended, as were the high duties which

40. O.S.A., XI, Kildalton, p. 296.

41. MacDonald, J., General View of the Agriculture of the Hebrides or Western Isles of Scotland (1811), p. 617.

42. O.S.A., IV, Kirkhill, p. 122



discouraged the making of malt and beer. The building of a number of small distilleries, stimulated by new legislation, was described as being very unfavourable to the people's welfare; they had too frequent recourse to spirits 'in public meetings, or at markets, and country fairs ... in Caithness.'<sup>43</sup> These jollifications were a cause for regret in Boleskine and Abertarf (Inverness) where 'the lower set' were wont to assemble of an evening at whisky houses. The parliamentary prohibition placed upon distilling in order to conserve grain in 1793 had effected some improvement, by wiping out many drinking dens.<sup>44</sup>

Limitation and control of liquor consumption was thus possible where landowners or Justices of the Peace would exert themselves to supervise the number of dram shops, or where Excise intervention, or a temporary parliamentary prohibition reduced both whisky supplies and retail outlets. The position of the ministers in assessing the incidence of whisky consumption was ambiguous, because their incomes were usually related to grain prices, on which the teinds of their parishes depended. Whisky was not the sole tippie; in Banchory-Devenick, it was possible to buy 'gin smuggled in upon the coast'.<sup>45</sup> Gin smuggling was in decline, and there were two distilleries, as well as some 10 or 12 public houses in the district. In Shetland, the impossibility of carrying on the fisheries in hard weather without the comfort of gin was admitted; again gin may have been illegally imported from the continent.<sup>46</sup>

Improved incomes and living standards were increasing the consumption of luxuries, such as tobacco, tea, and whisky. The Shetlanders were enjoying a very coarse kind of black tea, often taken without milk or sugar, which

43. Ibid., VII, Bower, p. 526.

44. Ibid., XX, Boleskine & Abertarf, p. 33.

45. Ibid., IV, Banchory-Devenick, p. 451.

46. Ibid., VII, Aithsting & Sandsting, op. cit.

together with the immoderate use of spirituous liquors was claimed to be damaging to their constitutions and circumstances.<sup>47</sup> Hospitality demanded drink as well as food; wherever men congregated for business or pleasure, liquor was drunk. The merchant struck his bargains over several drams, and the judge took his claret bottle into court. Births, marriages and deaths gave an excuse for a dram, and the men were often helped in their drinking by the women folk.<sup>48</sup> Some customs which relate to women and whisky drinking are described in the Account. At Stornoway the maid servants partook of a wine glass of whisky from their mistresses every morning. If this practice were not followed 'discontent and idleness' ensued, and domestic harmony was disrupted below stairs.<sup>49</sup> Influential townspeople had tried to abolish the custom when distilleries stopped production in 1793, by withholding 'the dear cordial' from their female domestics, and offering compensation in money, but to no avail.<sup>50</sup> In Rothiemurchus on Speyside, although the men might have a dram before setting out in cold wintry mornings, whisky was always handed round when they arrived at work. A lad with a quarter anker cask on his back, and a horn cup in his hand visited them three times a day. They took their morning dram 'raw', or undiluted, as they did their gill at parting when work was over; the mid-day dram was part of a meal - bannock, cheese and whisky during a twenty minute break from tree felling. Strangers, messengers, and even children were given a dram. The Spey floaters lay down for the night in their wet clothes - 'for they had been perhaps hours in the river - each man's feet to the fire, each man's plaid round his chest, a circle of wearied bodies half stupified by whisky,

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47. Ibid.

48. Handley, op. cit., p. 81

49. O.S.A., XIX, Stornoway, p. 258.

50. The Steins, Capitalist Distillers, infra.

enveloped in a cloud of steam and smoke.<sup>51</sup>

### Summary:

In the Highland region, population was growing rapidly; the report for Urquhart shows that the population was estimated as being 1943 persons in 1755, but it stood at 2755 by 1790, an increase of about 20 per cent.<sup>52</sup> Other parishes displayed similar trends. The inhabitants had but small patches of ground; they reared cattle, and in favoured littoral areas had variable gains from fishing. They greatly needed supplementary sources of income for rent and other purposes. Whisky distillation supplied such a requirement, and the product by its nature offered a release from misery and toil. Hence a household activity was fast becoming commercially orientated. On the southern and eastern margins of the Highlands, the incursion of a lowland industrial pattern was noticeable in the number of more substantial licensed distilleries which were in action, but in remoter districts, the independent peasant tradition of private distillation was more tenacious. There a tenant might leave among his modest possessions, an item of equipment incongruously valuable - a still, worth perhaps £3 or £5, which was the mark of his position at the centre of a distilling group.<sup>53</sup> Sma' still distillation was thus widespread from Argyll to Aberdeenshire

### The Lowlands:

#### (1) Grain.

The effects of agricultural improvement were most conspicuous in Lowland

51. Grant, E., Memoirs of a Highland Lady 1797-1827, (1940), p. 154.

52. O.S.A., XX, Urquhart & Glenmoriston, p. 306.

53. Gray, M., The Highland Economy. 1750-1850, pp. 51-2

Scotland. By the end of the eighteenth century not less than 20,000 acres were being used for growing barley in Fife. Most of the crop was consumed by breweries and distilleries in the county, where considerable quantities were made into pot or malted barley, and the remainder was exported. About 42,000 bolls were being malted each year.<sup>54</sup> (Such evidence makes the claims advanced for the parish of Salton in East Lothian, rather exaggerated. The techniques of manufacturing pot barley, and of weaving holland were introduced to the district by Mrs. Fletcher of Salton. The inhabitants were alleged to have supplied the whole of Scotland with these articles. The lady of Henry Fletcher of Salton had travelled in the Low Countries, thereby acquiring her specialist knowledge.)<sup>55</sup>

Barley was also extensively cultivated in the Lothians for the purpose of distilling and brewing. In the parish of Dunfermline, it is recorded that 'from 6,000 to 10,000 bolls of barley' were converted annually into 'spirits, porter, strong and small beer.' By comparison, the counties on the western seaboard, such as Ayrshire, were less suited to cereal production, principally for climatic reasons. Farmers there preferred growing 'bigg' or bere to barley. The average weight of the former was only 4 lb. per Winchester bushel, while the latter was estimated at 52 lb. per bushel. Bere was described as being 'hardier and quicker in its vegetation.'<sup>57</sup> Until the early 1790s, maltsters did not pay a sufficient price differential to express the greater value of barley as compared with bere, but by 1793, barley was selling at 25s. per quarter while bere was 4s. to 5s. cheaper.<sup>58</sup>

54. Thomson, J., General View of the Agriculture of the County of Fife, (1800), p. 301.

55. O.S.A., X, Salton, p. 25.

56. Ibid., XIII, Dunfermline, p. 479

57. Fullarton, Col., General View of the Agriculture of the County of Ayr, (1793), p. 26.

58. Ibid.

Grain prices in Scotland were tending to rise; between 1750-1775, barley had been selling on average at 16s. per boll, but thereafter in 1775-94 it rose to ~~18s.~~ to 19s. per boll. By 1810, barley had doubled in price, while other cereals and foodstuffs had risen in proportion. The increasing remuneration of labour usually kept pace with prices, for recompense was often in kind.<sup>59</sup>

The impact of improving transport on grain prices in the Lowlands is stressed in Carnwath parish, where 'Before the Clyde and Forth Canal [sic] was made, meal was sold ... at 2s. or 2s. 6d. per boll, below what it brought at Glasgow.' Small tenants had occupied much of their time in carting grain to Cambusnethan for the supply of the Glasgow market. Once the canal was opened, two weekly markets were held in Carnwath, at which meal and bere were the main commodities bought and sold.<sup>60</sup>

Until 1816, duty payable by distillers depended upon the volume of a still's content, which induced tax avoidance. There were four distilleries in Fife c. 1800, with a combined still volume of only 214 gallons, but the small capacity was offset by the rapidity of working. The construction of the stills was 'evidently calculated to work them off with the greatest possible dispatch', and greater regard was alleged to be had for profit than for the quality of the spirits. The stills were estimated to consume 90 bolls of malt each per week, whereas if quality had been the prime consideration 60 bolls of malt would have been enough. The annual malt bill was 4,60 bolls per still, giving a total of 18,720 bolls. Each boll was supposed to yield 11 gallons of spirits; hence the yearly output of spirits from Fife, based on rapid distilling, was put at over 200,000 gallons, with a corresponding duty return of £21,852.<sup>61</sup> The distilleries were processing about 30

59. Hanley. op. cit., p. 274.

60. O.S.A. 7. Carnwath, p. 330.

61. Thomson. op. cit., p. 301.

per cent more grain each year than they would have done, had working been more normal.

(II) Organisation and Scale:

The application of steam power, improved transport facilities, and of specialist techniques were rapidly changing distilling into a mass production industry in Lowland Scotland. This trend is well exemplified in the detailed examination of the Kilbagie and Kennetpans distilleries of the Stein family which is given in the report for Clackmannan parish.<sup>62</sup> It is estimated that already by 1777 the distilling of Scotch whisky was carried on there 'to an extent hitherto unknown in this part of the island of Great Britain.' The quantity of grain required each year at the Kilbagie distillery amounted to over 60,000 bolls, and from this was derived an annual volume of spirits, 'above 3000 tons.' Nor was the distillery slow in turning its by-products to advantage, because 'the black cattle fed ... were about 7000; swine, 2000'. The cattle were sold to butchers who drove them to the Edinburgh and Glasgow markets, while the pigs were killed and cured into bacon and pork for export to England. The use of waste as fodder was not confined to big distilling units. In Torphichen parish, for instance, a distillery existed which barely consumed 2,000 bolls of barley per annum, but 40 head of cattle, weighing on average 40 stone each, were fattened on the spent grain.<sup>63</sup>

The total number of work people at Kilbagie was almost 300. The minister of Clackmannan noted with approval that 'the stills were worked four times-a-day, and work was stopped on the Sabbath from 10 to 15 hours, and the same time on Fast days as appointed by the Church.' A very substantial investment in buildings and equipment had been made by the Steins, Kilbagie

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62. O.S.A., XIV, Clackmannan, p. 623.

63. Ibid., VII, Torphichen, p. 252.

alone having cost over £40,000. The great enterprise suffered one of several setbacks in 1793 when an adverse change in legislation forced the trustee for the creditors of the former proprietor to sell the premises for about £7,000 sterling, a give-away price. In 1788, an additional 6d. per gallon was laid on Scots spirits sent to England, which was a severe blow to distillers who depended on the English market, and several of the largest units had to close down. Among the most substantial were those of James and John Haig at Canonmills, Edinburgh, James Stein at Kilbagie, and John Stein at Kennetpans.<sup>64</sup>

Before Kilbagie and Kennetpans went out of production, they had been much admired; their location was most advantageous - 'no situation could have been more eligible for a distillery'. The buildings, 'erected in the most substantial manner', occupied over four acres of ground, and were surrounded by a high wall. The barns for malting were said to have been of a 'prodigious size', and four storeys in height. For milling, 'a small rivulet' ran through the works and drove a threshing mill, as well as all the grinding mills in the distillery, 'besides supplying with water a canal, of about a mile in length, cut for the purpose of conveying both the imports and exports of the distillery to the river Forth'. The area bordering the estuary was a target for canal promotion, and the Kilbagie canal was cut to take grain from the wharf at Kennetpans on the Forth to James Stein's distillery. The canal was constructed about 1780, and by 1861 had been obliterated.<sup>65</sup>

Likewise Kennetpans distillery was 'advantageously situated on the very banks of the river Forth', and it was reckoned to be 'in proportion to that of Kilbagie as three to five.' Kennetpans had however 'an engine of Boulton and Watt's construction', which was stated to be the first of its kind that was erected in Scotland.<sup>66</sup>

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64. Ibid., XIV, Clackmannan, op. cit.

65. Lindsay, J., The Canals of Scotland (1967), p. 188

66. O.S.A., XIV, Clackmannan, op. cit.

The employment opportunities afforded by these concerns is reported to have occasioned a large increase in the population of Clackmannan from 1755 onwards. Notice is taken of the number of people who for many years had crowded to the parish in order to be employed at the distilleries; a consequence of the closures was that 'a great many families' left the area. By 1794, some of these were returning, not only because the distilleries were beginning to revive, but also because the Devon Iron Work had opened nearby c. 1792.

Like the Stein enterprises, the distillery of Aitchison, Brown & Company at St. Clement's Wells, near Tranent, was a large one. The Account relates how there had once been a sma' still on the site, but 'by the spirited exertions of the present company', the business had been expanded. Coal was conveniently present in a field adjoining the works, the seam being about 2 feet thick, 'at the depth of only 15 fathoms', so that coal cost the distillers about 5s. per ton.<sup>67</sup>

Reference is also made to the same distillery in the report for Inveresk, as the premises were near the boundary of that parish. The buildings included a rectifying house (still house), maltings, and workmen's dwellings. The total labour force in the various sections of the distillery was 120 persons. Although the distillery at St. Clement's Wells is described as 'of great extent', its productive capacity could only have been one quarter of that of Kilbagie, because the barley made into malt from 6 July 1791 to 6 July 1792 amounted to 13,131 bolls. Cattle and pigs were reared on the distillery waste. One estimate shows that 900 head of cattle, and 300 pigs were fattened each year, while another puts the cattle at '600 twice a year, besides many hundreds of hogs at the starch work', which was owned by the same firm. The beneficial effects of the manure on the surrounding farm lands was noted.<sup>68</sup>

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67. Ibid., X, Tranent, p. 87.

68. Ibid., XVI, Inveresk, p. 14.



Large scale business units were already developing in regions beyond the Lowlands proper; Aberdeen was, and is, in a marginal position both to the Highlands and the Lowlands. In the late eighteenth century, sma' stills were disappearing from the Aberdeen district at the same time as distilleries on the Lowland pattern were being established there. The sma' stills also suffered in competition with the Lowland distilleries, and hence the former were either 'given up or removed to the Highland districts', because the whisky manufactured therein was liable to be seized as smuggled goods. The city had therefore come to depend upon 'the large distilleries in the south of Scotland for supplies of whisky.' Prior to 1793, the quantity of spirits brought to Aberdeen from the adjacent Highland area was said to be 'very great and in general of a very bad quality', which runs counter to the usual tributes paid to Highland whisky.<sup>69</sup>

A new distillery 'on a pretty extensive scale' was in fact completed in Aberdeen in September 1794. It was adjacent to the Bridge of Don, the main reason for selecting the site being 'the command of water, 38 feet perpendicular upon the banks of a navigable river'. The minimum capacity of the plant was to be the yield of alcohol from 12,000 quarters of grain, but in 1795, 'owing to obstructions from the severity of the weather ... the embargo, and the prohibition [on distilling], only 8215 quarters were brewed.' The major part of the grain was grown in Aberdeenshire, and the rest was entirely of Scottish origin. Aberdeen had had a sizeable export trade in barley and malt during 1790-5, and substantial quantities of spirits had been imported. No figures are however given for this trade, but the statement agrees with the view that the city was at least officially supplied with whisky from Lowland sources.

The distillery in Aberdeen used 'half barley and half bear'. The former was preferred because it contained 'more farina, or saccharine matter

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69. Ibid., XIX, Aberdeen, p. 22 (et seq.)

... and it is that only which produces spirit'. With some authority, the account states that 'potatoes are less fit for distillation than barley; the spirit produced is much fouler'. No future was seen for large scale production based on the potato. It is added that 'rye may be used to advantage with malt and barley, but it must be in a small proportion.' Referring again to the Distillery Acts, it is said that all barley used in distilling would be malted 'if there was no duty on malt', because malt would yield more saccharine matter than barley. It thus happened to be in the interest of the distiller to employ as much raw grain as he could, thereby saving the malt duty. While this left a more nutritious waste for animal feeding, the spirit extracted from wholly malted grain, was acknowledged to be 'much finer and wholesomer.' To-day pot still whisky is of course made entirely from malted barley. The Aberdeen report suggested that parliamentary action should be taken to ensure that only malted grain was distilled in Scotland.<sup>70</sup>

The wash still at Bridge of Don was of 2,650 gallons content (a modern one is from 3,000 to 5,000 gallons in capacity). The increasing scale of distillery operations was causing serious difficulties about the disposal of waste, and the utilisation of by-products. The careless disposal of the waste, or 'bottoms' from the wash still at Bridge of Don was shown to arise from the distillery laws. Two methods were suggested to ameliorate the situation. Firstly, distillers should be allowed stills which would permit them to extract spirit from the waste, without obliging them to throw the bottoms away. Instead, they should be allowed to mix and re-distil the bottoms with a new charge of wash. Alternatively, distillers could be permitted 'a proper number of hours to work their stills off', a course which was preferred. Approximately one-tenth of every volume of wash was thickly sedimented; in England this portion was often run to waste in

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70. Ibid.

rivers under Excise supervision, 'thereby saving the duty of 9d. per gallon, and avoiding the danger of burning the still.' In Scotland, it was only thrown away to avoid burning the still, and therefore the legislature should make it 'the interest of the corn distiller to extract all the spirit in and from the corn', without running the risk of damaging his equipment.

Another factor was the rapid working of stills; distillers worked against time, because they paid a fixed sum per gallon of still content. It was actually alleged that some stillmen were able to charge a still 25 times in 24 hours, instead of only once or twice in that time, producing a flood of cheap and noxious liquor.<sup>71</sup> The rummager, a copper chain mesh which revolved within the wash still, and agitated the wash, was however coming into use in the 1790s, and much later the introduction of steam heated stills reduced the hazard of the solid particles in the wash adhering to the base of the still.<sup>72</sup>

Pollution was clearly a problem at Bridge of Don; the report condemns the fact that 'most of the spent wash or burnt ale, and much of the dung, is thrown into the river, which besides injuring the water, is a loss to society.'<sup>73</sup> Similarly at Leuchars in Fife, fishings on the river Eden had been harmed 'since the distillery was erected upon the south side of the river at Kincaple.' Noxious effluent from the plant had 'much injured' the fish, so that 'no salmon can be purchased now below 4d., or frequently 8d. per pound.' If pollution could be stopped, waste could then be fed to cattle and pigs, and 'the manure would enrich the lands contiguous.'<sup>74</sup> Likewise, it was believed that the Bridge of Don distillery could support '400 cattle, or

71. Ibid., XVIII, Kirkcaldy, p. 56.

72. P.P., The Report from the Committee upon the Distilleries in Scotland: 1798-9, p. 691.

73. O.S.A., XIX, Aberdeen, op. cit.

74. Ibid., XVIII, Kincaple, p. 597.

1000 hogs, yielding sufficient manure to fertilize annually from 15 to 20 Scotch acres of the most barren land'.<sup>75</sup>

Summary:

The Lowland capitalist distilleries had introduced new elements into Scottish distilling by 1795. Their trade had expanded beyond the confines of their homeland, where sma' still operators were beginning to suffer at their hands, and had generated inter trade rivalry in the English market where they had developed an export business in the London area.

(III) Marketing and Consumption:

Disquieting as conditions in the Highlands undoubtedly were as regards the consumption of whisky, the situation in Lowland parishes by the end of the eighteenth century was inestimably worse. Just how bad in terms of misery and drunkenness, it would be hard to assess, because the ministers' polemics tend to obscure the facts. One theme does run through the majority of the reports - it is the lament for the passing of beer and ale as the national drink of the Lowland Scots.

Turning first to Central Scotland, one finds in the Barony of Glasgow, a catalogue of the evils resulting from the consumption of spirits. The increase in drinking was thought to be due to 'the great increase in wealth' in the locality, as much as to the excessive number of public houses for the retail of liquor. Labourers, especially, and young people were seen to be 'early corrupted and ruined', because of the cheapness of alcoholic beverages. The solution, it was argued, lay in restricting licences for public houses, a reduction in the use of spirits, and the substitution of 'good wholesome ale'.<sup>76</sup>

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75. Ibid., XIX, Aberdeen, op. cit.

76. Ibid., XII, Barony of Glasgow, p. 126.

In Hamilton, the degeneration of beer was much regretted. It is recorded that the favourite drink had formerly been 'a lively malt liquor of moderate strength' which had been well made in the district, but 'whisky which inflames its votaries with fury or, debases them into the grossest stupidity', had become the common beverage. All moderation had since vanished. Because the parishioners of Hamilton were 'deficient in virtue rather than determined in vice', Sunday schools had been set up 'to rescue the children of dissolute parents', a pattern which was the forerunner of much of the remedial work attempted in the following century by temperance societies and other bodies.<sup>77</sup>

In the village of Carnwath, there were six public houses, in which 'small beer, porter, but particularly whisky' were sold. Because whisky was so cheap, it was debauching many of the work people; the volume consumed each year is described as being 'almost incredible.' Unfortunately, those who had least funds for their support appear to have been most addicted to it. Over and above the public houses, every shop in the village sold the same liquors, and they were also available in other parts of the parish.<sup>78</sup> A clear relationship was shown to exist between the immoderate consumption of alcohol and poverty.

Similar complaints are found in the Paisley report; the distillery business is described as being 'carried on to a great extent', and 'the spirit manufactured in great perfection'. While much of the product was sold elsewhere, too much was consumed in the town; dram shops and ale houses were too numerous, being crowded with vagrant, idle and profligate persons, as well as acting as a snare to the sober and industrious. The evil might be stopped by the limiting of the number of public houses, and by imposing what are now called licensing hours (they are termed 'restraints' in the report) to reduce

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77. Ibid., II, Hamilton, p. 200.

78. Ibid., X, Carnwath, p. 539.

the hours of opening. Justices of Peace already had authority to curtail retail outlets, but what was needed in Paisley at least was the exertion of their control.<sup>79</sup>

In Govan parish, many 'operative people' (279 of whom were weavers) lived and worked. Temperance was again sadly lacking, as there were 22 ale and whisky houses. Entries in the Excise officer's books disclosed that 'when the cotton manufacture was in a flourishing state', over 1,500 gallons of whisky were being consumed in Govan in a quarter. Here too, 'licentious cabal' had usurped 'the place of peaceable and sober department.'<sup>80</sup>

Industrial growth and its concomitant urbanisation, were thus prominent factors in the surge of liquor consumption - in textile centres like Govan and Paisley, in coalmining districts like Hamilton and Carnwath, and in the thriving commercial city of Glasgow. Social upheaval was leading to changes in standards of behaviour and habits, which were stimulated by the relatively high wages associated with the new developments.

In Stirlingshire, there was also a superabundance of drinking places. Stirling itself showed some improvement as there had been a reduction in the number of 'tippling houses' from 94 to 68, due to rises in duty on spirits. Further tax increases were however desired to prevent the growing depravity of the people, while it is again stated that defective legislation had forced them to take spirits for 'want of good wholesome beer.' The oppression of the brewers by unfavourable duties, and the encouragement of distillers is criticized. As a result, Scottish breweries were producing 'a thin vapid sour stuff, under the name of small beer.' Those who could afford to do so drank English porter, but poor labourers, finding that their beer 'neither warms nor nourishes' were driven to buy 'ardent spirits selling at a very

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79. Ibid., VII, Paisley, p. 89.

80. Ibid., XIV, Govan, p. 295.

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79. Ibid., VII, Paisley, p. 9.

80. Ibid., XIV, Govan, p. 295.

reduced price in the district.'<sup>81</sup>

There is evidence from Larbert and Dunipace, that 'not only was aquavitae to be had in abundance', but also that it had 'got the better of some of the fair sex'.<sup>82</sup> Elsewhere, maid servants, who had served in fine houses, and then married humble men, were alleged to 'betake themselves to ardent spirits to kill their griefs', while other women openly haunted dram shops, those 'nests of vitiation'. It is concluded that 'if the mothers of families are corrupted, virtue must be gone', and the law must be reviewed to prevent such occurrences. Both in the Hamilton and New Port Glasgow surveys, the rising 'shameless' consumption of alcohol by women and girls is deplored.

In Fife, the towns were characterised by a profusion of public houses. Kirkcaldy had 31 of these, and 19 licensed shops, a number which gave one to every 13 families in the town. The people had rather a reputation for their drouth; in the time of Charles II, the magistrates received a charter to levy a temporary imposition on wines and spirits sold in the burgh, as a means of paying off public debts. By the early eighteenth century, it was the custom for the prominent citizens 'to take a regular whet in the forenoon, and most commonly to spend the evening in the public house.' Although this practice had been abandoned, the 'lowest orders' were drinking spirits to excess; labourers were taking 'whisky, with a little bread to their breakfast'. Whisky from the over-worked Fife stills was so cheap, abundant and noxious - and the ruinous effects were so obvious - that the tax should be taken off beer, and placed heavily on spirits and on the distiller.<sup>83</sup>

A change in habits had also happened south of the Forth in Kirkliston from 1750 onwards. The people 'entirely departed from the pernicious custom of having their meetings for business or pleasure in the public houses', but

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81. Ibid., VIII, Stirling, p. 293.

82. Ibid.

83. Ibid., XVIII, Kirkcaldy, p. 56.



a footnote shows that 'the ambition for gaiety' might overcome their new moderation. The 'ambition' was ascribed to the low price of spirits, 'about 3s. the English gallon in retail', which was making whisky popular, with regrettable results.<sup>84</sup>

The Dunfermline ratio of public houses to inhabitants was even higher than in Kirkcaldy. No fewer than 101 alehouses functioned, one of which was an inn, and two or three were very inferior. Some shops also sold spirits 'in small quantities'. In the 1760s, it had been general practice for ale brewed in the town to be drunk by the trades people, for 'not only in the home, but even in the public house, they sought no better cheer.' Although 10 brewers were still in business in the 1790s, their product, once esteemed as a healthy and invigorating beverage, had fallen into disuse. Due to additional taxation, and other causes, it had become 'sadly degenerated' and 'so weak and insipid' that whisky had been substituted.<sup>85</sup>

A footnote amplifies the point made about the need to stimulate breweries; it was believed that if the duty on ale was lifted, and instead placed on whisky, frauds on the revenue would diminish, and the quality of ale would be better. The incidence of the malt tax probably resulted in the comparative profit being greater in distilling than in brewing, and as a result brewing appeared to be declining as an art. The Kirkcaldy account includes a warning from 'an intelligent writer ... Dr. Smith, in his "Wealth of Nations", III, 370'; he foresaw that those who brewed for their own use might suffer by such a change, and indeed 'persons in superior positions', who prepared their own ale were opposed to reform, perhaps because home made beer was scarce and had 'snob appeal'.<sup>86</sup>

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84. Ibid., X, Kirkcaldy, p. 71.

85. Ibid., XIII, Dunfermline, p. 459.

86. Ibid., XVIII, Kirkcaldy, op. cit.

More details about home brewing occur in the report for Marykirk (in Kincardine), where in 1771, 'every family in the parish brewed the small beer they needed, which cost them about 15d. to 16d. per barrell'. Some of the best worts were converted into a stronger variety, but this practice had been entirely given up, and the people had to purchase beer from a brewery at 2s. 6d. per barrel. Regarding whisky (the only spirit available in the area), it could be had for 3s. 6d. a pint, but it was of an inferior kind to that sold in the 1770s, when very good whisky could be bought for 1s. 10d. to 2s. 2d. a pint. The government's attention was drawn to an abuse which was most prevalent, namely the deterioration in the flavour and aroma of whisky, ascribed either to lack of attention to the craft of distilling, or to the mixing of whisky with 'some pernicious ingredients', which were said to be 'very destructive to the bowels, or to the health or constitution of those who drink it.' Otherwise, whisky 'when properly done' was much admired 'as very little inferior to rum.'<sup>87</sup>

An amelioration in drinking habits was also sought in Inveresk, and other parishes in the Lothians. Although an increase in the price of spirits might prune back consumption, a 'cheap and wholesome beverage' must be supplied as an alternative. The old drink, twopenny, was of poor quality in the district, allegedly due to the high price of barley. So little was being brewed that many families were supplied with 'table beer' from Leith or Prestonpans. Thirty licensed ale houses flourished in nearby Tranent, but these in fact sold, not beer, but 'betwixt 3000 and 4000 gallons of whisky', each year, over and above what was ordered privately from distillers. The whisky trade was reckoned a disgrace, and despite the large revenue to the Exchequer, it indicated a falling away 'in moral and social values'.<sup>88</sup>

In the Kirkliston area, there had been some seven prosperous breweries

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87. *Ibid.*, XVIII, Marykirk, p. 636.

88. *Ibid.*, XVI, Inveresk, p. 14.

in the 1760s, but only two were in action. The consumption of spirits had risen noticeably in the interval; indeed the drinking of whisky gave indications of 'unlimited excess.' The progress towards this condition was stated to be more marked in large towns than in the countryside (a view which the other reports endorse), because in the towns, 'the daily, and even hourly price of labour supplies the constant means', whereas in rural areas, moderation was still commended.<sup>89</sup>

Meantime, as in Kincardine-upon-Forth, distilleries were multiplying; there were already four stills in the parish, and more were contemplated. The retail houses for spirits numbered about 30.<sup>90</sup> Educated men considered the large Lowland distilleries 'gulphs, which swallow up prodigious quantities of grain ... and discharging harmful spirits destructive of health and morals.'<sup>91</sup> The legislature was invited to devise a means of popularising home-made beer.

The location of public houses was related to some extent to the presence of military roads. Blairgowrie, for example, being on such a road from Perth to Braemar, had a plethora of dram shops, because any of the local people could sell ale or spirits on the payment of 1s. annually. Consequently, there were 19 retail outlets in the burgh, with a deleterious effect on the inhabitants.<sup>92</sup> The closure of all such premises would have been a serious matter for travellers, and persons on business, because they were places for not only drink, but food could be obtained, and in the case of inns, accommodation overnight.

The Borders appear to have been no better than Central Scotland in terms of insobriety to judge by the parish accounts. These reiterate the dissatisfaction, and the clamant need to persuade the government to take action to

89. Ibid., X, Kirkliston, p. 71.

90. Ibid., III, Kincardine upon Forth, p. 516.

91. Ibid., XVIII, Scone, p. 81.

92. Ibid., XVII, Blairgowrie, p. 201.

regulate both the quantity and quality of spirits.

In the South West, the retailers of whisky in Stranraer were doing a brisk trade, because people from the surrounding country patronised this market town. Hence there were too many retailers of whisky, both licensed and unlicensed. The outcome was the same as elsewhere - 'idleness, and the ruin of the health and morale of the lower sort of people.' In 1790, some 24,426 gallons of whisky and other British spirits were brought into Stranraer, and nearly £5,000 was drawn from the town and nearby parishes for whisky alone. It was remarked that people should be of more importance to the state than the revenue from taxation, and that legislation relating to distilling must be revised. Stranraer was not only a market for an agricultural district, but also a developing port both for the Irish trade and for fisheries in the Irish Sea.<sup>93</sup>

A sidelight on smuggling is contained in the account for Ruthwell in Dumfries-shire. It appeared that the purchase of the Isle of Man in 1765 and the subsequent check to smuggling 'in which all the people living upon the Solway Firth were more or less concerned' had improved social conduct. French brandy has disappeared, but unfortunately, whisky ('a spirit equally fatal to the health of the people, though not so hurtful to the revenue') had usurped its position. The latter 'accursed beverage' was on sale in tippling houses at 1s. 6d the Scotch pint.<sup>94</sup> If legislation was ever enacted to allow coal to be imported duty free, and to lay an additional tax on whisky, then the parishioners would return to 'the more wholesome liquor brewed from good malt', and their attachment to spirits would be broken. The parish of Keir experienced the same problem. Although inns were lacking, some ale or whisky houses existed, 'for whisky is the principal article they

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93. Ibid., I, Stranraer, p. 361.

94. Ibid., X, Ruthwell, p. 228.

deal in, and they have a great demand for it'. The habit of whisky drinking had made very rapid progress in South West Scotland, because it was an inexpensive drink, and furthermore 'a small quantity of it is sufficient, not only to intoxicate, but even to make a man mad.'<sup>95</sup>

At the other extremity of Scotland, in Coldingham (Berwickshire), the parishioners had acquired new tastes - they had become accustomed to breakfast upon tea (which was averred to debilitate them) instead of pottage, and the immoderate use of whisky was prevalent among 'the lower class'. The fault was said to lie in the cheapness of 'these two superfluous and pernicious articles', which were 'objects more fit for taxation than coals, candles, leather and soap'.<sup>96</sup> Chirnside also showed the relationship between intemperance and poverty, which was discernible in Central Scotland. When husbands patronised the local dram shops too frequently, their wives were left with no means of supporting their families, while the spouse 'irreclaimable in his vicious habit', might succumb leaving his dependents as a burden on parish charity.<sup>97</sup>

The most remarkable exposition on the dangers of spirits consumption is found in the report for Langholm, and the development of distilleries is deplorable. 'Of all the inventions of modern luxury, none have contributed more to destroy that spirit of contentment and industry, that sobriety and decency of manners which ... so peculiarly characterised the peasantry of Scotland, than the unlimited introduction of distilleries.' After the 1770s,

had all the fabled ills emitted from Pandora's box been realised, they could not have produced more deplorable effects, than when whisky, of all other liquors the most subversive of the health, the industry, and the morals of the people, become so cheap and

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95. Ibid., XII, Keir, p. 77.

96. Ibid., XII, Coldingham, p. 55.

97. Ibid., XIV, Chirnside, p. 43.

so common as to supersede the drinking of beer, the good old wholesome beverage of our fathers.' <sup>98</sup>

The tax placed on whisky should be so heavy that it would amount to a prohibition.

The condemnation of whisky is elaborated in a lengthy footnote which summarises the arguments against whisky, which are advanced in the other reports. It is argued that 'Tradesmen, some of whom at times have been able to earn a guinea a-week by the loom, &c., instead of living comfortably with their families, and having a little for a reverse of circumstances, have not often on Saturday night wherewithal to subsist during the ensuing Sabbath! Instead of observing Sunday in worship, and seemly pursuits, they were 'dozing over this deadly potion in some low tippling house or private dram shop'.<sup>99</sup> These observations were not based upon conditions in Langholm alone, but applied equally 'to every paltry hamlet, from Graham's Dyke to John O' Groats.'<sup>100</sup> Whisky must be eliminated; if not 'in vain will priests preach, or magistrates punish, if the origo mali is not removed.'

The recommendation from Langholm was that distilleries ('those contaminating fountains') should be greatly reduced in number, and that unlicensed dram shops ('those seminaries of wickedness') should be eradicated. Such major changes would not have gone unopposed. Firstly, vested interests would object that distilleries were lucrative and immediate markets for barley, and also productive sources of revenue. In Langholm, these economic arguments were discounted; the economy and administration of the nation should not depend on revenue, accruing from alcoholic liquor, but at the expense of consumers. Distilleries should be closed down, and breweries stimulated

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98 ibid. XIII. Langholm, p. 603.

99 ibid.

100 Graham's Dyke: Antonine Damart between the Clyde and the Forth.

that people might quench their thirsts 'at purer and more salubrious fountains'.

Conclusions:

Such problems led directly to a demand for government reappraisal of the situation - of the confrontation of Lowland distillers with Highland ones, and of the Lowland distillers with their London rivals; of sma' still production with rapid distilling techniques, and related questions. During 1798-9, the Committee upon the Distilleries in Scotland was convened by Parliament, and its reports were thereafter published.<sup>101</sup>

The Old Statistical Account presents a full sociological picture of the impact of the incipient Scotch whisky industry of the 1790s on the countryside and people, although the treatment afforded the economic aspects of distilling is less complete. The Account shows that beer and home brewed ales had been the popular alcoholic beverages in Lowland Scotland, but that changes in legislation had led to their being displaced by whisky, often of dubious quality. The growth of the big Lowland distilleries was seen with dismay because the sma' still operators in adjacent upland regions could not compete with the low cost output - at least on a price basis. In general, a sympathetic view was taken of the making of whisky in the Highlands, because it was one of the few marketable commodities that region possessed; with the proceeds of distilling rent could be paid, and access gained to a money economy.

There was disquiet especially in southern parishes over the rising consumption of spirits, an increase partly explained by their cheapness, and partly by the conditions to which the people were being exposed by the disruptive forces of industrialisation and urban growth. These fears were most clearly expressed in Central Scotland. Any betterment was looked for in

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101. P.P., Report from the Committee upon the Distilleries in Scotland 1798-9.

appropriate modifications being made in the laws relating to distilleries and the sale of spirits, and not in an improvement in social circumstances. It is possible however to find hints of the beginning of a movement that was to gather strength, and which was to have profound effects on the lives of ordinary Scots folk during the following century - this was the Temperance Movement, which along with the rise of the Free Church, was a far reaching popular educative platform in Victorian Scotland.



Legislative Change and Distilling

in Scotland

## Legislative Change and Distilling in Scotland

The basic raw material required for the distilling of Scotch whisky is barley, which is normally converted to malt by the controlled germination of the grain followed by its drying in a kiln. Malting is an essential stage in the making of either beer or whisky. Hence the extension of the malt tax to Scotland in the early eighteenth century had a considerable influence on the development of distilling, and the reduction in brewing. As the century progressed, the legislation affecting distilleries in Scotland became more complex, and the taxation more oppressive, and illicit distilling flourished. By 1816, practically all the trade, at least in the Northern Counties was in the hands of smugglers.

The Nineteenth century was a period of consolidation and development for the Scotch whisky industry. It began in the glorious confusion of the high days of the illicit distillers, and ended in the debacle of the whisky failure of 1899, arising from the bankruptcy of the firm of Pattison of Leith. Legislative change was at its most active period at the beginning of the century; at its conclusion, the questionings and arguments, which matured into the 'What is Whisky' case, were forming. There were two outstanding innovations in this century - the introduction of the Patent Still, and the practice of blending, both of which were the immediate factors which led to the controversy about what constituted 'Scotch whisky.'

### I. Legislative Changes to 1823

#### The Malt Tax

There are indications that the first taxes imposed on malt were levied about 1660 in Scotland. The Treaty of Union of 1707 led to an equalization of Customs and Excise duties, which initially brought an increase of these duties in Scotland; part of the funds raised in Scotland were employed to

service the greater national debt with which England was burdened in 1707. Compensation to Scotland took the form of 'the Equivalent', the capitalised value of the existing revenue-yield, and secondly, an 'Arising Equivalent', which was to be a continuous income from revenue raised in Scotland, and which was impossible to compute at the time of the Union. The latter was however to be composed of the total increase in the Customs and Excise returns from Scotland for the period 1707-14, and of that portion of the increase as would be required to meet subsequent payments on the English debt.<sup>1</sup>

Before 1700, the Scottish economy failed to make the financial gains which had been expected to result from the Treaty of Union; indeed, the Scots were perhaps more conscious of an added burden of taxation. Probably the most hated and controversial tax was the malt tax of 1713 and 1725. Yet even this extra levy failed to give the enlarged yield of revenue which Scottish entrepreneurs had anticipated under the second or 'Arising Equivalent'. Campbell believes that 'lack of buoyancy in the revenue, not English domination, was the basic reason why it became necessary to impose additional taxation, rather than provide additional expenditure after 1707.'<sup>2</sup>

Between 1707 and 1715 only some 5 per cent of the Customs revenue of Scotland went south; thereafter nothing was sent until 1747-8 when irregular, but fairly small remittances began. Nevertheless the performance of the yield from Excise duties is revealing. Directly after the Union, there being few charges and only light expenses to be deducted from the Excise operations in Scotland, substantial remittances were despatched to the Exchequer. It has been estimated that in the decade 1707-17, the Excise ran a surplus which enabled about 27 per cent of its gross produce, or 40 per cent of its

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1. Campbell, R.H., *The Anglo-Scottish Union of 1707*, Econ. Hist. Rev., 2nd Series, XVI, 3, pp. 473-4.
  2. Campbell, R.H., Scotland after 1707, p. 56.

net produce to go to the government. But as the costs, especially of maintaining the Scottish courts increased, these returns diminished, and in fact ceased after 1717. The principal reason why a swollen expenditure in Scotland, coupled with a continuous flow of revenue to the Exchequer, could not be sustained was due to the failure of the malt taxes to produce the desired results.<sup>3</sup>

Scottish opinion regarded the 1713 proposal that a duty of 6d. a bushel on malt be levied, as a flagrant breach of Article XIV of the Treaty of Union.<sup>4</sup> The latter had indeed forbidden the imposition of any malt tax during the period of the 'Arising Equivalent'. It brought widespread disapprobation, which even resulted in a proposal to dissolve the Union, but parliament endeavoured to introduce the tax.<sup>5</sup> Records of the Scottish Exchequer show that revenue was raised from the malt duty as early as 1713; the duty was half of that enforced south of the Border.

When receipts from the malt tax ended in 1717-18, the net produce to the Scottish Exchequer was only £1,500; the English Exchequer got no remittances thereafter. The net produce was indeed negative in 1724-5. Thereupon, Walpole's government took the decision to lay a tax of 6d. per barrel on ale, which provoked a storm of abuse, and fomented riots in Scotland.<sup>6</sup> To Scots, it was the final outrage dealt by the Union. (In 1708, the output of two-penny was estimated at 288,000 barrels, while the production of spirits was put at 50,844 gallons,<sup>7</sup> but in the course of the eighteenth century, beer declined in significance, and whisky became a popular drink).<sup>8</sup> The opposition

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3. Campbell, *op. cit.*, pp. 56-7.

4. Treaty of Union: 1707, Article XIV.

5. Mackie, J.D., *A History of Scotland* (1964), p. 265.

6. Act 1 Geo. I, c. 2.

7. Morewood, S., *Essay ... on Inebriating Liquors* (1824), p. 315.

8. Survey of Distilling in Scotland, c. 1795: *supra*.

was so widespread and determined that Walpole had to abandon his tax on ale, and substitute a duty of 3d. on each bushel of malt. He gave the assurance, described by many contemporaries as 'a blind to make the tax go down',<sup>9</sup> that any revenue raised over and above £20,000 would be employed to stimulate the manufactures of Scotland.

The Jacobites tried to make political capital out of the imposition, 'No Union, no malt tax, no salt tax', being their slogan. The brewers in Edinburgh gave notice that they intended to stop brewing until the levy was lifted, thus endangering the city's supplies of yeast for use in making bread. Excise officers in Hamilton, Paisley and Ayr, among other burghs, were refused access to maltsters' barns, and in some cases, were actually assaulted.<sup>10</sup>

The most remarkable form of protest over Walpole's malt tax was made in Glasgow, where in 1725, there were very many malt barns and malt kilns, as well as an active guild of maltmen.<sup>11</sup> Accounts of the chain of episodes resemble the synopsis for an opera. Initially Glasgow maltsters refused to admit Excisemen to their premises to take account of their stocks. This refusal led to mild disorders, culminating in a riot which became known popularly as 'Shawfield's Mob.'<sup>12</sup> Daniel Campbell of Shawfield was the Member

9. Woodrow, R., Analecta (Maitland Club, 1842), ii, p. 281.
10. Sillett, S.W., Illicit Scotch, p. 19.
11. Mitchell, J.O., Old Glasgow Essays (1905), pp. 18-20.
12. Clelland, J., Annals of Glasgow (1817), p. 32.

Biographical Note: Daniel Campbell of Shawfield was Member of Parliament for Glasgow, Rutherglen, Renfrew and Dumbarton from 1716 to 1754, although in the election of 1727 his claim to the seat was disputed. He was a merchant and shipowner in Glasgow, trading in tobacco from Virginia, sugar from the West Indies, in iron, timber and herrings with the Baltic, and in brandy and wine with France and the Mediterranean. [See M.L. Shaw, 2/575].

Campbell of Shawfield also had transactions with maltsters in both Glasgow and Rutherglen, and in 1711 borrowed £800 from 'William Johnston, Maltman in Glasgow'. [See M.L. Shaw, 2/591]. He appears to have had an interest in distilling, because a letter, from correspondents in London, dated March 1702, concerns a distiller, William Walker, suitable for employment by Campbell. [See M.L. Shaw, 1/204].

He owned property in the Gallowgate and Saltmarket in Glasgow

Parliament for the town, and three adjacent burghs, and had incensed his constituents by voting in favour of the tax. In June 1725, when the tax took effect, crowds prevented the officers from entering the malt houses and breweries in Glasgow. Two companies of Lord Delorain's Regiment of Foot, commanded (not inappropriately) by Captain Bushell arrived in the town.

When the magistrates ordered the Town officers to prepare the Guard-house for their reception, the citizens intervened and attacked the officers. The military thus had to be billeted on the townspeople. During a lull in the storm, the Provost and magistrates, 'repaired to the Town Hall ...when no appearance of tumult existing, they all went to a tavern to spend the evening.'<sup>13</sup> The calm was brief, because the mob attacked Campbell of Shawfield's house, breaking the windows, and then proceeding to pillage it. The Provost in trying to control the mob, was insulted, and the Town guard beaten up; he was reluctant to use the military to restore order, although the aid of troops was offered.<sup>14</sup> The rioting continued, and eventually the sentries were attacked at the Guard-House, 'at the South-West corner of the Candlerigg-Street.' The soldiers tried to defend themselves against bombardments of stones; when the mob would not desist, Captain Bushell ordered his men to open fire, and

[See M.L. Shaw, 2/6967, and had a town-house erected in 1711, 'with a very imposing effect', facing the Trongate and adjoining the Stockwell.' [Mitchell, J.O., *Old Glasgow Essays*, pp. 18-20]. The mansion was 'enclosed from the street with a parapet wall interspersed with pillars supporting effigies of human figures'. [Clelland, J., *Annals of Glasgow*, p. 357.

The Shawfield Papers relating to Islay are fragmentary, because Campbell on acquiring the island, removed the residue of papers left by his predecessors to his house at Woodhall, near Holytown, Lanarkshire. A selection was later retrieved by Ramsay of Kildalton; what remained at Woodhall were burned in a fire which destroyed the mansion. [Gregory Smith, G., ed. *The Book of Islay*, Introduction].

13. Clelland, *op. cit.*, p. 32.

14. Renwick, R., *Extracts from the Records of the Burgh of Glasgow, 1718-38*, Address to His Majesty, 31 July, 1725, p. 228.

two persons were killed. The Provost meantime sent a messenger to the Captain that he had infringed the authority of the civil power.<sup>15</sup>

The mob then broke into the Town-house magazine and carried off the arms. Consequently, the troops were instructed to leave the city for their own safety, but in the course of their withdrawal, the troops were again attacked, and in self defence fired on the crowd, killing nine persons, and wounding seventeen. The soldiers were marched to Dumbarton castle.

The matter was immediately brought before the Secretary of State, and General Wade was sent to Glasgow in July, 1725, with a substantial force - Lord Delorain's Regiment returned, along with six troops of the Royal Scotch Dragoons, one of the Earl of Stair's Dragoons, together with 'an independent company of Highlanders, under the command of Captain Duncan Campbell of Lochnell.' A piece of artillery was brought up to overawe the opposition. General Wade was accompanied by Duncan Forbes of Culloden, the Lord Advocate, and also owner of the renowned Ferintosh distillery in the County of Ross. The troops proceeded to occupy the town.

As soon as the Lord Advocate had completed a preliminary investigation, nineteen persons were imprisoned. Captain Dushell and his men conveyed the prisoners to Edinburgh. Meanwhile, the Provost and leading magistrates were arrested by constables, and interned in the Tolbooth, on warrants issued by the Lord Advocate. In the latter, it was claimed that the magistrates had sympathised with the mob, thereby conniving at the sacking of Shawfield's house, the assault of the King's forces, and that they had neglected their duties.<sup>16</sup> To add insult to injury, the Lord Advocate refused to accept bail; the magistrates had to endure the ultimate indignity of being locked up in their own Tolbooth, until they were taken to Edinburgh, under military

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15. Clelland, op. cit., p. 33.

16. Hamilton, H., An Economic History of Scotland in the Eighteenth Century, p.105.

escort, where they were put in the Tolbooth of the capital, 'in great triumph ... amidst a vast concourse of spectators.' Fifty Glasgow householders had followed them to Edinburgh to give the bailies their support.

The attitude of the Lord Advocate was deplored. It was denounced in many quarters as excessively harsh, and even as illegal, for the representative of the Crown to take the unprecedented step of incarcerating magistrates without proper trial in their own burgh. After only two days of imprisonment 'in the nauseous and common prison of Edinburgh',<sup>17</sup> the Court of Session granted permission for them to be released. The bailies seem to have returned amid rejoicings to Glasgow, because, 'when about six miles from home, they were met by upwards of two hundred of the inhabitants, chiefly on horseback, who conducted them into the city, where they were received by their fellow citizens with open arms, the ringing of bells and every demonstration of joy.'<sup>18</sup> A less happy ending awaited the other prisoners, for 'some were whipped through the streets of Glasgow, some banished', although others were liberated. Captain Dushell was put on trial for the murder of nine citizens, because the mob had been fired upon without the Riot Act having first been read. He was found guilty, but received a royal pardon, and was subsequently 'promoted in the service'.<sup>19</sup>

Serious disorders in other Scottish towns were only prevented by Wade's promptness in sending in troops. The Edinburgh brewers who attempted to organise a strike among themselves were forestalled by the vigorous action of the Earl of Islay, and of the Lord Advocate, strengthened by a decision of the Court of Session that such a combination was illegal; the strike was broken off after it had lasted only a week.<sup>20</sup>

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17. Renwick, op. cit., p. 226.

18. Clelland, op. cit., p. 35.

19. Ibid.

20. Lang, A., History of Scotland, Vol. IV, pp. 361-2.



The following year, the malt tax was halved, but the business did not end there. The Glasgow magistrates wished to clear their name, and re-establish the reputation of their burgh. Accordingly, in July, 1725, they presented an 'Address to his Majestie', containing their account of the riots - how women and boys had been the mobsters, how the military had taken the law into their own hands, and how the citizens 'with no small concern and astonishment' had seen 'their magistrats committed to the goal of ther toun.'<sup>21</sup> Earlier, the bailies had sent a report on the riot to Edinburgh for publication there, as the Caledonian Mercury had contained 'gross reflections on the magistrats and inhabitants.'<sup>22</sup>

The matter of compensation to Campbell of Shawfield for the wrecking of his mansion house was considered by parliament. He applied to the government for indemnification for his loss. As a result, his constituents in Glasgow were ordered to pay him over £6,000, which when added to other expenses incurred by the affray, totalled some £9,000, an amount which the Town Council had to raise. Much negotiation ensued regarding the settlement: the Council for example, agreed on 26 May 1726, to pay £6,080 to Shawfield, the sum being borrowed by the town in bonds, and not by a tax of 2d. on each Scotch pint of ale and beer sold in Glasgow, as had been proposed.<sup>23</sup> With a portion of the solatium, Campbell of Shawfield purchased the island of Islay in 1726; he paid £12,000 for the island, 75 per cent of the sum coming directly from the ratepayers of Glasgow.

#### The Ferintosh Exemption:

The part played by Duncan Forbes of Culloden, the Lord Advocate, in the sequel to the Glasgow malt riots, is significant. He could hardly be

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21. Renwick, op. cit., Address to his Majestie, 31 July 1725, p. 225.

22. Renwick, op. cit., 7 July, 1725, pp. 222-3.

23. Renwick, op. cit., 26 May, 1726, p. 264.

described as a disinterested party. After the Restoration, the family estates of Culloden, near Inverness, and Ferintosh in the Black Isle, were ~~so~~ ravaged by Royalist troops in revenge for the loyalty of the Presbyterian Forbes' family to Cromwell's cause, and after the Revolution of 1688-9 by the troops of Cannon, a successor to Claverhouse.<sup>24</sup>

Compensation was given to the Forbes in the form of a grant to distil whisky on their estate of Ferintosh, unrestricted by the usual Excise regulations. An Act was passed in the Scots Parliament at Edinburgh on 22 June, 1690, 'in favour of Duncan Forbes of Culloden anent the Excise and Valuation of the lands of Ferintosh ... for the sum of 400 merks Scots, which sum is declared to be the yearly proportion of that annuity of 40,000 pound stg., payable for the excise to H.M. Exchequer.'<sup>25</sup>

The concession thus granted proved a lucrative one, for the liquor prepared at Ferintosh became famous. The barony of Ferintosh on the south side of the Cromarty Firth, extended to several thousand acres, and the estate was regarded as a delectable district, on which the tenants prospered. The right of exemption was let at a joint rent among the tenantry, whose distilleries thrived, continually adding to the value of the lands. The farms were able to carry a greater stock of cattle than they would otherwise have done, because waste was available *from* the distilleries.<sup>26</sup> The grain employed was grown on the Ferintosh estate, which had 1,800 acres of arable land on the low-lying Moray coast plain, which was well suited to growing barley.<sup>27</sup> The tenants were not limited to using local cereals, but also imported it for distilling. The privilege of exemption induced no less than '288 families

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24. Menary, G., The Life and Letters of Duncan Forbes of Culloden (1936) p. 3.

25. Ibid.

26. Menary, op. cit., 373.

27. O'Dell, A.C., and Walton, K., The Highlands and Islands of Scotland (1962) pp. 98-9.

to settle on the hair and to improve part of it into arable land', which yielded a good rent.

Such large quantities of spirits were distilled that 'Ferintosh' became practically a synonym for whisky. Knox refers to 'the sociable practice of Highlandmen in all ages to seal, ratify, and wash down every compact or bargain, in good old Ferintosh'.<sup>28</sup> The handsome income which the lairds of Ferintosh reaped from the distilleries, put at £18,000 per annum, made them somewhat unpopular with their neighbours, and in particular with rival makers of whisky in the Inverness region.<sup>29</sup> The privilege was called in question in 1707, when the Board of Excise was set up: the Commissioners of Excise and the Crown lawyers declared that the Right of Exemption had been taken away by the Union, but in 1711, the Court of Exchequer gave a decision favourable to the Forbes family. The sum of 400 merks was in time increased, but the fortunes of the Forbes remained closely dependent on the privilege. Complaints were voiced in parliament, and repeated representations put before the Treasury to urge it to purchase the exemption. Protests became even more vociferous in 1782, when it became known that the Forbes had paid a token £22, instead of the £20,000 Excise duty which would have been their share. Meantime from 1709 and 1742, the duty on whisky varied between 3d. and 6d. a gallon, and by 1784, it had reached 3s. 11 $\frac{1}{2}$ d.<sup>30</sup> The government yielded to the popular pressure in 1785, after further complaints from the Excise, and from other distillers, who had no such advantage. Arthur Forbes, the grandson of the Lord Advocate claimed £32,683 as compensation, in view of the losses sustained in the service of the government during the Rebellion of 1745, but the Court of Exchequer allowed him only £21,580.<sup>31</sup> The products of Ferintosh

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28. Knox, J. British Empire, ii, p. 538.

29. Menary, op. cit., p. 12.

30. The Scotch Whisky Association, Scotch Whisky: Questions and Answers (1964 p. 59).

31. Menary, op. cit., p. 374 (based on Uncat. M.S. in the National Library Edinburgh, Bundle XIX).

were well known to Robert Burns, both as an Exciseman and as a seasoned consumer. He bemoaned the loss of the Forbes' privilege in characteristic lines in 'Scotch Drink'.

Thee Ferintosh! Oh, sadly lost!  
 Scotland lament frae coast to coast!  
 Now colic grips, and barkin' hoast,  
                   May kill us a',  
 For loyal Forbes' charter'd hoast,  
                   Is ta'en awa'!

The overall effect of the malt tax in Scotland was to bring about a rapid decline in ale production and home brewing, which in turn encouraged the drinking of claret and brandy from France, port from Portugal, and Highland whisky.<sup>32</sup> The latter penetrated almost every mansion, manse, and public house in the country. Concurrently in the years after 1707, there was an increase in the smuggling of wine and brandy; duties on these articles were raised to 5 or 8 times what they had been at the beginning of the century. Claret remained very popular in Scotland until it was represented as 'unpatriotic' during the French wars, and port became more fashionable.<sup>33</sup> To deal with smuggling and other fiscal matters, Justices of the Peace were revived. Whisky thus had competition from other beverages. In a letter to Duncan Forbes in 1732, MacLeod of Dunvegan expressed his vexation at the large volume of brandy that was 'run over Skye and neighbourhood', to the injury of the trade in Ferintosh whisky. He asked for a warrant from the Commissioner of Customs in order that vessels with contraband might be seized in the Skye and Glenelg areas, to put a stop 'to that mischievous trade.'<sup>34</sup> No part of the Scottish coast was exempt from the depredations of the 'fair traders' whose activities were

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32. Pryde, G.S., A New History of Scotland, Vol. II, p. 89.

33. Pryde, op. cit., p. 144.

34. Menary, op. cit., p. 359; Letter from MacLeod of Dunvegan to Duncan Forbes, 19 Dec. 1732.

condoned in high and low places. It is not surprising that in such circumstances illicit distillation also flourished.

The malt duty continued to rise: in 1760 it was pushed up by 3d. a bushel, and after a small increase in 1779, it reached 1s. 4½d. in 1780. The government was prepared to accede to the request that the poorer Scottish barley, less well endowed with malting potential, should be assessed at half duty. The English distillers objected to differential rates in the malt tax which favoured their Scottish rivals; the former alleged that their trade was being ruined by the influx of spirits from Scotland, and consequently, further levies were enforced to try to wipe out the advantage.<sup>35</sup>

Together with the heavy duties on imported wine and spirits, imposed in the 1780s, the malt tax policy stimulated a renewed demand for whisky in Scotland, in step with the continued decline in the consumption of twopenny, as well as an erosion of sober habits of conduct. Hence the pleas that brewing should be fostered, and distilling, if not suppressed, at least firmly controlled. The adverse effects on the manufacture of ale were especially marked in the Lowlands, where the inspection and supervision of maltsters were more easily performed, than in the northern counties.

Malt Tax per Bushel	England		Scotland		Ireland	
	s.	d.	s.	d.	s.	d.
1760		9½	-		-	
1780	1	4½		8	-	
1785		-		-		7
1795					1	3
1802	2	5	1	8½	1	9½
1804	4	5½	3	9½	2	3½
1813					3	3½
1815					4	5
1816	2	5	1	8½	1	4
1819	3	7½	3	7½	3	6½
1822	2	7	2	7	2	7

Source: A. & N.L. Clow, The Chemical Revolution, p. 542.

35. Campbell, op. cit., p. 170.

The malt duty also adversely affected the sma' still owners in the Highlands; practising in remote areas, they had formed numerous little enterprises of a legitimate kind, which through an oppressive superstructure of legislation soon resorted to subterfuge and deceit. From these stills came spirits made almost entirely from malted grain, and then derived from a weak wort under slow distillation. Naturally, the legal distilleries set themselves to cut back the assessment of their malt tax as best they could. For example, they employed large quantities of raw or unmalted grain, with in some instances as little as 20 per cent malted grain - a technique used to this day in Scotch grain or patent still whisky production - the enzyme, diastase, contained in the malt, being capable of converting the starches in the raw grain into sugars. According to Accum, the principle was suggested by a Scot, Dr Irvine, as early as 1785.<sup>36</sup> By this means, the Scotch distillers managed to avoid paying a substantial tax bill, until the government placed a tax on all grain used in distilleries. The duty on malt was harmful to farming interests, because distillers were only prepared to buy up the best grain, thereby leaving inferior qualities in the farmers' hands.

The influence of the malt tax was to open the way for the expanding output of illicit stills; they found a growing market for their product, despite its illegality. One reason was that legal or 'parliament' whisky was frequently inferior - indications of this being that it was vended at a greatly reduced price, and in fact was sometimes triple distilled (i.e. rectified) to make it potable at all.<sup>37</sup>

Nor were the sma' stills confined solely to the Highlands; in 1777,

36. Accum, F., Treatise on the Art of Brewing, p. 21, quoted in A. and N.L. Clow, The Chemical Revolution, p. 551.

37. The distinction between legal or 'Parliament' whisky, and illicit whisky or 'poteen' is an Irish one, and most useful.

there were eight licensed distilleries in Edinburgh, as compared with over 400 in illegal operation.<sup>38</sup> By 1782, 1,211 illicit stills were seized in the Highlands, and 819 in the Lowlands.<sup>39</sup> Complaints were frequently forthcoming from the licensed Lowland distillers, caught up in bitter competition with the illicit ones. Finding that the domestic market in Scotland was increasingly being cornered by smugglers, Lowlanders like the Steins and the Haigs, entered into a prolonged struggle for an outlet in the metropolitan area with the powerful London distillers. There were twelve large distilleries in London, described as forming 'a sort of fraternity.' They strongly objected to the invasion of their preserves by the Scots, just as they resented variations in fiscal policy (like the differential malt tax) which appeared to favour the Scots. The London group presented petitions to Parliament urging that the unfair competition be stopped.

Both Lowland capitalist distillers and the London distillers clearly wished to see the law revised. The Scots also petitioned Parliament, but they did not attempt to improve the quality of their produce (and thereby remove a major reason for the existence of the illicit stills) by using more malted barley, and less raw grain to give a more palatable distillate. In brief, their aim was to have illicit distilling put down, the concessions vis à vis the English distillers maintained, and scope for their exports; the London firms wanted to see a unified legislative system, with one rate of duty operating in both countries, and the Scots kept to their own territory.

Not only was duty levied upon malt, there were also taxes on distilling and on spirits consumption in Scotland. Until the end of 1784, the mode of imposing and levying duty on distilleries was by an actual account and survey of the quantities of wash, low wines and spirits made by the distiller.<sup>40</sup>

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38. Arnot, H, History of Edinburgh (1779), p. 257.

39. Campbell, op. cit., p. 170.

40. P.P., Report from the Committee upon the Distilleries in Scotland (1798) XI (1803), p. 319. Also Act 4 Anne C12 f 4.

The English system of a presumptive charge on the spirits produced per 100 gallons of wash was applied, the duty being apportioned between the low wines and spirits; the assumption was made that wash would yield 25 per cent low wines, and that this would give about 60 per cent spirit - hence 100 gallons of wash was presumed to make 15 gallons of whisky. Distillers were however in the habit of extracting 20 gallons of spirits from this quantity of wash.<sup>41</sup> The surplus was liable to be seized as spirits 'fraudulently obtained,' whereas in England distillers suffered no such restriction. Nevertheless, the system was not unfavourable to the Scots, and they found it possible to compete in the English market.

In 1784, an Act (which became known as the Wash Act) was passed; by it all existing malt duties in both Scotland and England were suspended for a period of two years; instead a levy of 5d. per gallon was placed on wash. It was assumed that 100 gallons of wash would produce 20 gallons of spirits at one to ten over hydrometer proof; the charge on low wines and spirits was discontinued.<sup>42</sup> The approach suited the London distillers, whose spirits were rectified, but not the Scots, who had to prepare worts of a higher gravity than was their custom - the resulting spirit was coarse and unpalatable.<sup>43</sup> Working as they did in a poorer environment, less well endowed with good quality cereals, and abundant fuel supplies, the Scottish distillers voiced complaint. The tax of 5d. per gallon on wash was in fact equivalent to one of 2s. 1d. per gallon on spirits, or 2s. 3 <sup>7</sup>/<sub>9</sub>d. if only 18 gallons were extracted, as the Scots argued.<sup>44</sup>

The big Lowland distilleries, 'continually subjected to the surveys of

41. O.S.A., XIV, Clackmannan, p. 623.

42. P.P. Report: Distilleries, 1798-9, p. 515, 1798-9.

43. Nettleton, J.A., The Manufacture of Spirit (1893), pp. 4-5.

44. Clow, A., and Clow, N.L., The Chemical Revolution, p. 554.



of the Excise', had found their best market in London, despite the spirits duty per gallon being 1s. 1<sup>2</sup>/<sub>3</sub>d. higher in England; in shipping spirits to England, the Scots had to pay the difference.<sup>45</sup> The revision of 1784, making the system identical in both countries inspired the London group to hope that their Scottish rivals would be incapable of trading in the metropolis, but the business of the latter merely increased. A premium was placed on a high proportion of sugars being extracted from the malt in the making of worts during mashing. To make certain that the sugar content was as great as possible the Lowland distillers 'lobbed' their worts, with a sugary compound known as 'bub'.<sup>46</sup> The contents of 'bub' were a trade secret, but it probably contained sugar and treacle, the most readily available materials for the purpose. Eventually, the use of 'bub' was declared illegal. There were other opportunities for fraud, and the revenue continued to fall short of what was expected from the volume of spirits manufactured in Lowland Scotland.

The technique of distillation was supposed to be so well known that it was possible to compute what a still could produce in a year. The Highland distillers were accordingly taxed by a licence duty varying in amount with the capacity of their stills - paying 20s. per gallon of still content, the maximum capacity permitted being limited to 40 gallons. Stills of a lesser volume were declared illegal.<sup>47</sup> Many licences on this basis were issued annually, the distillers entering the number of gallons their stills contained, and the duty was paid 'by anticipation in stated instalments'. This scheme was first proposed for the Highland region only, but in 1786, it was applied to the whole of Scotland, with modifications as between Highlands and Lowlands.<sup>48</sup>

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45. O.S.A.. XIV, Clackmannan, p. 623.

46. Clow and Clow, op. cit., p. 554.

47. Nettleton, op. cit., pp. 4-5.

48. P.P. Report: Distilleries 1798, p. 320.  
Also Acts Geo III, c-22, and 26 Geo III, c. 64.

initially, duty on the gallon of still content in the Lowlands was fixed at 30s., and in the Highlands at 20s; there the duty on malt used in distillation was remitted, to compensate for scanty harvests and poorer grain. The Highland distillers were also restricted as to the bolls of malt consumed, and the volume of spirits produced in a year. They were, for instance, allowed 250 bolls of malt duty free, and 1,660 gallons of spirits with no surcharge; if these limits were exceeded malt duty and spirits duty had to be paid on the excess. Furthermore, they were prohibited from buying grain, or selling whisky in the Lowlands, and the 'Highland Line' was established to differentiate between the two regions. One facet of the Wash Act has thus been transmitted to the modern Scotch whisky industry, and shows itself in the distinction between 'Highland malt whisky', and 'Lowland malt whisky', referring to the products of the pot stills of the two regions.

The Highland Line was based on Excise collections, and was adjusted from time to time. It extended from the Sound of Jura, through the eastern point of Loch Crinan, through Loch Gilp, Inveraray, Arrochar, Tarbet, the north side of Ben Lomond, Callendar, Crieff, Dunkeld, Fettercairn, Clatt, Huntly, Keith, Fochabers, Elgin and Forres to 'the boat on the Findhorn', and thence along that river to the Moray Firth.<sup>49</sup> Like all arbitrary boundaries, it produced some strange anomalies; in Elgin, for example, it happened that:

'The line which bounds the privilege of small stills with moderated duties, prohibits the inhabitants on the north side of the street of Elgin, from the accommodation which is thereby permitted to their neighbours on the south side; other parts of the country, in similar situations, are subjected to the same partiality: they must either <sup>drink</sup> of the smuggled distillation, or import their spirits at vast additional expense of navigation, from the distant provinces of the southern quarters of the Kingdom. This bounding line ought therefore to be laid down more suitably to the circumstances of the country.'<sup>50</sup>

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<sup>49</sup> P.P., Report: Distilleries 1798-9, p. 28.

<sup>50</sup> Leslie, Wm., General View of the Agriculture of Nairn and Moray, (1813)

As it was illegal to export spirits from the Highland to the Lowland districts, the licensed as well as the unlicensed Highland sma' still operators were driven to smuggling their whisky into markets officially debarred to them. There were excessive quantities of spirits available in northern parishes, and the glutted market led to intemperance as much as to lawlessness. Any sma' still whisky crossing the line was liable to be seized as smuggled goods. Aberdeen, lying to the east of the line had to depend either on 'the large distilleries in the south of Scotland for supplies of whisky', or on illegal Highland whisky.<sup>51</sup> The Highland distillers were almost compelled to become experts in smuggling, and had thus laid the basis of a well organised distribution system long before the excesses of the 1820s caught the attention of parliament.

Not only was whisky taken across the Line, but grain was also illegally transferred; there were serious difficulties in the levying of fines on persons accused of such offences, because of the 'uncertainty of the line, which could not properly be ascertained.'<sup>52</sup> It only appeared on a map of a small scale, and in generalised fashion.

In the Highlands, the problem of assessment and control of distilling had been practically beyond the powers of the Excise and the still licence approach was an attempt to effect some supervision, and to raise some revenue.<sup>53</sup>

'It was basically an admission that the rule of Government at Westminster did not yet extend to the Highlands of Scotland, since there the levy was on the capacity of any still known to the law, rather than on the produce of that still. In the less lawless Lowlands, the tax was based on the quantity produced.'<sup>54</sup>

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51. Q.S.A., XIX, Aberdeen, p. 221.  
 52. P.P., Report: Distilleries, 1798-9: 18 Sept, 1797, Alex Robertson, Collector at Stirling, p. 495.  
 53. Illicit Distillation, infra.  
 54. Clow and Clow, op. cit., p. 555.

The Highland distillers were thus faced with the payment of a minimum charge of £40 per annum for their sma' stills, a payment which has been described as excessive in view of their deficiencies of grain, scarcity of fuel, and lack of transport, as well as legal opportunity, for the regular export of their produce. On the other hand, the Excise assumption that a still of fixed volume could only produce a limited amount of spirits was open to abuse, and the estimate was far out.<sup>55</sup> A 40-gallon pot still was reckoned to distil only four times a week, but skilful working not only gave more frequent still usage, but led to much bigger yields.

Still licences were to some extent rationed. The Commissioners of Excise were instructed to refuse a licence to a tenant who was not first recommended by his laird, and Justice of the Peace, as being worthy. Section 45 of the Act empowered 'such persons as they thought proper to erect and work stills in producing spirits from corn throughout the seventeen northern counties.' Lists of persons who were deemed suitable were to be compiled each year by the heritors in each parish, and sent to the Board of Excise in Edinburgh; in general, two licences were issued per parish.<sup>56</sup>

For the purposes of parliamentary representation, certain of the northern counties were at the disposal of pro-Jacobite lairds. Ross-shire was the preserve of the Mackenzies, the Earls of Seaforth, who were attainted after 1715, and of the Earls of Cromarty attainted after the '45. James Stuart Mackenzie was the M.P. for the county for much of the period 1754-90.<sup>57</sup> Perthshire was also noted for its Jacobitism, being extensively owned by the Dukes of Athol. The county of Inverness was dominated by four clans - Fraser, Grant, MacLeod, and McDonald. Of these, the Frasers had forfeited their

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55. Hamilton, *op. cit.*, p. 106.

56. Sillett, *op. cit.*, p. 26.

57. Namier, Sir L., and Brooke, J., The House of Parliament. The House of Commons, 1752-1790, Vol. I., pp. 470, 478, 484, 490-1, 495-6.

estates after 1747, but the Grants had not been 'out' officially in the Rising. Later, the Duke of Argyll had enjoyed considerable influence in Inverness-shire, until the Duke of Gordon began to emerge as a political figure. Argyllshire was controlled by the pro-Manoverian Campbells, and their allies.<sup>58</sup> Ross-shire, the easterly portions of Inverness-shire (e.g. Strathglass and Strathconon), which were Fraser territories, and parts of Perthshire (e.g. Strathtay) were regions rampant with illicit distillation and smuggling - these anti-officialdom and anti-government activities perhaps being a symptom of the lingering Jacobitism of laird and clan. Landowners who were supporters of legal authority were also suppressors of illicit distilling.

It is clear that as the restrictions on the Highland distillers mounted, so did illegal whisky making and smuggling expand, and 'the proprietors of the unlicensed stills were encouraged to extend their operations, and to enter into competition with the legal manufacturers ... Then began that system of smuggling which made a certain class of Highlanders so notorious, and gave so much trouble to the Excise department.'<sup>59</sup>

Meantime, the Lowland distillers were finding the still content system advantageous, but the revenue lost heavily because the rate was absurdly low; the capacity of the still, linked with a 'normal' speed of distillation, whereby a still was worked off once in 24 hours, was the basis of the sum levied per still. One consequence of the 1784 Act was to set off a train of experimentation and innovation in still design, with the aim of swelling output, and thereby countering the effect of the duty. Firstly, the Scots effected improvements in the shape of their stills, having them built shallow and small, in order to expose the maximum surface of liquid to the furnace.

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58. Ibid.

59. Brewer, D., Industries of Scotland, p. 446.

Stills with a capacity as low as 12½ gallons were licensed, while another was 48 inches in diameter, but only 3 to 4 inches in depth.<sup>60</sup> The ingenious distiller could work off a still in one-tenth or even one-twentieth the computed time, whilst the Excise only secured the tax on the anticipated proportion of spirit produced. Fraudulent practices, such as pre-heating the wash prior to distillation, were also tried. The government tried to keep pace with the situation, however, by creaming off profits in heavier taxation on the distilleries. A rapid rise in duty thus occurred between 1788 and 1797, which penalised distillers who were less enterprising, or those who preferred to keep quality before quantity - their lesser outputs had to sustain a heavier tax burden. As the still licence price was raised, it simply induced faster methods of production. Although stills were gauged as to capacity, there were no limits placed on the amount of grain processed, nor was grain input measured against spirit output.

An individual Lowland distiller's viability therefore depended greatly on his ability to extract the maximum volume of spirits from his stills in as short a time as possible, and the instance of a working off, and re-charging of a still of eight gallons content in under 5 minutes was known.<sup>61</sup> With such techniques, the wear and tear on utensils was considerable, and spirits certainly deteriorated. As legal (or Parliament) whisky<sup>62</sup> tended to become more and more unpalatable, consumers willingly took illicit whisky as a wholesome alternative. Spirits from licensed stills was selling at 1s. 9d. a quart, while illicit whisky cost nearly as much per pint, but the price difference was no obstacle to its widespread sale.<sup>63</sup>

In 1788, the licence fee in the Lowlands was raised to £3 per gallon

60. Nettleton, op. cit., pp. 4-5.

61. P.P., Report: Distilleries, 1798-9, n. 7.

62. See note 37.

63. See Survey of Distilling in Scotland, c. 1795, supra.

of still content; in 1793, the Lowland distillers had to pay £9, and the Highland ones 30s. Two years later, the Lowland duty was £18, and the Highland £2 10s., but the manufacture of spirits was then suspended due to a national scarcity of cereals. When the suspension was removed in 1797, the licence duty, for the Lowland distilleries was fixed at no less than £54 per gallon of still content. The Highland district was divided into two sections - the duty was £9 in the area immediately adjacent to the Lowlands, and a new zone in the remoter areas was delimited in which the duty was £6 10s. With the still licence at £9 per gallon of capacity, the allowance of malt duty free was set at 500 bolls, and with the other at 450 bolls.<sup>64</sup> The number of licences taken out declined; in Campbeltown, there were no still licences issued between 1797 and 1817, although there were hundreds of illicit stills in the Kintyre region.<sup>65</sup>

A brief review of the revenue from distilleries in Scotland is presented in the Old Statistical Account. The revenue amounted in 1763 to £4,739 18s.10d. but it rose swiftly to £192,000 in 1785, which would correspond to an output of some 600,000 gallons. The estimates for 1791 were:-

In the Lowlands:	1,000,000	gallons
In the Highlands:	<u>696,000</u>	gallons
	1,696,000	gallons

A lowering of duty was recommended; the tax on malt liquor (worts and wash) must be reduced, while that on whisky should be raised. The 1791 volume may not actually represent a dramatic expansion in production - the rise may partly be due to closer supervision by the Excise. The Pitt administration was associated with more effective governmental control and management than some of its predecessors.

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64. P.P., Report: Distilleries, 1798-9, p. 520.

65. See Robert Armour, Illicit Still Maker, infra.

Trade with England:

These rapid changes in duty on still licences were paralleled by alterations in the policy towards the exportation of spirits to England. Stabilisation of trade did not occur because the London distillers brought pressure to bear on parliament. At times there were contacts between the London distillers and the capitalist distillers of Lowland Scotland aimed at rationalising the situation in the British market. The London group claimed that the Scots evaded the malt duty, and undersold them in the metropolitan area. The incidence of smuggling had driven the Lowlanders to seek outlets in England; the significance of such markets was confirmed by legal exports which rose from 34,000 gallons in the year 1779-80 to over 195,000 gallons in 1788-9, an increase which was possible only by importing barley from England, almost 100,000 quarters being brought into the country in 1781-2.<sup>66</sup> A deputation of Scottish distillers went to London, and in 1785, an arrangement was made; James Haig signed the agreement on the Scots' behalf, whereby they consented to charge identical prices for their products as the London distillers did.

The Lowland Licensing or Scotch Distillery Act was introduced in 1786.<sup>67</sup> The licence duty based on still content was calculated to yield about 6d. per gallon on all spirits distilled, but the duty on spirits consumed stood at 2s. 1d. per gallon. In England, the latter tax was 2s. 6d. per gallon; hence if Scottish spirits were sent south an additional charge amounting to 2s. per gallon was placed on them. The export of spirits overland to England was prohibited. The legislation was to run as an experiment until 5 June, 1788, which gave the London distillers the chance to reorganise their trade; they hoped that the Scottish exports would diminish. Contrary to their expectations, trade prospered, which increased also the astonishment of the London traders who gave in a representation to the Treasury upon

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66. P.P., Report: Distilleries, 1798-9, p. 431.

67. Act 26 Geo III, c. 64, supra.



the subject.<sup>68</sup>

The unsettled state of the Scottish industry post 1785 is reflected in the proliferation of articles in the Scots Magazine, as well as in pamphlet material.<sup>69</sup> At the end of 1785, distillers in Scotland inserted 'very long advertisements, addresses &c. in the Edinburgh newspapers, enumerating their grievances and accusing the board of excise with oppression in the levying of the duties; to which, they say, the board has been instigated by the solicitations of the London distillers, who look with a jealous eye upon the success with which the Scots distillery has been for some time carried on.'<sup>70</sup>

The farming community also had meetings to consider the effect of the distillery laws on their interests. In the Kirkliston district, the new regulations of 1786 had driven 'a very great number of men' from distilling; these persons had followed 'the business of distillers in a regular manner to a considerable extent', but 'at a very inconvenient season of the year were obliged to abandon that business entirely.' They had then to sell at an inadequate price, the stock of grain and cattle which they had amassed.<sup>71</sup> The

68. O.S.A., XIV, Clackmannan, p. 623.

69. The Scots Magazine, Edinburgh, 1786, summarises the arguments advanced in the following pamphlets:-

- (1) Walter Ross: The Present State of the Distillery in Scotland (1786): Edinburgh.
- (2) Truths, in answer to the facts published respecting the Scottish Distillery, (1786): Edinburgh.
- (3) Case for the capital corn distillers of Scotland: London: (1787).
- (4) Case of the distillers of corn spirits in North Britain, London (1787).
- (5) T. MacDonald: Review of the Laws and Regulations respecting the distillery in Scotland, London (1788).
- (6) Answers to the Memorial of the Corn distillers in London (1788): presented by the Scottish distillers to the Lords Commissioners of His Majesty's Treasury. [See Clow and Clow, pp. 557-8.]

70. The Scots Magazine, Jan. 1786. p. 47.

71. Ibid.

outcome was that the price of barley fell from 18s. per boll to 12s. in a few weeks, and farmers had difficulty in selling the grain at all, because of the lack of demand; hence they in turn feared that they would not have sufficient funds to pay their rents.

The main objections of the distillers related to the intrusion of 'gaugers of indifferent characters' and 'watchmen placed in their still houses night and day.' Besides, Exchequer prosecutions had been threatened by the authorities.<sup>72</sup> The consequence was that the smuggling of foreign spirits had risen, while 'the number of unentered stills had prodigiously increased in every part of the country.'<sup>73</sup> Both distillers and farmers looked for the assistance of landed proprietors in parliament in having the distillery laws repealed.

In January, 1786, 'a very numerous and most respectable meeting of the landed interest was held in the parliament house [Edinburgh] in order to consider the present distresses of the country, occasioned by the vigorous execution of the distillery laws.' Letters were addressed to Henry Dundas, the Lord Advocate, to oblige him to seek redress from the Treasury in order to mitigate the 'alarming crisis' in distilling and in agriculture. The preparation of a new Distillery bill was proposed.<sup>74</sup> Results were achieved; the Scots Magazine noted the passing of a new Act in July 1786, 'discontinuing for a limited time, the duties payable in Scotland, upon low wines and spirits, and upon worts, wash and other liquors used in the distillation of spirits, and imposing new duties in lieu thereof.'<sup>75</sup> Subsequently, the alteration was reported to have given 'great satisfaction to the distillers', and indeed in

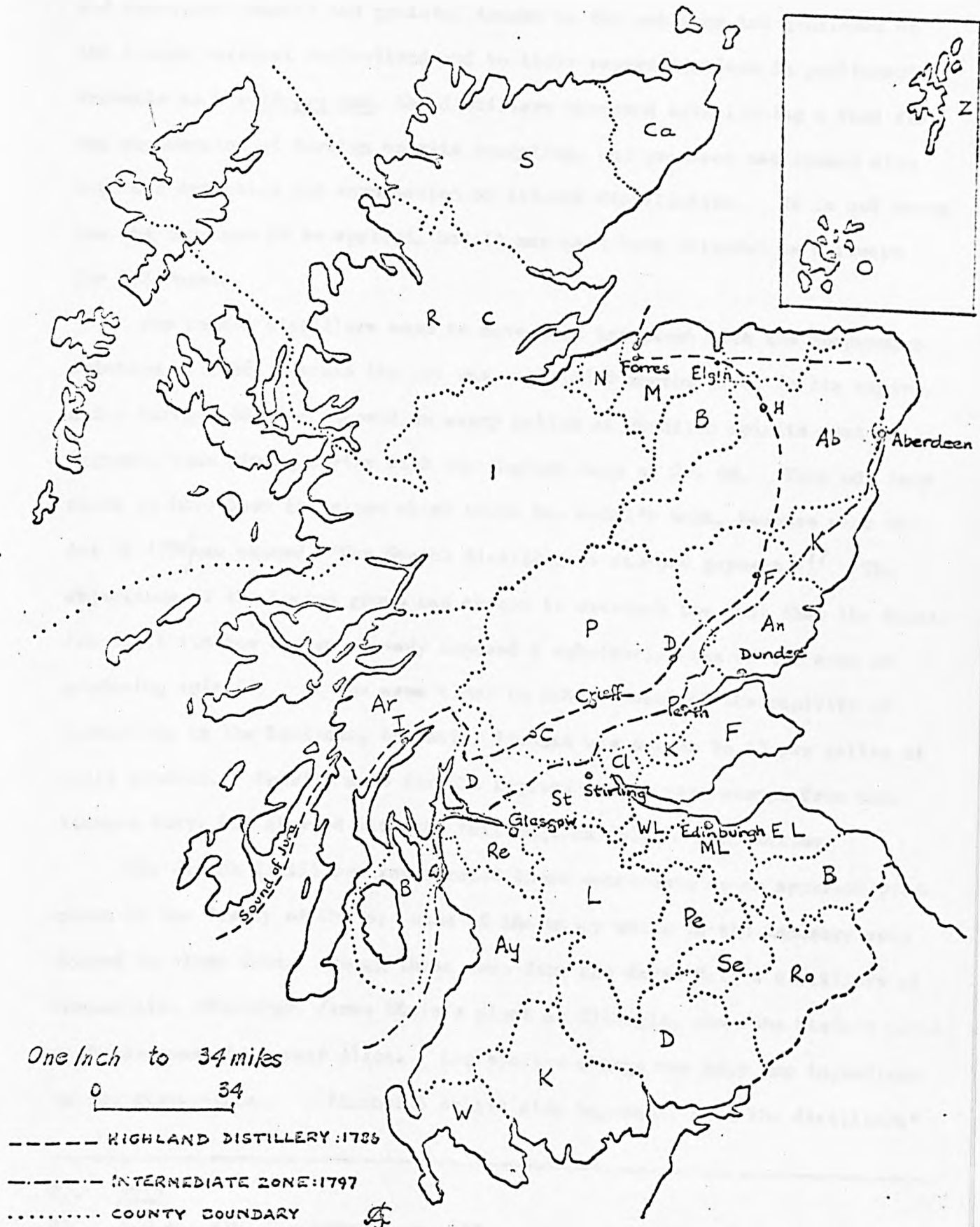
72. The Scots Magazine, Jan. 1786, p. 48.

73. Ibid.

74. The Scots Magazine, Feb. 1786, p. 95.

75. The Scots Magazine, July 1786, p. 357.

# THE HIGHLAND LINE



advertisements published in Edinburgh on 28 July, 1786, the Lowland distillers expressed 'humble and grateful thanks to the noblemen and gentlemen of the landed interest in Scotland and to their representatives in parliament.'<sup>76</sup> Probably as a quid pro quo, the distillers proposed establishing a fund for the suppression of foreign spirits smuggling, and promised assistance with both the detection and suppression of illicit distillation. It is not shown how the fund was to be applied, but it may have been intended as a reward for informants.

The London distillers seem to have been impatient with the compromise solution of 1786, because the Act was repealed 6 months prior to its expiry, and a further 6d. was imposed on every gallon of Scottish spirits sent to England, thus giving parity with the English duty of 2s. 6d. This 6d. levy seems to have been the straw which broke the camel's back, because when the Act of 1786 was passed, 'The Scotch distilleries stopped payment.'<sup>77</sup> The objections of the London group had chosen to overlook the fact that the Scottish still licence system already imposed a substantial tax on the cost of producing spirits. At the same time, to take account of the rapidity of distilling in the Lowlands, the still licence was put up to £3 per gallon of still content. Spirits made for the English market were exempt from this licence duty, but charged with the full English duty on importation.

The Scotch distillers interpreted these enactments as an apparent violation of the Treaty of Union; some of the major units in the industry were forced to close down. Among these were John and James Haig's distillery at Canonmills, Edinburgh, James Stein's plant at Kilbagie, and John Stein's works at Kennetpans, both near Alloa. Legislative change was only one ingredient in the disturbance. A financial crisis also happened, when the distillers'

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76. Ibid.

77. O.S.A., XIV, Clackmannan, p. 623: Also Act 28Geo III, c. 4.

agents, Sandeman and Graham failed,<sup>78</sup> their collapse precipitated the crisis, and revealed that the Scottish distillers had been financing their trade by the circulation of bills to an unwise extent.<sup>79</sup> Absence of adequate circulating capital was a common cause of instability in the early distilling industry; the credit structure was fragile, and the Steins were more exposed to financial difficulties than most because of their interests in merchant banking. When the credit net broke, it enmeshed not only distillers, but also maltsters, corn merchants, brewers, spirit dealers, and butchers - persons that had close connections either in supplying distilleries with raw materials, or in handling their output, or their waste products. They were bound by ties of mutual finance and accommodation. Merchants and traders especially in the Stein 'hinterland' of Alloa, Kincardine and Dunfermline were also overtaken.<sup>80</sup>

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78. Steins: Capitalist Distillers, *infra*.

79. Hamilton, *op. cit.*, p. 107.

80. The Scots Magazine, Jan.-April, 1788: Lists of Bankruptcies:

- Jan. 8: Alexander Dewar, distiller at Blackhall.  
 18: William Bruce, Maltman and trader in Tulliallan.  
 18: John Milne, maltster, and buyer of barley for sale, Kincardine.
- Feb. 1: John Thomson, Maltster in Sauchy.  
 5: David Cassels, merchant in Kepp (listed as distiller in 1798)  
 9: James Dutter, butcher and dealer in cattle, Inverkeithing.  
 28: James Stein, distiller at Kilbagie.  
 29: John Stein, distiller at Kennetpans
- March 1: Robert Stein, distiller at Kincauld.  
 1: James Scott, maltster at Tulliallan.  
 1: Daniel Cameron, merchant in Perth.  
 4: James Haig & Co., distillers at Cannonmills, and James Haig, the sole remaining partner of said company as an individual.  
 4: John Haig, distiller at Lochrin.  
 4: John Buchanan & Co., merchants in Kincardine, and John Buchanan, Richard Philp, and Thomas Smith, partners in the said company as individuals.  
 5: James Craik, merchant and corndealer in Dundee.  
 7: Thomas Primrose, maltster and dealer in Alloa.  
 12: George Taylor, maltman and brewer in Falkirk.  
 20: Andrew Swinton, brewer and baker in Tory.  
 22: Thomas Murdoch, pistol maker and spirit dealer, Leith Walk.
- April 8: Thomas and George Colvins & Co., distillers at Underwood; and Thomas and George Colvins, and John Shiells, merchants in Glasgow; and Robert Colquhoun, junior, distiller at Underwood, as copartners and individuals.  
 8. Colvins & Co., merchants in Glasgow; and Thomas and George Colvins and John Shiells, as copartners and individuals.

The Scottish distillers had engaged in a fruitless struggle with their London counterparts, who by operating a cartel to keep down the price of spirits, had cut them out of the market - 'The English distillers reduced their prices so low, that spirits sent from Scotland ... at one time did not draw a price equal to the additional duty it pays upon importation into England.'<sup>81</sup> This was demonstrated once the Scots were out of the running, whereupon the London men raised their prices. A marked decline in legal exports to England ensued.

Duty paid whisky sent to England

1780:	34,067 gallons
1786:	881,969 gallons
1787:	32,267 gallons

Source: Hamilton, H., An Economic History of Scotland in the Eighteenth Century, p. 108. 82

In 1793, the English duty levied on Scottish made spirits became 2s. 11d. per gallon, at the same time as the still licence was raised; by 1795, the English duty on Scottish imports was 3s. 9d. per gallon, but shortly thereafter distilling was suspended. There was a further increase in duty on spirits from Scotland in 1797, the tax being set at 4s. 7½d. per gallon.<sup>83</sup>

It was then that the Lowland distillers protested strongly about the penal still licence of £54 placed on them, whereas the licences in the Highland districts were comparatively cheap. A petition from John and James Haig against the proposals was presented in Parliament,<sup>84</sup> because the state appeared to be more interested in exacting revenue, than in the viability of the distilling industry and the quality of its product. A plethora of

81. The Scots Magazine May, 1788, pp. 249-51.

82. Hamilton, on. cit., p. 108.

83. P.P., Report: Distilleries 1798-9, p. 320. Also 33 Geo III. c. 6, 35 Geo. III, c. 59, and 37 Geo. III, c.17 and c. 102.

84. Journal of the House of Commons, LIII, (1798) pp. 693-5.

unlicensed stills in the northern counties were pouring out illicit whisky.

For their part, the Highlanders took objection to the rapidity of distilling in Lowland works, the fraudulent practices to induce the greatest possible quantity of spirits by using violent heat, unconventional utensils, and unmalted or raw grain (even although the government laid a tax on that commodity in 1798). They held the Lowland practice of Sunday manufacture in contempt, and despised attempts to dump unwholesome whisky in the north. The ferment eventually found its expression in the setting up of Parliamentary Commissions of Inquiry.

Parliamentary Reports regarding the Scotch Distillery Duties (1798) and the Distilleries in Scotland (1799) stressed the need for radical alterations and amendments in the manner of assessing and levying duty.<sup>85</sup> It had become obvious that the authorities were being trounced in their effort to increase receipts by taxation on still content, because each new measure had simply led to greater ingenuity on the part of the Scottish still makers and the Lowland distillers. The government acted swiftly in an attempt to maintain legal distilleries in Scotland, and thus in 1799, the still licence system was abandoned, but a duty of 4s. 10½d. was placed on every gallon of spirit made for home consumption. In 1798, 87 licensed distillers in Scotland sent over £1.6 millions to the Exchequer, but the alterations were unacceptable to some of their number; about 30 per cent of the distillers gave up their operations soon after the revision was made. The result was a fall in revenue - only £775,000 being received from the distilleries in Scotland in 1800.<sup>86</sup>

The 1798-9 Reports supply evidence of the attitudes and problems of

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85. The Reports are published conjointly as The Report from the Committee upon the Distilleries in Scotland.

86. P.P., Report: Distilleries 1798-9, p. 7.

the Lowland and Highland distillers. As an example of the Lowland distilling position, the submissions of John Stein of Cannonmills are loud in condemnation of the illegal activities of the Highlanders. He gave it as his opinion, 'That the Highland exemption as it is called, has been grossly abused, is a proposition of which I conceive no Investigation or Proof to be necessary - the Fact is notorious.'<sup>87</sup>

According to John Stein, the Lowland market was inundated with Highland whisky, to the point where the capitalist distillers had to abandon 'the Trade several Months before the Expiration of their Licences, with large Stocks of Spirits on Hand, for which owing to the Interference of Highland spirits they have been unable to find Sales.'<sup>88</sup> Stein indeed forecast a declining revenue yield; he emphasised that the prohibition on the export of whisky from the Highland area to Southern Scotland was impossible to enforce, because even the Highland distillers with licences were quite prepared to lose a cask or two of whisky in the furtherance of their business. It was alleged that some employed 'Guards of Men in Arms' to protect their convoys. Another Lowland entrepreneur, David Cassils of Kippen, stated at an Edinburgh meeting in 1797, 'that the Highland Distillers supply all the Market round him for Ten miles to the South of the Present Line.'<sup>89</sup> Although Cassils tried to send produce to Glasgow and Edinburgh, he met stiff competition from the interlopers and 'that Two of his Men one Night lately met Two Carts loaded with Highland Spirits, being acquainted with the Drivers, and accompanied by Eight or Ten other Men armed with Pistols, Bludgeons &c., Four Miles South of the Line, proceeding on the Glasgow Road,' and that this was the general practice in conveying whisky from the Highlands to Glasgow. Evidence was produced by others present to show that the Highlanders had the

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87. P.P., Report: Distilleries, 1798-9, p. 340.

88. P.P., Report: Distilleries, 1798-9, p. 9.

89. P.P., Report: Distilleries, 1798-9, p. 15.



tion's share of the markets in Perth, Glasgow, Greenock, Port Glasgow and Dumbarton, despite Excise attempts at control. It is not therefore surprising that the Highlands contained plenty of people with a sound knowledge of evasion of the Excise, of conveying and distributing forbidden produce, and of marketing it in Central Scotland and beyond, long before the legal industry in the Northern district was forced to become almost entirely an illicit one.

The stream of production from the Highlands was fed by Lowland merchants who were willing to export malt from Greenock and Paisley to the Highland district - which they were not supposed to do - while in most distilleries in the Lowlands, the stills were worked by Highland labourers, many of whom periodically returned to their home areas and there 'communicated the most improved methods of working.'<sup>90</sup>

It was difficult to reconcile the claims of Lowland entrepreneurs like Stein, with those of the licensed distillers in the Highland districts, who had already completed the transition from 'subsistence' distilling for immediate local consumption, to commercial production for a wider public, and at the same time to control the primitive small scale pot still units, expanding in size and daring as the possibilities of black market operation were sensed. The evidence is full of the conflict between the Lowland and the Highland groups, but there is only second hand material - allegations, hearsay, and figures for convictions - for the illicit distillers.

The Committee upon the Distilleries in Scotland submitted the outline of a plan to the House of Commons, with the multiple purpose of reinforcing the Revenue, reconciling the rival groups in the industry, and satisfying the agricultural interests.<sup>91</sup>

Firstly, it was recommended that a substantial part of the duty should

90. P.P., Report: Distilleries, 1798-9, p. 17.

91. P.P., Report: Distilleries, 1798-9, Recommendations, pp. 512-26.

continue to be assessed by licence, so as to secure a known sum from each distiller. The Committee felt that the actual amount of the licence fee was immaterial, but that it ought to take account of the excessive swiftness of distillation on the one hand, and the slow work of 'the ignorant and inexperienced manufacturer' on the other.

A corollary was that distilling should be constantly and strictly surveyed at every stage, and an account kept by the Excise officers; the samples should be checked and proved by gauge, by the use of the saccharometer and by hydrometer. These checks should be so arranged that they did not interrupt the processes, and vex the distiller - but it was also proposed that the survey should be confirmed by returns made upon oath, and under the sanction of penalties, by distillers. The Excise man should be obliged to produce a regular statement of account between the licence duty and the quantity of the produce, according to the rate per gallon which the distiller had to pay; this statement would then be balanced and settled at stated intervals, while at the end of the year a general balance would be struck, when any surplus produced over the volume of spirits permitted would be taken into account.<sup>92</sup>

The committee stated firmly that distillers must have latitude and freedom; hence they commended a combination of the licence system and a system of survey to cope with accelerated rates of distillation, the varied strengths of wash, and the use of raw grain. Only by employing both methods did they believe the Revenue would be secured. Another significant recommendation was that the lines of demarcation between the Highlands and Lowland areas should be abolished. It had been impossible to delimit the boundary, and to enforce its observance. Instead it was suggested that production should be limited in certain districts (i.e. the Highlands) and duty concessions made if these should prove necessary, owing to higher costs (e.g. of transport, grain, fuels etc.).

Comments were made regarding the legal arrangements for dealing with delinquents under the Excise laws. The operation of the J.P. courts was severely criticised, and in particular the 'mitigating penalties' were deplored. For example, a distiller in Ross-shire had reported that at the annual Excise Court in Tain, the Justices imposed 10s. for fines, in place of penalties of £400. There was a want of the proper judicial system to correct these mistakes and to punish the delinquency of the magistrates. The Solicitor of Excise did not think it worthwhile prosecuting illicit distillers, especially when their landlords were prepared to speak up for them. Furthermore, the Solicitor of Excise was burdened by 'a multiplicity of informations and complaints' which inevitably led to 'a slowness of business', and prosecutions in the Court of Exchequer were lengthy. The Committee reiterated its warnings about the glaring and shameful number of persons, particularly in the Highlands, who worked without licence or payment of duty, but in the opening years of the nineteenth century the situation deteriorated even further.

The Committee estimated the consumption of spirits in Scotland as being between 2.4 million gallons and 5.4 million gallons, and with such vague estimates for guidance, suggested that duty of 2s. 6d. per gallon should be levied on whisky.

Although a new Act of 1799 attempted to simplify the laws affecting distilling, the exigencies of the war economy and revenue needs seem to have outweighed the claims of a thorough legislative overhaul. Distilling had become, as it is to-day, a high duty industry. The Highland distillers, for instance, were charged £6 10s. per gallon of still content, which was reckoned to be equivalent to a yield of 52 gallons of spirits at from 1 to 10 degrees over proof. Provision was made for excesses to be charged at the rate of 3s. for each gallon extra, while a duty of 6d. per gallon was levied on each gallon deficient. The amount of whisky produced was supposed to be 6 per cent of the worts.<sup>93</sup>

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93. Robb, J.N., Scotch Whisky, pp. 26-7.

The revision not only permitted wholesale evasion - distillers would extract more whisky than they ought and conceal the fact, thereby dodging the extra duty, besides having more spirits to sell. The change contributed very little to the advancement of licensed distilleries in the Highlands.

In 1802, the mode of charging duty per gallon of still content was discontinued, the presumptive spirit yield per volume of wash was reintroduced to match the ingenuity of the distillers, who continued to find it impossible to produce a fine whisky, without avoiding the payment of Excise overcharges.<sup>94</sup> Revenue did however increase, but speedy distilling was pointing the way to a continuous process, which was embodied in the patent still. Although spirits duty was raised in 1804, and again in 1807, consumption and revenue suffered little until a steep rise took place in 1811 - duty in the Lowlands was 8s. 0½d, and in the Highlands, 6s. 7½d. Diminishing returns began; consumption fell, and revenue was reduced by one-third, from £778,000 to £563,000.<sup>95</sup>

Continuity of production was also broken by government restrictions on distilling. A bill to prohibit the making of whisky from wheat, barley malt, and any other cereals, in Scotland was before parliament in 1800; five years later, the use of grain in distillation was banned, and the matter was considered again in 1808. Distilling was halted, owing to the requirements for cereals for direct consumption, on account of the French wars and the Continental Blockade.<sup>96</sup>

About 1810, about 11,000 bolls of barley were reported to be consumed in the distilleries of West Lothian, which were estimated to exceed the quantity which was raised there. Hence a considerable proportion was being

94. Nettleton, *op. cit.*, p. 6.

95. P.P. Seventh Report of the Commissioners of Inquiry into the Excise Establishment XXV, (1834), p. 43.

96. Index to the Journal of the House of Commons, LVI-LXXV. (1801-1820), pp. 882-4.

brought from other parts of Scotland, and from England.<sup>97</sup> Anxiety about possible scarcities in other districts was upsetting distilling. The high level of duty on malt, coupled with the intermittent suspensions on distillation, plus the growing demand for wheat and potatoes, had led farmers to abandon barley in Dunbartonshire. The small quantities raised went to breweries at Greenock and Paisley. Owing to lack of demand, the average fiar's price was 25s. 8d. or so, but 'the real price' would have stood 10 per cent higher in a more lively market.<sup>98</sup> A similar trend was observed in Dumfriesshire, where barley cultivation had been more extensive pre-1812. The stoppage of the distilleries, and uncertain markets were again the causes to which the low price of barley was assigned.<sup>99</sup> Attention was focused on the apparent waste of cereals in distilling, but at least in Forfarshire it had been proved that as much milk, beef, pork and other animal food, could be produced for human consumption, from the draff and waste, as could have been yielded by the land sown (in this case with barley), had it instead been laid down in grass.<sup>100</sup>

The distillers were much put about by the prohibitory legislation, and looked for other raw materials. From Lochrin distillery, James Haig wrote to ask Lord Melville

to inquire what might be intended as to the use of sugar or corn in the Distillery', and to ask whether 'Martinique and Guadeloupe Sugars' would be permissible.<sup>101</sup>

There was yet another revision in 1814, whereby the method of charging

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97. Trotter, J., General View of the Agriculture of the County of West Lothian (1811), p. 200.
98. Whyte, A., and MacFarland, D., General View of the Agriculture of the County of Dunbarton (1811), p. 101, and p. 103.
99. Singer, General View of the Agriculture of the County of Dumfries (1812), p. 192.
100. Headrick, J., General View of the Agriculture of the County of Forfar (1813), p. 57<sup>4</sup>.
101. S.R.O., Melville Castle Muniments, GD 51/5/289. Letter from James Haig, Distiller, Lochrin, to Lord Melville, 4 Oct. 1811.

distillers for excesses and deficiencies in production was given up, and the levying of duty on worts and spirits was substituted. A charge of 1s. was placed on each gallon of worts prepared, plus a duty of 2s. 10d. per gallon on spirits.<sup>102</sup> Furthermore, a distiller was required to make 18 gallons of spirits from 1 to 10 degrees over proof, from each 100 gallons of wort. If his output fell below this level, he had to pay 5s. 8d. per gallon on the deficiency. Reluctantly the Scottish distillers were compelled to raise the specific gravity of their worts, although they much preferred to employ a weak wash, which in any case suited their type of grain better.<sup>103</sup> The Act was framed to meet the needs of English gin makers, who worked with a stronger wash. A vexatious regulation prohibited the distillation of spirits in stills of less than 2,000 gallons content in the Lowlands, and of less than 500 gallons content with the Highland line.

The 1814 Act had serious consequences in the Highland area where licensed distillers were fighting a losing battle against the illicit operators. The former could point to higher operating costs, adverse climatic conditions and inferior barley, compared with their Lowland competitors. Inaccessibility was a further factor, linked with limited markets and inadequate transport. Indeed it was idle for the government to suppose that more than a handful of Highland distillers had either the capital or sufficient barley at their disposal to sustain a still of 500 gallons content. The order was subsequently reduced on Treasury instructions to 200 gallons. General Stewart of Garth described the law as a 'complete interdict' in the Highland district. A still would be exhausted more than the disposable grain in a county in his view, and too much fuel would have been required. Hardly any alternative remained to the tenantry but to have recourse to illicit distillation, or in

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102. Robb, op. cit., pp. 26-7.

103. Nettleton, op. cit., p. 6.

some instances, resignation of their holdings, because of breach of their engagements with their lairds, due to a lack of funds to pay rent.<sup>104</sup>

The position was thus most unsatisfactory; the frequency of the alterations, the complexities of the law, did not alleviate the adverse conditions of the distilling industry. Few licences were taken out, and the northern districts were dominated by poteen makers and smugglers. The next year the duties on whisky in the Highlands and Lowlands were equalised at 9s. 4½d a gallon; legal production consequently continued to decline, and the quantity brought to charge fell by 600,000 gallons.<sup>105</sup>

With legal distilling on the downgrade, the market was left mainly to the illicit distiller, who could order things as he pleased - use a weak wash, and distil his whisky in the traditional way. He might even triple distil if he were free from molestation. It would be erroneous to conclude as some writers do, that illicit whisky was rough, badly made stuff, the result of panic processing, dirty utensils and guesswork.<sup>106</sup> It more often seems to have been the product of skilled, shrewd men, working carefully to make a good whisky.

As in Ireland, the highest incidence of illicit distilling tended to be in the remoter areas - where deficient resources and limited employment opportunities presented themselves. Here too, living standards were lower, poverty was endemic, and both seasonal unemployment, as well as underemployment, very common. Transport was poor, and such grain surpluses as were produced, could not be brought easily to market. Across the Irish Sea, a

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104. Stuart, Major-General D., of Garth, Observations on the Origin and Cause of Smuggling in the Highlands of Scotland, Quarterly Journal of Agriculture, 1828-9, p. 363.

105. P.P., Seventh Report, 1834, p. 42.

106. MacDonald, I, Smuggling in the Highlands, pp. 98-106.

similar situation prevailed; the more productive agricultural regions of the east, 'the ham-butter and eggs' counties (e.g. Leinster, Munster, etc.) were never such strongholds of illicit distilling as were Mayo and Donegal.<sup>107</sup> It was these distant desolate regions of the west, where boredom and penury were not uncommon, that were the territories of the poteen makers. So also in Scotland. It was more lucrative and practical to convert a bulk commodity like inferior grain into whisky, and sell a manufactured product, rather than a raw material of low quality that would yield a scanty return. Perhaps if the government had had a clearer vision and more precise knowledge both of Scottish Highland and Irish circumstances, the excesses promoted by inappropriate legislation, which was so unfavourable to legal distilling, might have been avoided.

The dissatisfaction was apparent in the meetings held and in the petitions drawn up during 1816; in March, a group in Inverness sought official permission to export whisky from the Highlands, a 50 per cent reduction in the malt tax, an equalisation of duties in the Highlands and Lowlands, and the use of stills of 50-60 gallons content.<sup>108</sup> Earlier the Lowland distillers were not inactive - details of a meeting in Clackmannan, which filtered to Inverness, declared that they did not object to a free movement of whisky between the two regions:-

The distinction of Lowland and Highland line was a boon granted to the Highland districts, in order that they might be enabled to supply themselves with spirits at a cheap rate, and from barley of their own growing.

Lowlanders did not want to remove this privilege, but if the Highlanders

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107. Connell, K.H. Illicit Distillation in Ireland: Papers read before the 4th Irish Conference of Historians, Historical Studies 3, (Cork, 1961) p. 78.
108. Barron, J., ed., The Northern Highlands in the Nineteenth Century, I, 15 March, 1816, p. 102.



were to be admitted to Southern markets, they must be prepared to work in all respects under the same law as they did in the South. A Highland rejoinder was that merchants in the north would embark their capital in distillation and cheerfully pay south country duties, if stills of a small size were permitted, with free access to Scottish outlets.<sup>109</sup> It was further alleged that competition from Ireland was severe, because Irish distillers could undersell both groups of Scottish distillers, in Scotland as well as in the Irish market.<sup>110</sup>

The ferment was crystallised when two reports were sent by Woodbine Parish, Chairman of the Board of Excise in Scotland, to the Treasury; seventeen petitions had come from countries and cities, societies and merchants, who wished 'to rescue their country ... from a state of active fraud.' As illicit distilling was held to be 'no great deviation from moral rectitude', it had attained very substantial proportions. In his view, illicit whisky's first recommendation was its quality, and its second, a low price; he openly admitted that small stills made the best spirits, and that it was impossible to derive good whisky on 'the 18 gallons of spirits from 100 gallons of wash' formula. Smuggling would go on so long as Highland distillers were excluded from Lowland markets, although Lowlanders were not debarred from the northern one. Parish believed that the bewildering alterations in legislation, more than the duty increases, had caused the destruction of legal distilling; meantime the revenue was defrauded to an enormous extent, but he was satisfied that unlicensed distillers would pay duty given the chance to sell at a profit in a free market.<sup>111</sup> Accordingly, he foresaw a new legal

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109. Barron, op. cit., I, 26 May, 1815, p. 85.

110. Barron, op. cit., I, 22 July, 1815, pp. 90-1.

111. P.P., Two Reports of Woodbine Parish, Chairman of the Board of Excise in Scotland, VIII, 1816, p. 1 et seq.

framework which would unify the duties in the United Kingdom, positively promote the operation of small stills, and allow uninterrupted trade within Scotland. His petitioners who included the Marquis of Huntly, and the Highland Society of Inverness, wanted the wartime duties cut back to 3s. per gallon, and small stills of 30 to 50 gallons encouraged.<sup>112</sup> The Earl of Wemyss promised the assistance of the country gentlemen in checking smuggling, which seemed to the merchants and magistrates of Glasgow to be organised into a regular system, so that the fair trader could not compete.

With the return of peace time conditions, domestic issues took on a new significance. As 1816 advanced, there was much distress in the Highlands due to lack of employment opportunities, to the high prices of grain, and to what Woodbine Parish described as a general stagnation of commercial credit which was affecting the whole country.<sup>113</sup> The still licence system tended to encourage a monopoly situation, because duty had to be paid in advance - thus favouring men with greater resources. Distillers persisted in adopting illegal devices such as augmenting the still size by raising the head, and by substituting worts for fermented wash. The inducement to go illicit was considerable and practically all the trade in whisky was in the hands of smugglers. The disquiet in administrative circles continued as illicit distillation became more and more common. As to the Revenue, it was widely believed that the Excise duty in the Highland area, including the penalties recovered from delinquents, was 'scarcely sufficient to defray the expense of securing and collecting them.'<sup>114</sup>

During 1816, the government did authorise the use of stills of not less than 40 gallons content in the Highlands, subject to the intending licence

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112. P.P., Two Reports: Parish, 1816, p. 4.

113. P.P., Two Reports: Parish, 1816, pp. 1-5.

114. Barron, op. cit., I, 19 Jan. 1816, p. 101.

holders being recommended by two magistrates and their parish minister. County meetings were held to express satisfaction with the amendment, and to take steps to supervise the issue of licences as well as to put down smuggling.<sup>115</sup> The intention was to encourage farmers and others of modest means to perform legal distilling on a limited scale, thus luring the illicit industry above ground, and rendering it controllable. Simultaneously the duty on spirits was cut to 8s. 7d. per gallon, and the Excise awaited a flow of applicants for distillers' licences. There was indeed some improvement: 36 licences were taken out in 1816, compared with only 27 in 1815.<sup>116</sup> A report by a Committee of the Highland Society showed that the 1816 revision had been beneficial in the north, because during the next year the number of legal distillers in the Highland district rose from 12 to 30. The quantity of additional gallons distilled was 99,721, and the increase in duty paid, £18,195.<sup>117</sup> The improvement may also have been stimulated by the reduction in duty to 5s. 6d. per gallon, which was a further attempt to convert poteen makers to licensed distillers. Throughout Scotland, the licences issued rose to 108 in 1817, and to 147 two years thereafter.

Distilleries at Work in Scotland

1799	87	1821	115
1816	36	1823	111
1817	108	1825	245

Source: Nettleton J.A., The Manufacture of Spirit, (1893) p. 6; amended from P.P., Seventh Report, Excise Establishment (1834), p. 227.

The still licence system had been finally abolished in 1817; a weaker wash could at last be employed - an estimated yield of 11 gallons of spirits per 100 gallons of wash at 1060 gravity was presumed, the saccharometer having come into general use.<sup>118</sup> Hence a partial rehabilitation of legal distill-

115. Barron, op. cit., I, 9 Aug. 1816, p. 108.

116. Nettleton, op. cit., p. 6.

117. Barron, op. cit., I, 4 April 1822, p. 206.

118. Nettleton, op. cit., p. 6.

ing ensued. The distinction between the Highland and Lowland districts was abolished, and a drawback of 1s. 2d. was paid to Highland distillers on each gallon of spirits made by them, and consumed in Scotland.<sup>119</sup>

Improvement was maintained until 1818, but thereafter a falling away in the number of licences, and in revenue receipts occurred in the Highlands.<sup>120</sup> Many of the Highland distillers were forced to close down their plants; Captain Munro of Teaninich distillery, Ross-shire, wrote to Mackenzie of Seaforth:-

The distillery has not been at work for two months, and it will be a few weeks before it commences, indeed the state of the country, as to Illicit Distillation, and the unaccountable supineness of the Excise to put a stop to it, makes it doubtful if at the present moment from the limited sale of spirits, whether it is advisable for the Legal Distiller to go on - to any extent, certainly it is not.<sup>121</sup>

While on a visit to Inverness in 1819, Robert Southey, the poet was very surprised to discover that the bulk of the town's yeast supply came from smugglers' bothies in the Black Isle.<sup>122</sup> Smuggling had become endemic.

In the Lowlands, the substantial decreases in duty, and the end of the still licence system had a more immediate effect, where the majority of the new licencees went into production. It marked a phase of consolidation south of the Highland line, but additional complexities obscured the future of the distilling industry in the north. A change in malt duty was made, which more than doubled it to 3s. 7½d. per bushel, which was interpreted as being unfavourable to Scottish interests, and in particular to those of the northern counties. Thomas Mackenzie of Applecross, the member of Parliament

119. Robb, op. cit., pp. 26-7.

120. Barron, op. cit., I, 4 April, 1822, p. 206.

121. S.R.O., Seaforth Muniments, GD 46/13/117, Captain W. Munro, to J.A. Stewart Mackenzie, 1818.

122. Southey, R., Journal of a Tour in Scotland in 1819, p. 141.

for Ross, saw the Chancellor of the Exchequer and stated that it was utterly impolitic to impose a higher duty than that paid during the French Wars. Distillers in the Highlands might in consequence abandon their enterprises, thus inviting even more smuggling of whisky.<sup>123</sup>

In 1820, the Duke of Gordon had the issue of illicit distilling raised in the House of Lords. The Duke was the Laird of Glenlivet, and one of the major landowners in the Highlands. He was in no doubt about the appalling moral, social and economic circumstances surrounding illicit distillation and smuggling. He had witnessed the results among his own tenantry at first hand. The Duke suggested that the government would do well to stimulate legitimate whisky making by permitting the distilling of spirits of a proof strength equivalent to that made by the smugglers - then, in company with other lairds, the Duke was prepared to exercise his powers to suppress the activity.<sup>124</sup> Eviction was the laird's strongest weapon. His proposals were well received, and in 1821, a Parliamentary Commission was appointed to investigate the problem: it investigated the revenue arising from distilling in both Scotland and Ireland, and was chaired by Lord Wallace.<sup>125</sup>

## II Legislative Changes after 1823.

The Commission of Revenue Inquiry reported in 1823 in favour of profound changes in the law and manner of assessing duties on distilling in Scotland.

Evidence to the Commission showed that the statutory regulations for

123. Barron, op. cit., I, 27 Jan. 1820, p. 177: Also P.P., Return of Members of Parliament, 1357-1874, Vol. II (1878), p. 282.
124. Alexander Gordon, 4th Duke of Gordon (1745-1827) was elected one of the sixteen representative peers in Scotland in 1761. He was described as the greatest subject in Britain, on account of the extent of his rent rolls, and the number of persons who depended on his protection. He was a supporter of the Pitt administration. (See Dictionary of National Biography, XXII, p. 167). Also Bruce-Lockhart, Sir R., Scotch (1959), p. 12.
125. P.P., Fifth Report of the Commissioners of Inquiry into the Revenue, VII, (1823).

distilling were excessively complex and vexatious. Smuggling had become widespread and violent in nature: desperate men engaged in it, in league with 'the lower order of tenantry and crofters.' Distressing descriptions were given of the falsehood, intemperance and brutal ferocity of the smugglers.<sup>126</sup> Illicit whisky was admitted to be a better article, than whisky legally distilled - a fact ascribed to the inadequacy of the Excise laws, rather than to the superior techniques of the poteen maker. One example will serve to illustrate this point. The legal distiller had to prepare wash of a specific strength, and paid duty on a set quantity of spirits whether he was able to extract the required amount or not. Owing to the inferiority of Highland grain 100 gallons of wash could not normally produce the volume of alcohol on which the law charged duty. Hence the legal distillers were driven to attempting to produce one-fourth or one-fifth more than the smugglers did to recoup their losses, using a far stronger wash than they would have favoured if left to their own discretion.<sup>127</sup>

Other statements before the Commission showed that illicit distillers had succeeded in setting up practically a monopoly in the whisky trade in the Highlands, as well as in the market towns in the immediate periphery, where demand proved lucrative. More than half the whisky produced in Scotland c. 1820 was illicitly made.<sup>128</sup> Furthermore, their Highland whisky was so highly regarded that some Lowland distillers found it good business to purchase sizeable volumes of it for resale under their own names. It almost certainly was 'blended' with Lowland whisky. Captain Fraser, the owner of Brackla distillery near Nairn, stated that he had 'not sold 100 gallons for consumption within 120 miles of his residence during the past year, though

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126. P.P., Fifth Report, op. cit., p. 139.

127. Barron, op. cit., I, 4 April 1822, p. 296.

128. Nettleton, op. cit., p. 11.

people drank nothing but whisky.<sup>129</sup> Over 4,000 gallons were in bond at Munro's Teaninich distillery in Ross-shire, for which no customers could be found. Haig's had encountered declining sales in Aberdeen, having sold only 2 to 3 puncheons of their whisky in 1822, as compared with 100 to 150 a few years earlier.<sup>130</sup>

Smuggled whisky ranging in price from 4s. 6d. a gallon at the still mouth to over 9s. for the same quantity in Perth or Edinburgh; at 20° over proof, it represented a better bargain than legally distilled spirits at 8s. a gallon (raw grain) or pure malt whisky at 9s. 6d., both at 7° over proof which was the highest strength at which licence holders were allowed to market their product.<sup>131</sup> Inflated price levels in Lowland towns indicate that Highland whisky was a black market commodity that was fast becoming a 'snob' drink; even King George IV was reputed to favour it, drinking nothing but pure, though illegal, Glenlivet.<sup>132</sup>

Licensed distillers were therefore convinced that they could never compete on equal terms with the smugglers unless the spirits duty was pruned to 2s. to 3s. per proof gallon. They saw high duties as a bounty to the successful illicit operator, and a burden only to the legitimate trader; although they occasionally over-stated their case, their basic complaints were justifiable. Apart from the northern counties, in cities like Edinburgh, there were alleged to be fifty unlicensed distillers to every legal one.<sup>133</sup>

For some time, as the Steins knew to their cost, a distiller desirous of making spirits for the English market was obliged to close down his works

129. Sillett, S.W., Illicit Scotch, p. 54.

130. P.P., Fifth Report, op. cit., p. 235.

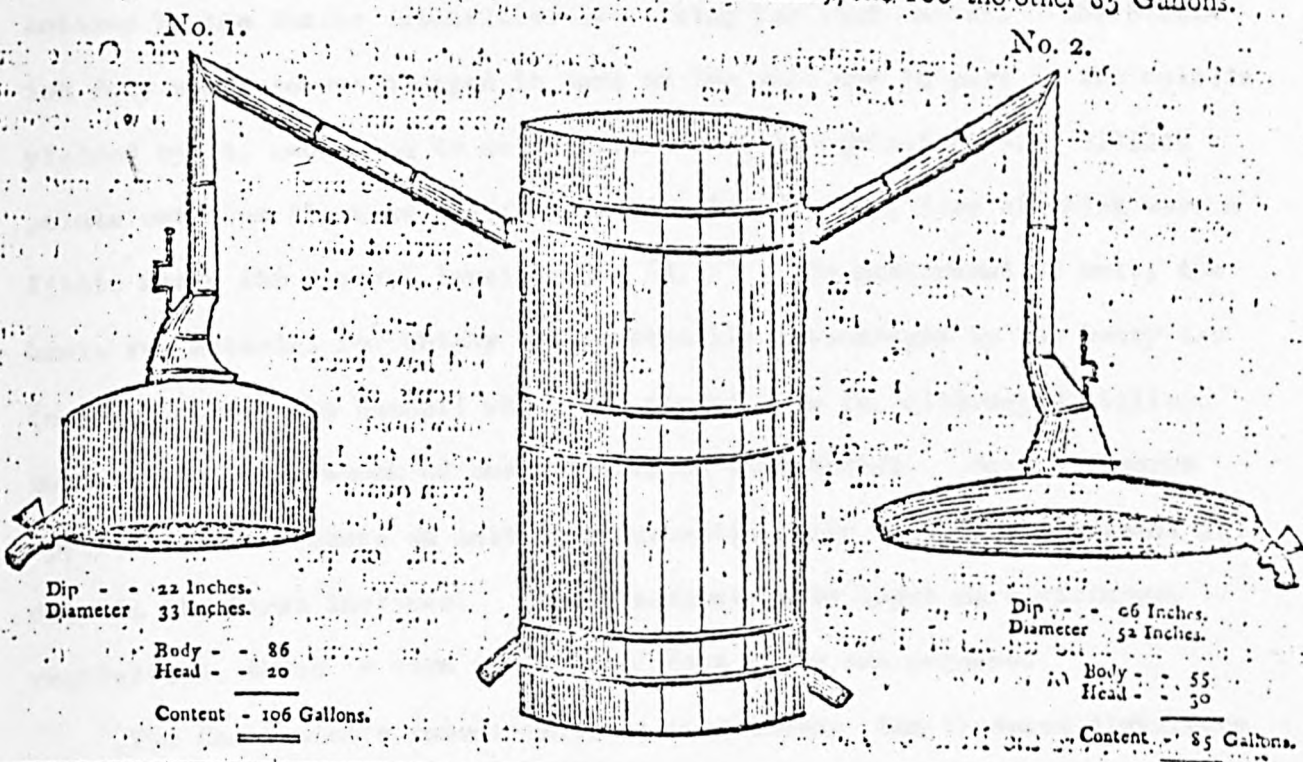
131. P.P., Fifth Report, op. cit., P. 16 and pp. 230-1.

132. Grant, Eliz., Memoirs of a Highland Lady, 1797-1827, p. 261.

133. Nettleton, op. cit., p. 7.

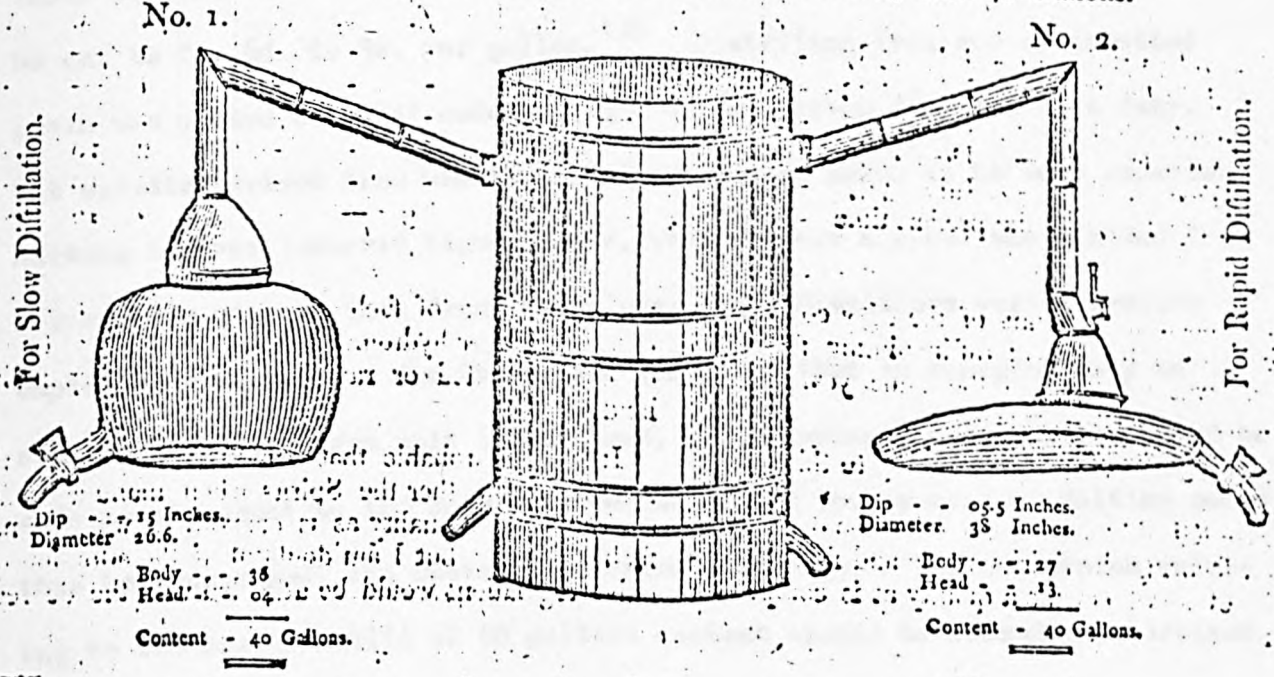
(A.)

Mr LEVEN's Forms of a Deep and a Shallow STILL, one 106 the other 85 Gallons.



(B.)

Mr. LEVEN's Forms of a Deep and a Shallow STILL, each 40 Gallons.



Experimental Stills for rapid distillation:  
P.P. Report: Distilleries, 1799, App. M., p. 258.



for a period of 12 months beforehand, and his plant had to be officially entered by the Excise authorities as working for that market. The Scottish duty was moreover charged in part on the wash and in part on the spirits yielded by it, according to an involved scale of equivalences. Sillett points out that there were six assorted rates of duty, five of which were a little above the general level of 5s. 6d.<sup>134</sup> The employment of malt, the basic raw material for whisky was practically discouraged by the heavy tax (namely 2s. 6d. per bushel) which was placed upon it, although distillers were allowed a drawback of one shilling on each bushel. Some of course applied for the rebate on malt made surreptitiously without any payment of duty in the first instance. Such dishonesty only begat more stringent regulations, which in turn tended to defeat their own purpose.

The Commission's recommendations were these: the licensed distillers must be given the chance to market the same quality of whisky at a price approximate to that of the illicit distillers - in order to do so, the duty should be cut to 2s. 6d. to 3s. per gallon.<sup>135</sup> Distilling from raw or unmalted grain was stated to be of modern origin having arisen from the malt duty, but spirits derived from wholly malted grain were known to be much superior. Malting however incurred higher costs, whereas more alcohol was yielded from a raw grain mixture than from malt alone; many distillers were therefore employing raw grain. The Commission suggested that in charging duty on spirits distilled from malt in Scotland, or in Ireland, a deduction should be made nearly equal to the duty paid on the malted barley used. Malting would thus be encouraged, and wholesale evasion combatted. The concession relating to the use of stills of 40 gallons content should be extended to Ireland, while it was proposed that the duty free warehousing which the Irish enjoyed

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134. P.P., Fifth Report, op. cit., p. 99.

135. P.P., Fifth Report, op. cit., pp. 15-19.

should be allowed in Scotland, on the grounds that it helped the man of small capital, whose funds were freed for trade, rather than tied up in tax payments.

The influence of the lairds was adjudged to be a deciding factor in checking smuggling among their tenants, 'by their not suffering persons known to be engaged in illicit distillation to continue in the occupation of lands held under them.' Landowners who permitted an offender to remain must either 'have reason to confide in his better conduct for the future, or to be giving deliberate countenance to a breach of law.'<sup>136</sup> Regarding penalties, there was a milder attitude in Ireland than in Scotland, towards malefactors; it was believed that if the right climate were created for licensed distillers, the temptation to engage in illicit activities would be greatly diminished, and the revenue more effectively protected.

The Commissioners were of the opinion that a reduced duty might confidently be expected to lead to an increase in revenue receipts: duty raised in Scotland was £687,000 from a consumption of 2.4 million gallons, but in reality consumption was about 5 million gallons. Finally the Commission looked forward to the establishment of a uniform system of Excise laws and taxes throughout the United Kingdom; and noted the failure of the government on repeated occasions to promulgate satisfactory measures for the distilling industry, causing repeated disappointment among distillers.

The immediate outcome of the Commission's remit was the Illicit Distillation (Scotland) Act of 1822, which set out severe penalties for all offences associated with illegal whisky making; the actual report of the Commissioners of Inquiry did not appear until 1823. New scales of fines were introduced; for example, fines of £200 were to be imposed where offenders were discovered in possession of ungauged stills, whether these were in

operation or not, and wherever Excise officers were prevented from carrying out their duties. People using a still without a licence, or distilling in other than the one licensed, were liable to penalties of £100, which were to be enforced if more than 20 gallons of wash, or any volume of low wines or feints were found in the ownership of persons other than licensed distillers, brewers or vinegar makers. The conveying of whisky from place to place, without an Excise permit, was made liable to a fine of £200 - a measure hitting hard at the determined smugglers. Another aspect of the Act was the penalty laid down for persons on whose property illicit distillation was performed 'with their knowledge'; they were exposed to fines 'not exceeding £100, nor less than £20,' with the option of 6 to 12 months imprisonment. Meanwhile the fine for aiding and assisting at an illicit still was put at £50 or 6 months imprisonment for a first offence, and thereafter at £60 or 12 months. The powers of the Excise officers were much augmented; permission was given for them to search out, seize and destroy illicit stills, wash, low wines, feints and spirits, regardless of whether they had warrants from a Justice of the Peace or not.<sup>137</sup> These measures assisted the officers in the execution of their duties, but the payment of rewards for detection or prevention of private whisky making led to abuses.

The Excise Act of 1823 incorporated more of the Commission's work. Indeed the passing of this Act is a watershed in the story of illicit distilling in Scotland; it is the beginning of the demise of smuggling and poteen making, as well as the growth point from which the modern Scotch whisky industry sprung. It was in fact expected that a remission of duty would be granted 'to an extent quite unexpected, and likely to have the most beneficial results', which would 'most effectually crush smuggling.'<sup>138</sup> In the event, the duty was reduced to 2s. 4½d. per gallon, and a payment of a £10

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137. The Illicit Distillation (Scotland) Act, 1822.

138. Barron, *op. cit.*, I, 26 June, 1823, p. 226.

licence fee purchased a licence to distil. This procedure is still in force. Any one may become a distiller of Scotch whisky, by applying for a licence but would have to satisfy the authorities that his premises were a commercial proposition.

The consequences of the 1823 Act were various, but despite its initial cool reception in the Highlands, it was undoubtedly advantageous to the legal distillers. The duty reduction undercut the margin on the illicit distiller's product; the Highland smugglers were likely to lose their outlets, especially as there was a long term improvement in the quality of legitimate whisky. Both the severity of the punishments, and the displeasure of the Laird were added incentives to become a license holder. Other influences of a beneficial kind were the transport improvements by road and sea which diminished freight costs from remote areas, and the spread of education reinforcing the attitudes of an enlightened clergy.

The activity and determination of the Board of Excise through its officers, allied to the exaction of the stiff penalties was a deciding factor in the short run. The Justices had been accustomed to levy fines as much below the minimum laid down by the law. When the new Act came into operation, the Excise demanded that the minimum of £20 should be imposed, the alternative being 6 months in jail. The Justices were reluctant to co-operate, but the tenacity of the authorities defeated them; for instance a prosecution for illicit distilling occurred in Banff-shire, and when the Justices would not levy the statutory penalties, the Excise transferred the cases to the Court of Exchequer in Edinburgh, which subjected offenders to penalties varying from £100 to £500 each.<sup>139</sup> By this demonstration of strength, opposition was overcome, smugglers were unquestionably deterred, and in ten years, the

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139. S.R.O. Minute Book of the Court of Exchequer (E351) and Register of Decrees (E.352) were examined but the cases were untraceable from these sources.

number of detections in Scotland had fallen to 692, and in twenty years to 177.<sup>140</sup>

Lengthy explanations of the new Distillery laws were published in the Inverness Courier. Note was taken of the facility granted to distillers to store spirits without payment of duty, the strength of such spirits to be either 25 or 11 per cent over proof; a warehouse rent 'for report of the Revenue' was chargeable at the rate of 1d. a week for each 40 gallons. No allowances were made for losses during warehousing. Distillers using malted 'corn' were obliged to produce two gallons of spirits from every bushel of malt, 'or 12 gallons proof spirit from the standard Linlithgow boll.' The reduction in duty was applauded:-

The spirit duty on eight pints Scots<sup>141</sup> amounts to 8s. on proof spirits, which is about 12 per cent stronger than is commonly retailed in this country. Malt duty on the same quantity at the same strength is 1s., making 9s. of spirit and malt duty on the Scots gallon. Former duties on the same quantity amounted to 22 s. thus giving a reduction of 13s. per Scots gallon.<sup>142</sup>

Another welcome change was the possibility of preparing a weaker wash. At the same time, travellers for Lowland spirit dealers were offering to supply the Inverness market with whisky at 4s. per gallon, or 2s. 6d. per Scots pint; the Highland distillers looked forward to providing a cheaper and better article as a result of the new legislative framework. By 1824, the effects of the Act seemed even more salutary:

From North to South we are gratified with the certain and pleasing intelligence that the pernicious traffic of the smuggler, with all its baneful effects, is going down fast before the operations of the large distiller. Thus has a judicious and well

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140. Barron, op. cit., I, Introduction, p. XXXIV.

141. The Scots pint equalled 4 pints or 1 quart: the Scots gallon was 8 Scots pints.

142. Barron, op. cit., I, 4 Sept. 1823, p. 227

directed legislative measure, affording encouragement and protection to the lawful trader, effected in one short year more than a host of Excisemen were able to accomplish in the Highlands for the last half century, and more than they would do for fifty years to come.<sup>143</sup>

Furthermore, the Revenue had benefitted; 'an unquestionable authority' had reported that the duties on malt and spirits alone in the Inverness district amounted to £1,300 for November-December 1825, giving an increase of £870 on the duties for the corresponding weeks of 1824. These duties were paid by the Inverness, Millburn, Fortrose and Brackla distilleries, which were alleged to be prospering, and extensions to them were projected, while new ones were planned for Inverness, and at Dores on Loch Ness-side. In the counties of Ross, Sutherland, and Caithness, the new legislation was 'equally satisfactory.'<sup>144</sup>

Major-General Stuart of Garth also commented on the new Acts. He wrote that they were 'the most favourable for the Highlanders ever enacted', but he had some reservations, because distillers distant from markets and fuel, with light unproductive grain, still experienced hardship.<sup>145</sup> This sounds a note of caution, but the evidence of licences paid, and of rising production gives an optimistic picture of the industry. Output of legally distilled spirits in Scotland rose from 3.3 million gallons in 1822 to 5.9 million gallons in 1824, and to 8.2 million gallons in 1825. Such was the growing volume of duty paid spirits entering home consumption that it was possible to make a gradual increase in the rate of duty applicable in Scotland.<sup>146</sup>

For their part, the smugglers did not abandon their trade without a

143. Barron, op. cit., II, 21 Dec. 1825, p. 13.

144. Ibid.

145. Stuart of Garth, op. cit., p. 366.

146. P.P., Seventh Report, op. cit., p. 42.

hard struggle. In smuggling areas of the Highlands, the Excise Act of 1823 was unwelcome. The majority of the stills owned by the illicit distillers, to judge by the Still Books of Robert Armour, would have been too small to qualify for a licence.<sup>147</sup> Hence illicit distilling in the Highlands entered upon its final and most bitter phase, in which the more progressive smugglers became turncoats violently persecuted by the illegal dealers. Smith of Glenlivet was a former illicit distiller who suffered abuse and threats of assault from his neighbours.<sup>148</sup> In remote, Gaelic-speaking areas, there was probably genuine and widespread misunderstanding of the provisions of the Acts; there was certainly deep resentment over military force being employed against smugglers to search out illicit stills. The Excise appointed Riding officers to suppress smuggling; this may have been taken from the practice of the Board of Trustees for manufacturers in controlling linen production in this way. Resentment was such that smugglers burned down the Banks o' Dee distillery, at Aberdeen in 1825.<sup>149</sup>

The few Highland distillers who had weathered the pre-1823 tide of illicit distilling, had to contend not only with former smugglers, but also with a variety of entrepreneurs, who had not been exposed to the financial strains and legislative encumbrances of earlier years, who entered the industry. Some of the old licensed distillers went to the wall, and many of the new inexperienced ones joined them.<sup>150</sup> To-day about 20 per cent of the active Scotch whisky distilleries originated before 1823; although the distilling industry has a long ancestry, its growth and development date only from the early nineteenth century.

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147. Illicit Distillation, vide infra

148. Glenlivet, The Annals of the Glenlivet Distillery, p. 17.

149. Clow and Clow, op. cit., p. 567.

150. Case Studies, Early Nineteenth Century Distillers, vide infra.

Why did men like George Smith of Glenlivet take out a licence? A shrewd and practical man, he foresaw that illicit distillation would fight a losing battle in the altered legislative setting, and that it held out no long term prospects; he therefore adopted the principle 'if you cannot beat them, join them', and bought a licence for his distilling bothy on his farm at Upper Drummin in Glenlivet, which he had operated since 1817.<sup>151</sup>

Smith is known to have reconstructed his bothy on the lines of a commercial distillery, having an output of some 50 gallons of whisky a week; production from the bothy was a hogshead a week. He aimed to make superior quality whisky, which he transported by pack horses, often with an armed escort to Perth and Edinburgh as well as to Garmouth and Burghead on the Moray coast for export to the Lowlands by sea. His convoys were accosted by irate smugglers, and Smith went in fear of his life. For his protection, the Laird of Aberlour presented him with a pair of pistols. George Smith rebuilt his plant in 1824, and ten years thereafter he was soundly established as the sole legal distiller of Scotch whisky in Glenlivet, and indeed 'Glenlivet' was fast becoming the synonym for 'Highland whisky' which 'Ferintosh' had once been; 'Glenlivet' was a name already known and respected for illicit whisky. As Smith prospered, he acquired more land in the glen to ensure his barley supply, and to feed cattle on the spent grains. By the 1840s, output was running at 200 gallons of whisky per week. An additional distillery, the Cairngorm, was constructed, after 1850, but it suffered from an inadequate water supply and was abandoned. When the original unit at Upper Drummin was burned in 1858, Smith chose to concentrate his works at Minmore, stepping up the flow of whisky to 600 gallons a week. When the Speyside railway was opened in 1863, the station at Ballindalloch to some extent eased the distribution and marketing situation for the distillery, but it

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151. Glenlivet, op. cit., p. 18.

See also Bremner, D., Industries of Scotland, pp 446-8.



was 7 miles from the railhead, over steep roads, which horses and carts had to negotiate.<sup>152</sup>

There was an improving relationship between distillers and Excise officials, assisted by the malt duty drawback, and the duty free warehousing concession. Previously there had been difficulties as for example in Campbeltown, where licensed distilleries began to be re-established after 1817. There were irregularities in the grain trade of the burgh. Duncan Stewart, Factor to the Duke of Argyll resided there about 1822, and he knew that Customs officials had often been defrauded by imports of barley being described as bere.<sup>153</sup> As there were many registered malt kilns in the town, considerable quantities of bere were brought in for malting. Barley yielded more alcohol than did bere, but distillers and maltsters contended that they could not tell the difference between the two types of grain. Malt made from barley paid a duty of 2s. per bushel at that time, whereas malt made from bere paid only 9d. per bushel. Hence when barley came into Campbeltown harbour from England and Ireland, it was passed off as bere, and paid a lower duty. This reduction was intended to compensate for its smaller potential yield of sugars for conversion to alcohol.<sup>154</sup>

Malt smuggling was of course another nefarious practice which had proved impossible to stop. Bothies and caves were the concealed sites of malting barns, but even fields and the open moor were used. Millers allowed their grain kilns and lofts to be employed for malt preparation; one task of Excise officers was to inspect mills and kilns to ensure that malt was not dried and ground there with a view to distillation.<sup>155</sup>

152. Glenlivet, op. cit., p. 18.

153. P.P., Fifth Report, Appendix 68, p. 188.

154. Glen, I.A., An Illicit Still Maker, Scottish Studies, to be published: 1969.

155. Illicit Distillation, vide infra.

The mode of levying a malt duty, and thereafter giving a drawback on the whisky 'was subject to several very material and solid objections.' In the Highlands it was alleged to open 'a wider door to the Distillery for avoiding the law by disposing of Malt to Smugglers ... and substituting raw grain for which the debenture [rebate] would be paid as for malt.'<sup>156</sup> In 1824, the duty on malted barley was 2s. 6d. and on bere or bigg, 1s. 11d. per bushel. What was regarded as unfair in the Western Highlands was the requirement that 2 gallons of spirits must be extracted from a bushel of grain; if the legal distiller used poor quality local grain, as in the Isle of Lewis, he found that the average volume of whisky which could be extracted from bere was not more than one gallon per bushel.<sup>157</sup> The abolition of the malt duty, and the imposition of an equivalent duty of 1s. per gallon on the actual whisky distilled was therefore sought.

In 1827, the previous acts relating to malt duty were consolidated, and applied to the whole of the United Kingdom. Any system of drawbacks was open to abuse, and further alterations were made in 1830, 1847, and 1860.<sup>158</sup> In 1832, J.A. Stewart Mackenzie M.P. for Ross, opposed a bill to reduce the drawback by 6d. a gallon from 1s. 2d. to 8d; he opposed the bill on the grounds that it offered a bonus of 6d. per gallon to those who distilled from raw grain, as against wholly malted grain.<sup>159</sup> This opposition to the repeal of the malt tax was continued in 1835 and in 1836. It was not however until 1880 that the malt tax was finally abolished - a step which had a mixed reception in Scotland. The distillers welcomed it, but the Excise authorities were highly critical of its implications, especially in the Highlands.

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156. S.R.O. Seaforth Muniments, GD 46/17/63; Notes on the Distillery Laws, Feb. 1824.

157. Ibid.

158. P.P., Fourteenth Report of the Commissioners of Inland Revenue (1870), p. 28.

159. S.R.O. Seaforth Muniments: GD 46/4/103, Speech: J.A. Stewart Mackenzie M.P. for Ross-shire, House of Commons, April, 1832.

Their objection was that the illicit distiller would now have every facility for performing the most tedious part of his operations without interference. Previously malting, which occupied from 14 to 20 days was illegal except for licensed traders, but after the repeal, malt could be made openly. Hitherto Excisemen had had at least three weeks in which to detect the malefactors; thereafter they had to effect detections within a period of 5 to 6 days at most, i.e. when the actual brewing <sup>and</sup> ~~are~~ distilling were in progress.<sup>160</sup>

The organisation and functions of the Excise establishment were investigated by the Parnell Commission in 1833; it recommended various concessions to distillers - such as allowances for waste in processing, a reduction in duty to 2s. 4d. per gallon, but no change in the malt drawback.<sup>161</sup> The opportunity was taken to review the working of the 1823 Excise Act, and distillery regulations, which had been most successful according to the Highlanders, and they wanted it to continue untouched:-

In forty years experience in distillery, I never knew a law made by the legislature that was so complete either for securing the revenue or improving the quality of the spirits, or suppressing illicit distillation ... the law has exceeded our most sanguine expectations, that of the government, and that of the legal distiller; and it affords an encouragement to the agriculturalist for the distilleries are now generally diffused over all Scotland.<sup>162</sup>

The pattern was repeated in Campbeltown where before 1823, 'there were but two small works', whereas in 1824, there were '8 or 10 works commenced in consequence of the law'.<sup>163</sup> Within the Highland line, the trend was upwards - there being 42 units in 1824, rising to 107 in 1827, when decline set in; hence there were but 99 distilleries in operation in 1828.<sup>164</sup>

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160. MacDonald, I., Smuggling in the Highlands, p. 116.

161. P.P., Seventh Report, op. cit.

162. P.P., Seventh Report, op. cit., Appendix 119, p. 50.

163. P.P., Seventh Report, op. cit., Appendix 127, p. 51.

164. P.P., Seventh Report, op. cit., p. 50.

The problem for the entrepreneurs was that far too many were started up - 'more than consumption required and a very decreased profit was the consequence', but this was not ascribed to any faults in the law. Captain Munro of Teaninich described how bad times had come in the late 20s, and early 30s; after investing £600 in his distillery, he had become its tenant instead of its proprietor because of his losses.<sup>165</sup>

The submissions of the Highland licensed distillers indicate that they were still preoccupied with illicit distillation, and suffering at the hands of 'the host of useless and dissipated officers employed by the Board of Excise, and the abundance of whisky at 3d. a gill.'<sup>166</sup> There was thus room for improvement. Lowland distillers like John Stein of Kilbagies, as well as the Highland ones, argued that when increases in the malt duty (or a reduced drawback) were passed on to customers through price increases, the smugglers at once got busy.<sup>167</sup> The distillers reminded the authorities of this fact:-

It is not the Excise who have suppressed smuggling for there are miles in which there are no Excise, but it is the fine quality and low prices of the spirit which the distillers bring into the market that have alone prevented illicit distillation.<sup>168</sup>

Although some Lowlanders favoured the abolition of the drawback on malt, Stein, the Glasgow distillers, and the Highlanders, wished it retained 'as the very existence of the Scotch trade depends upon the continuance of the allowance'; in 1831, malt spirits on which duty was paid amounted to 5.6 million gallons, with a drawback of £314,604, as compared with the drawback of £28,435 on 2.4 million gallons in 1822.<sup>169</sup>

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165. P.P. Seventh Report, op. cit., p. 159.

166. P.P. Seventh Report, op. cit., p. 162.

167. Act I Gul. IV, c. 49: malt duty was raised by 6d. a bushel.

168. P.P. Seventh Report, Appendix 120, p. 54.

169. P.P. Seventh Report, p. 58.

A distinction was already emerging between those distilleries which used raw grain, and those which employed only malt; the former were of much greater extent and productive capacity. Despite the fact that it was illegal to operate joint premises, raw grain and malt whisky distilleries were developing side by side, with only a partition between them, and powered by the same steam engine;<sup>170</sup> this type of arrangement presages the coming of the Patent Still, which was installed in raw grain units, where pot stills continued to be used for malt whisky distilling, an association which persists to the present time at Ballantine's distillery, Dumbarton, and Long John Distillers' Strathclyde and Kinclaith plant.

Progressive distillers asked that the difference between English and Scottish Excise laws be abolished; the Revenue boards had been consolidated in 1829, at which time a separate Solicitor of Excise was retained for Scotland, but the Excise establishment in Scotland was thereafter directed from London. A bill in parliament indeed aimed to unify into one code the several measures for the regulation of the distilleries in the United Kingdom, but this did not pass into law until 1860. Improved conditions for the export trade, which had been trammelled by awkward rules, were also demanded. The export side had not grown as much as the Scottish distillers had expected; good business was however done,<sup>171</sup> in sending spirits from the Glasgow area to Ireland. The Scots claimed that in sending consignments to rectifiers in England, they paid 7s. 8d. per gallon, while the English paid 7s. 3d., and were less exposed to losses through evaporation, leakage etc.<sup>172</sup> In their view, a distiller exporting to England should be asked to pay duty on the quantity landed, rather than on the quantity shipped, with a limit being put

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170. P.P., Seventh Report, Appendix 116, p. 332.

171. P.P., Seventh Report, p. 64.

172. P.P., Seventh Report, p. 45.

on the permitted losses. An absurd restriction on the shipping of volumes less than 80 gallons should be removed, while merchants should be allowed to despatch not less than 20 gallons in casks, or in cases of not less than six dozen quarts in bottles. Rules of this type seriously handicapped the trade in fine qualities of Highland whisky: Captain Munro, for instance, had been prevented from sending a cask to St. James's. Although there were some latent jealousies between the Scottish and Irish distillers both shared a mutual dislike of the apparent favouritism shown to the English distilling industry by partial legislation. Demand was best being maintained for malt whisky, rather than the raw grain variety as the following figures show:

Exports of Spirits from Scotland:

Year	Malt proof gallons	Raw Grain proof gallons
1824	1,480	-
1825	4,195	125
1826	4,445	-
1827	9,063	14,951
1828	11,203	1,696
1829	12,660	147
1830	10,443	512
1831	13,371	-
1832	19,386	145
1833	24,462	679

Source: P.P., Seventh Report: Excise Establishment, XXV (1834), p. 65.

The legitimate industry had further encouragement after 1860, because the Excise on Spirits Act which was then introduced not only consolidated all the legislation relating to alcohol production in Britain, but also abolished many of the irksome details of distillery operation.<sup>173</sup> At the same time, the duty on spirits was increased by 2s. per gallon. Distillers were permitted to use a wide variety of raw materials in brewing, some of which had been the subject of controversy in earlier days. Prior to 1847, only malted and unmalted cereals could be used in distilling; problems were created by the

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173. Robb, op. cit., p. 27.

desire to use sugar, potatoes and mangold wurzel.<sup>174</sup> The exaction of a customs duty on sugar was tantamount to a prohibition on distilling from anything else but grain. There had been much West Indian agitation in favour of allowing sugar and molasses to be freely employed in breweries and distilleries. Extensive experiments were carried out in the Excise laboratories, and the outcome was the act of 1847, (10 Vict., c. 6), authorising the use of sugar in distilleries, while a year later, molasses and treacle were also included. The raw materials to be employed in the making of Scotch whisky were not finally settled until 1933: the ~~vital~~ constituent was to be barley.

In the mid-nineteenth century, the illicit distillers in Britain had been dealt a severe blow by the Methylated Spirits Act, which became law in 1855. It probably hit hardest at the illegal operators in urban and industrial areas, rather than in the Highlands. Its effects are known to have been more marked among the immigrant Irish in England. The 1855 Act authorised the employment of denatured spirits duty free in varnish making, and other manufactures, which had been a profitable outlet for some illicit distillers. The decline in illicit distillation in Scotland accelerated as the following statistics relating to detections show:-

Illicit Distillings: Detections, Scotland

1854	73	1871	15
1855	70	1874	6
1856	53	1884	23
1864	19	1900	2

Source: P.P., Reports of the Commissioners of Inland Revenue

Scotch and English spirits were liable to different rates of duty until 1855, when under Gladstone's administration a standard duty of 8s. per proof gallon was established - a measure which led to the abandonment of preventive Excise ports along the Border, and to the removal of many counterveiling levies and drawbacks.

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174. P.P. Fourteenth Report, op. cit., pp. 12-14.

A comprehensive review of the Excise organisation in Scotland, and of the outcome of the legislative changes which have been outlined (the changes being viewed over a longer period) is presented in the Fourteenth Report of the Commissioners of Inland Revenue (1870). At the time of the Report, the Excise in Scotland was organised in 13 collections, divided into 63 districts, 9 preventive districts, 313 divisions, and 85 rides. It is noteworthy that the preventive districts coincided with the more thinly populated Highland areas, over which a supervisor had charge. Under him were the ordinary surveying officers, a number of preventive officers and men whose special business it was to give help in suppressing the illicit manufacture of both malt and spirits.<sup>175</sup> It was freely admitted that probably the most effective means of wiping out this illegal activity had been the decrease in duty.

Besides the amendment of distillery regulation to give a more permissive framework for legal enterprise, much was ascribed by the Excise to the influence of the Scottish landowners, who had actively discouraged smuggling on their properties. - By showing their antipathy towards the practice, they had 'materially aided in promoting a better feeling among those who would otherwise have countenanced the smuggler.' It was noted with regret that this was not the case in Ireland.

MacDonald traces how a revival in illicit distilling did take place in the 1880s, and showed how a smuggler could earn a net profit of upwards of £10 on an initial outlay of 23s., the price of a quarter of barley - the grain yielded 14 to 16 gallons of whisky selling at 18s. to 20s. a gallon c.

1886.<sup>176</sup> A further difficulty was caused by the reduction in preventive staff which had occurred prior to the repeal of the Malt Tax in 1880. Magistrates traditionally proved to be lenient when illicit distillers came before

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175. P.P., Fourteenth Report: op. cit., p. 59.

176. MacDonald, op. cit., p. 116.



them. The Board of Excise, eager to co-operate with Highland landowners allowed deer forests to be exempt from inspection by their personnel, in order that game would not be disturbed. Extensive areas thus became a refuge for the smuggler, and ensured that he would not be disturbed.<sup>177</sup>

Although the Excise authorities were willing to give such concessions to landowners, they denounced the security of tenure conferred under the Crofters' Holdings Act, because it had no safeguard against illicit distilling and no anti-smuggling clause. The threat of eviction had been the landlord's most powerful weapon against the makers of poteen. The island of Pabbay is said to have been cleared because of the inveterate smugglers and distillers thereon.<sup>178</sup> The Excise officials feared that a new generation of law-breakers would be trained up, and agitated for a stringent prohibition against smuggling to be written into the Crofting Act; the problem of enforced idleness and poverty was proving intractable in the Western Highlands and islands, and it gave conditions under which illicit distilling was stimulated. Occasionally lairds still proved rather indifferent to the pleas of the Excise. As late as 1860, it was reported that a tenant on the Brahan estate had had his account credited with the price of an anker of smuggled whisky, and rents were frequently paid directly or indirectly by the produce of the smugglers.<sup>179</sup> These persons complained that they could not pay rents at all because their 'poit dubh' had been confiscated. Hoaxes were perpetuated on Excisemen, who were called out on gowk's errands; one such episode involved the vast estates of the Duke of Sutherland, through which detachments of Revenue men roamed in response to false information passed on to an Excise Supervisor.

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177. MacDonal, *op. cit.*, p. 99

178. Molesley, H.A., *The Deserted Hebrides*, Scottish Studies 10, 1966, p. 55.

179. MacDonal, *op. cit.*, p. 72.

The market for immature smuggled whisky, even if it could be described romantically as mountain dew or Highland whisky, had drastically declined, as supplies of legally produced spirits of reliable quality and moderate price became abundant. An event which seems to mark this change in a unique way took place in 1880. By this time, 'Glenlivet' whisky had achieved the highest reputation. Rival distillers were prepared to acknowledge its distinction, and wished to incorporate the name on their own labels for commercial gain. This right was indeed legally confirmed about 1880, on condition that the name 'Glenlivet' would be prefixed by the name of the distillery of manufacture; a host of firms availed themselves of the privilege. 'The Glenlivet' was reserved for the sole use of the Smith enterprise.

In 1880 came a new Spirits Act, under which the distilling industry was to work for many years to come. Its introduction was to facilitate both the calculation of revenue and its collection. To this end both plant and processes in distilleries were carefully controlled, the liquids produced being gauged and recorded. After 1945, the regulations were again amended to speed up the flow of production. The Act of 1880 had stated for example that the period of brewing (the making of worts) and the period of distilling must be 'alternate and distinct'. The 1945 revision made a notable modification - brewing and distilling were permitted to be carried on concurrently, instead of consecutively.<sup>180</sup>

Until the 1850s, the whiskies consumed by the public were usually the product of one distillery. The volume distilled by any unit was normally restricted by local supplies of grain and water, and by the limitations of the pot still apparatus; the quality of output tended to vary from year to year. After 1853, the Excise authorities allowed whiskies from the same distillery to be placed, once duty had been paid, in the same vat, although the whiskies

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180. Glen, I.A., The Scotch Whisky Industry, 1939-63, unpublished B.Litt. Thesis, Glasgow, p. 110.

might be of different ages. A further relaxation was made in 1860, when the blending of whiskies from various distilleries was permitted. By 1954, it was said that 'the prevalent notion amongst whisky drinkers, especially in Scotland, is that several varieties of Whisky blended is superior to that of any one kind; and it is not an uncommon circumstance to find in a gentleman's cellar, a hogshead, or half a hogshead of Whisky nearly always full, although the cask is continually being drawn from; the custom is to get the cask filled with four or five different qualities of the best whisky.'<sup>181</sup> This technique let the whisky mature, and the blend improve. Blending was certainly practised before it became legally and commercially acceptable. Not only were malts blended with other malt whiskies, but grain whisky from the patent stills was introduced too. The practice led to the formation of distinctive brands, constant in flavour from season to season, and with the potential of acquiring popular appeal through advertising and astute marketing. The blended whiskies brought together the robust character of the malts, with the abundance and cheapness of the grain spirit. Proprietary names, trade marks, and special bottles became linked with the attributes of the whisky being promoted. The prosperity of the pre-1870 economy in Central Scotland, with its flourishing coal and iron industries in boom condition, saw soaring sales of blended whiskies. Thereafter, the decline of brandy, due to the phylloxera epidemics, enabled Scotch whisky to supersede it as the drink of the upper and middle classes. Irish whisky also enjoyed a period of popularity, but the power salesmen of the 1880s - men like James Buchanan, Thomas Dewar and others - developed a demand for blended Scotch whisky not only in Britain, but through agencies overseas.

There was a lack of precision in the definitions of Scotch whisky. Earnard refers to the Cameronbridge distillery where in 1886, patent 'grain

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181. Tovey, op. cit., p. 150.

whisky', 'Pot still Irish', 'Silent Malt', and 'Flavoured Malt' were being manufactured.<sup>182</sup> The malt whisky distillers joined battle with the grain spirit distillers over the right to describe spirits as 'Scotch whisky', an argument which subsequently matured into a cause celebre, the 'What is Whisky' case in 1905. The differentiation of Scotch whisky from other whiskies is comparatively recent, considering the antiquity of the drink. Blending and hard selling generated expanding markets for Scotch, and it was then that a demand was made for some action to be taken to define what constituted certain classes of spirits. The problem arose initially in Ireland where in 1876, Irish pot distillers complained to the Inland Revenue that Scottish patent still whiskies were being blended with those from Irish pot stills. No action was taken, but in 1890, a Select Committee of the House of Commons reported that there was no legal definition of whisky, and it declined to give any.<sup>183</sup> There was a noticeable divergence in trade opinion. The pot still interests in particular were reluctant to see the name 'Scotch whisky' applied either to grain whiskies or to blended whiskies from Scotland. About 1886, the position had become more complex; distilleries in England were making whisky, not perhaps 'English whisky', but spirits sent to Scotland and Ireland to become blended Scotch and Irish whiskies.<sup>184</sup>

Matters were brought to a head by prosecutions in London in 1905, when persons selling blended 'Scotch' and 'Irish' whiskies were convicted of 'not supplying an article demanded.' Although the accused were found guilty, the grain whisky interests supported them in their appeal, and by propaganda and advertisement on an extensive scale, they kept the issue before the public.

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182. Barnard, A., The Whisky Distilleries of the United Kingdom (1886) p. 310.

183. P.P., Report from the Select Committee of the House of Commons on British and Foreign Spirits (1890) Cmd. 270.

184. Barnard, op. cit., p. 447.

The 'What is Whisky' case was eventually investigated by a Royal Commission in 1908-9<sup>185</sup> Although there was conflicting evidence, its decisions appeared to favour the patent still distillers. It defined 'whiskey' as a spirit obtained by distillation from a mash of cereal grains saccharified by a diastase of malt.' In the Commission's view, 'Scotch whiskey' [sic] was 'whiskey as above, distilled in Scotland.' The result was a disappointment to the traditional pot still distillers, but it was the green light to the patent still owners, and to the blenders. Thereafter, it was not until the Finance Act of 1933 that legislation gave proper effect to this recommendation. In fact, the 1908-9 definition could equally have covered Rye and Bourbon whiskies had they been made in Scotland.

As to the constituents of blended whisky, it has been estimated that as late as 1938 about 10 per cent of all blended Scotch whisky placed on the market was a mixture of Scotch malt whisky and Irish grain whisky.<sup>186</sup> This type of blend was the result of scarcities in Scottish grain spirit after the First World War. In the inter-war years, pot still whisky from Scotland and Canadian grain whiskies were sold in Canada by Scottish firms as 'Scotch whisky.' The blending of whiskies of actual Scottish origin was by no means uniform and universal up to the Second World War. The Scotch Whisky Association has to be vigilant to guard the best interests of the industry against fly-by-night firms which put up admixtures of Scotch whisky with foreign alcohols to be passed off as the genuine article.

In the course of the nineteenth century, the great surge in the output

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185. P.P., Royal Commission on Whiskey and other Potable Spirits  
 Cmd. 4181: Minutes of Evidence (1908)  
 Cmd. 4797: Minutes of Evidence (1909)  
 Cmd. 4796: Final Report (1909)  
 Cmd. 4876: Index and Digest of Evidence (1909).

186. Glen, op. cit., p. 6.

of legally made spirits was accompanied by an alarming increase in spirits consumption in the United Kingdom.

Spirits Duty and Consumption

Year	Duty level	Consumption proof gallons: millions	
		Scotland	U.K.
1823	6s. 2d — 2s. 4 $\frac{3}{4}$ d.	2.4	9.69
1834	3s. 4d.	6.04	23.39
1844	3s. 8d.	5.92	20.61
1854	4s. 8d.	6.00	24.89
1864	10s. 0d.	4.76	19.42
1884	10s. 0d.	6.70	28.54
1900	11s. 0d.	8.38	38.71
1910	14s. 9d.	4.56	21.44

Source: Wilson, G.B., Alcohol and the Nation, p. 318, and pp. 336-340.

The rise in the duty on spirits throughout the century failed to contain the level of demand, until the 1909 Budget laid a swingeing additional tax on spirits. Drunkenness was described as a social evil of very great magnitude in Scotland, the poverty, vice, and crime of slum districts in the larger towns being largely ascribed to it by contemporary writers.<sup>187</sup> The miseries occasioned by excessive drinking were plainly visible in the 1840s, when the parish reports for the New Statistical Account were prepared.<sup>188</sup> The legislation which was enacted in response to a long and vigorous social and political controversy will be considered in the section which examines blending, the popularisation of whisky, and the need for its definition and control.<sup>189</sup>

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187. Mackinnon, J., The Social and Industrial History of Scotland, p. 262.  
 188. Distilling in Scotland in the Mid-Nineteenth Century, vide infra.  
 189. Blending and the 'What is Whisky' Case: vide infra.

**The Steins: Capitalist Distillers**

THE STEINS: PART I

Among the most imposing, if not the most financially viable, distilleries in the Scotch whisky business were the two large Lowland distilleries at Kennetpans and Kilbagie, in Clackmannan. They were established in the early eighteenth century by the Stein family, who were the first regular exporters of Scotch whisky to London. The Kilbagie Distillery is now a paper mill, while Kennetpans on the Forth has but a few ruined walls, the brickwork of a quayside, and a sandbank caused by the tipping of ballast from ships in days gone - 'silent witnesses to what was once a busy port and the scene of a large distillery.'<sup>1</sup>

Origins of the Family:

Regarding the origins of the Stein family, a genealogy refers to a John Stein, the second son and third child of Sheriff Andrew Stein and Anna Mackenzie, who was baptised on 27 May 1697 in Clackmannan. In 1728 or 1729 he married Margaret Caldon, the daughter of a shipmaster.<sup>2</sup> The Steins may have been Huguenot settlers from the Low Countries because many families of such origins settled in East and Central Scotland.

It is recorded that in 1737 John Stein 'asked a favour of two Barons of the Exchequer, the nature of which ... has not been ascertained.' (The writer of this statement was a Miss Margaret Haig of Lochrin, who made notes in 1841 of the genealogy of the Stein family, which were supplemented at a later date by Mr C.E. Haig and Mrs. Margaret Stuart of Lochrin House.) It is thought however that this 'favour' may have been in connection with Mr Stein's business of distiller, carried on by him at that time. He was designated a "merchant" in July 1745, and is presumed to have died

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1. Laver, J., House of Haig, p. 12, et. seq.

2. The Stein Family: The Librarian, The Society of Genealogists, 37 Harrington Gardens, London, S.W.7.



on or before 1773. The name "Stein" appears as a variant, in the genealogical documents of such names as "Steine", "Steen", "Stiven", "Stephen" and "Steene".

Another member of the Stein family associated with trade in liquor, was Robert Stein, a wine merchant of Blackhall, who was born in 1733, and who died in 1816. The father of John Stein, Andrew Stein, is stated to have been 'probably' in the service of the Laird of Clackmannan, and to have 'given a lift' to the Stein family.

In 1751, a marriage in Alloa took place between Margaret Stein, daughter of John Stein, and John Haig. All the sons of this marriage were apprenticed at Kilbagie to John Stein, and may also have worked at Kennetpans. The name 'Stein' points to continental antecedents; there are many more evidences of immigrants from the Low Countries settling in Eastern Scotland, possibly to avoid religious persecution. Four of the five Haig brothers eventually left to begin their own distilling establishments. The Steins could indeed be described as founders of a distilling dynasty:

'One Miss Stein married John Haig who started Cameron bridge distillery near Markinch ...' <sup>3</sup>

A daughter of the Haig family married John Jameson who founded the Bow Street distillery, Dublin in 1780.<sup>4</sup> Another daughter Janet married John Philp, the well-known distiller at Dolls, Menstrie in Clackmannanshire. Alison Stein daughter of John Stein of Kilbagie also married a Philp - Richard Philp, who was a farmer and distiller also at Dolls.<sup>5</sup> When she died intestate in May 1799, the Stein family claimed her estate. Another sister was the wife of the Rev. Walter McAlpine, one of the ministers of

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3. Bruce-Lockhard, Sir R., Scotch, p. 58.

4. Laver, op. cit., p. 21.

5. S.R.O. Unextracted Processes, Currie Mack 58/3, Robert Stein & Co. v. John Philp, 21 Nov. 1799.

Culross.

The Distilleries at Kilbagie and Kennetpans

A full description of the Kilbagie and Kennetpans distilleries is given in the Old Statistical Account (1795). It is reckoned that in 1777, the manufacture of Scotch whisky was carried on there 'to an extent hitherto unknown in this part of the island of Great Britain and no situation could have been more eligible for a distillery.'<sup>6</sup>

Not only were these establishments advantageously located for fuel supplies, water transport, and the purchase of grain from Fife and the Lothians, they were also notable for their advanced technology. There was for example 'an engine of Bolton and Watt's construction at the distillery of Kennetpans, being the first of the kind that was erected in Scotland.'<sup>7</sup> The Engine Book from the Boulton and Watt Collection gives particulars of engines supplied to the Lowland capitalist distillers, and it is clear that the Steins were in the van of progress:

Sun & Planet engines supplied to the distilleries in Scotland, Boulton & Watt Collection, Engine Book.

(Birmingham Public Library.)

Earliest date on Drawings	Horse Power	Owner	Remarks
Oct. 1786	14	<u>John Stein</u>	Kennet Pans
Jan. 1787	14	<u>Aitchison's &amp; Brown</u>	Haddington
July 1799	32	<u>St. Clement's Wells</u>	Musselburgh.
Sept. 1799.		<u>Bankrupts: Purchased by John Stein, and erected in Edinburgh, 1795</u>	
		<u>James &amp; John Haig</u>	Distillery, Lochrine, nr. Edinburgh
		<u>John Philp, &amp; Co.</u>	Distillery at Dollar
			Payment: £491.

6. O.S.A., XIV, Clackmannan, p. 623.

7. Ibid.

8. Sun & Planet Engines: a patent of 17<sup>o</sup>1 describes the 'Sun and planet' wheels and other methods of making an engine give continuous revolving motion to a shaft provided with a fly-wheel. By this invention, Watt opened up many useful applications for the steam engine. See Encyclopaedia Britannica, 9th edition, XXII, p. 476.

Beam, crank type engines supplied to distilleries  
in Scotland

April 1805	14	<u>William Young</u>	Burnt Island, Fife: purchased from James Millar*
Jan. 1806	20	<u>John Stein</u>	Kennetpans
April 1806	10	<u>Andrew Taylor</u>	Linton
March 1807	14	<u>Stein &amp; Dewar</u>	Loanside, nr. Alloa.
March 1809	24	<u>William Haig</u>	Kincaple, nr. Cupar Fife.
July 1809	14	* <u>James Millar</u>	Craigend, nr. Stirling Purchased by William Young, (see above).

An engine (ordered 1809) for Leith Harbour was not erected in 1805, but sold to Messrs G. Dunlop & Co., and erected by them at a distillery near Linton, Haddington, in August 1806. It was a small side lever type of 4 horse power.

A decade before 1809, Millar of Craigend was reported to have a steam engine at his distillery. He said that his engine, mash boiler and still of 43 gallons content consumed twenty tons of coal each week, and distilled 240 bolls of grain.<sup>9</sup> This statement shows that steam engines for operating stirring gear in mash tuns (work formerly done by water wheels) may have been more widespread in the distilleries than the Boulton and Watt papers indicate.

The Collapse of 1788

The employment opportunities afforded by the Stein enterprises occasioned a large increase in the population of the parish of Clackmannan from 1755 onwards. When the Distillery Acts were altered in 1788, both Kilbagie and Kennetpans stopped production; a consequence of the closures was that 'a great many families left the parish'.<sup>10</sup>

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9. P.P., Report from the Committee upon the Distilleries in Scotland 1798-9: (1803), p. 754

10. O.S.A., op. cit., p. 623 et seq.

The stoppage of the Stein distilleries in 1788 is ascribed in the Old Statistical Account chiefly to changes in legislation, but in fact the episode is closely linked with the sizeable export trade which the Steins and other Lowland distillers had built up in the London area, despite the incidence of duty on a gallon of spirits being higher there, and the Scots having to pay the difference on every gallon shipped.<sup>11</sup>

Prior to 1784, the duty in Scotland was levied by means of a charge upon the wash, 100 gallons of wash being assumed to yield 15 gallons of whisky. Distillers were often in the habit of extracting twenty or more gallons of spirits from this volume of wash - the surplus was seized by the Excise as spirits 'fraudulently obtained.' No such restriction was applied in England.

In 1784, the system of duties was made identical in both countries, the rate of duty on each gallon being reduced by a half. Distillers were also permitted to draw 20 gallons of whisky from every 100 gallons of wash. The business of the Scottish distillers improved after this revision - a result which the London men thought impossible.

The English distillers circulated papers critical of the operations of the Scottish distillers in the export trade in whisky to London. The English alleged that 'from the 1st of November, 1784, to the 5th of July, 1785, the Scotch sent to England 183,000 gallons of spirits more than they legally made.' This statement meant that the Scots were exporting whisky on which they had not paid duty.<sup>12</sup>

To rebut this charge, the Scottish distillers attempted to prove that the full duties were paid in Scotland for a considerable quantity over and above what was sent to England: from this total they excluded

11. Legislative Change and Distilling in Scotland, vide supra.

12. P.P. Report, Distilleries: p. 774.

all that was manufactured for home consumption in Scotland by the same stills of the Highlands and at Ferintosh. The Scots reiterated their desire to have the same type of distillery legislation as in England, and found cause for grievance in the fact that they had been answered 'by publications full of national abuse and scurrility.' Papers were known to have been circulated by their English opponents among the members of Parliament, which depicted, 'The Scotch distiller borne up on the wings of paper currency, blowing the trumpet of fraud, and trampling under his feet the revenue of Great Britain, solemn engagements, honour and good faith.'<sup>13</sup>

Both the Steins and the Haigs were implicated in these accusations. In Scotland, the entrepreneurs were thought unfortunate to have been caught, and hence they should not expect to be treated with much ceremony. Neither they nor their creditors, who were so much involved with them, looked for preferential treatment, but they certainly did expect justice to be shown by the British Parliament, on the basis of an equal law.

Two years later a new Licence Act was applied, which imposed a levy of 30s. a gallon yearly on the contents of every still in Scotland, while an extra 2s. duty was laid on every gallon of spirits sent to England. The arrangement was experimental. The London group hoped that Scottish intervention in their market would cease, but it continued to prosper.

Nor was dissension confined to the Scots versus the English. The Scottish distillers themselves were cunning rivals, jealously guarding their relative positions in trade. The Steins and the Haigs, being so conspicuously successful in the export business, and in other directions, were naturally targets for criticism. Claims that they were operating illegally were made to the Excise by John Aitchison, a distiller near

13. Ibid.

14. P.P. Report, Distilleries: p. 782.

Elinburgh. He appeared before the Commissioners and required officers to seize Messrs Steins and Haigs works.<sup>14</sup> His reason for so doing was that both the Steins and the Haigs were trying to evade payments of duty. Prior to 5 June, 1786, it appeared that both parties had prepared a large volume of wash in order to be ready to begin distilling immediately on taking out their licences. Moreover, they cut down several of their stills, with a view to paying less duty, by lowering the capacity. There was another consideration which Aitchison was not slow to disclose - by retaining the same surface area of the still to the furnace, while reducing the depth of the vessel, the stills could be worked off much more quickly. Thus the Steins and Haigs were said to be taking out licences for four or five stills each, which did not hold a quarter of the contents they had originally been designed to contain, and Aitchison believed they would work the stills twice as hard.

It is worth noting that James and John Stein, with James and John Haig, were said to consider themselves 'the most capital distillers in Scotland.' Their practices were deplored, for with some self congratulation it is said that their conduct was very different from that of the generality of distillers in Scotland.

The Excise authorities seem to have been reluctant to act. It was claimed that the production from the Stein and Haig distilleries had risen markedly by December, 1786, and that the distillers were 'pretending former sma' stills had given way' so that they could set up bigger ones in their place. They continued to work, and when Aitchison protested, the Steins and Haigs consulted the Lord Advocate and the Solicitor General. On legal advice, they agreed to pay an increased licence duty for larger stills, and to make certain promises, e.g. 'James Stein shall ... not use

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14. P.P. Report Distilleries, p. 782

the large copper or boiler in any way whatever, until he has obtained a licence and paid duty for the same as a still.' All had to enter bonds to the Crown to the extent of £8,000 each, and to swear that their former stills had been destroyed by unavoidable accident.

Despite these arrangements, which gave the other distillers the impression that justice was being done, and despite assurances to pay duty until 5 July, 1787, James and John Stein, and John Haig, stopped paying duty for their stills. The Report gives some particulars about the stills, and the extent to which they had been reduced in size for speedier working.

James Stein:	5	stills	containing	4,771	gallons	out of	
							9,478
							gallons
							formerly
John Stein:	4	"	"	2,359	gallons	out of	
							6,058
							gallons
							formerly
John Haig:	1	"	"	1,190	gallons	out of	
							3,243
							gallons
							formerly

These men said that the reduction in output was due to the failure of the Excise authorities to grant them permits and warehousing arrangements of a satisfactory kind. The Commissioners, however, argued that it was caused solely by overproduction or glut, the distillers having strived to make as much whisky as possible to take advantage of the 1786 Act. The Board foresaw that further indulgences to distillers would only worsen the situation in the industry.

The Scots' success in London provoked the English distillers to make representations to the Treasury: the 1786 Act was consequently repealed 6 months prior to its expiry, and an additional 6d. placed on each gallon of spirits sent to England. When this tax was applied, 'The Scotch distilleries stopped payment.'<sup>15</sup> Hence the 6d. levy has been made to appear as the straw which broke the camel's back.

The failure of the Stein enterprises was precipitated by the collapse

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15. O.S.A., op. cit., p. 623 et seq.

of Sandeman and Graham, their London agents, which disclosed the extent to which the Steins and others had been financing their business by the circulation of bills. Sir William Forbes, in his Memoirs of a Banking-House, comments on the situation. By 1788, the sons of the first John Stein were in control - James at Kilbagie, and John at Kennetpans. They were correspondents of Sir William Forbes, Hunter & Co., and 'their transactions, especially James's, were to a very large amount.'<sup>16</sup> Forbes, Hunter & Co. provided credit facilities for the Steins, granting them variable, but not fixed capital.

The distillers' trade had been enlarged because -

not content with the sale of spirits in Scotland, they resolved to rival the distillers of London in manufacturing spirits for the English market, which they conceived themselves enabled to do by some advantage in their situation in Scotland, where fuel and labour were cheaper than in London. They therefore hired warehouses in London, and sent very large quantities of spirits to that market, consigned to a house under the name of Sandeman and Graham, whose sole occupation was the acting as their agents.

The bankers were prepared to assist them because they were known to have prospered, and because the Steins 'preserved the utmost punctuality and regularity in all their transactions,' which made them creditworthy. This opinion was reinforced by Sir James Hunter Blair, who knew of them through the House of Commons, of which he was a Member, at the time laws concerning the Distilleries were under review about 1786. James Stein had been praised at the time for the manner in which he answered the questions put to him during the House's investigations. Thus it happened that 'both James and John Stein ... had been indulged, particularly James, whose business was by far the most extensive, with a degree of credit much

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16. Forbes, Sir W., Memoirs of a Banking House, p. 71.



beyond the bounds of prudence.'

So it happened that the transactions of the Steins were to such a large amount, and the engagement of the Banking-House by their drafts in London so extensive that towards the end of 1787 Sir William could not help feeling 'uneasiness at finding ourselves so deeply engaged, that, supposing what was at least possible, they were supporting themselves by a circulation of bills, we were completely in their power; a situation which nothing should ever induce any man of business to allow himself to be brought into by another.' Yet other partners in the firm were less alarmed, pointing to the correctness of Messrs. Stein's business dealings. While this was the case, the amount of their London paper, which they had induced the Banking House to negotiate for them, was too great. Sir William determined to reduce his House's involvement, 'a work by no means easy, considering the facilities to which we had accustomed them.' The next portion of the Memoirs is quoted in full:-

Things were in this situation, when the whole fabric suddenly fell to the ground by the stoppage of their agents in London, Sandeman and Graham, one of whose acceptances was received with protest by the post of Saturday morning the — February, 1788. The necessary consequence was the stoppage also of James Stein and John Stein, and of James and John Haig, distillers at Canon-mills, near Edinburgh, with whom the Steins had been much connected, and who were embarked in a trade of similar nature.

Besides ourselves, the largest creditors of James Stein were Messrs. Allan and Stuart of Edinburgh, who, being extensive dealers in corn, had been induced by their confidence in Messrs. Stein's credit to engage in correspondence with them only a very few months preceding, for the purpose of supplying barley for their distillery. As soon as the intelligence arrived from London of Sandeman and Graham's failure, Mr. Stuart went over to Kilbagie and made an investigation of their affairs, when it appeared that their engagements were most extensive, particularly those of James Stein, and that there must be a very great loss to their creditors. It appeared also that, for a considerable time, they had been carrying on a losing trade in a foolish and fruitless contest with the London distillers, who, being a great and opulent body of men, had kept down the price of spirits in order to drive their Scotch competitors out of that market - a proof of which was their largely raising the price immediately on these bankruptcies taking place. This contest with the London distillers they had been enabled only to support by their circulation

of bills in London, the expenses of which, and the numerous other drawbacks attendant on carrying on a losing trade, had greatly enhanced the mischief. 17

The ripples from the upheaval among the distillers spread to their grain supplier, and of course nearly wrecked the Banking-House itself. Help came from the Royal Bank of Scotland. Their bankers in London were ordered to dispose of as much Bank of England stock and other government securities as would replace the large sum of bills drawn by James and John Stein, and James and John Haig on their agents in London, which had become useless by their failure. The Banking House succeeded in weathering the storm. The Scottish industry, in the persons of its Lowland capitalist distillers survived, and in the Highlands where special provisions limited the size of stills to 20 gallons, illicit distilling (perhaps it would be fairer to call it home or domestic distillation) was carried on as before.

The repercussions of the debacle were protracted, and a more personal view by James Stein himself of its causes and results will now be considered. It occurs in a petition of James Stein, described as 'late distiller at Kilbagie', who in 1805 was resident at Korsun, near Kioy, in Poland, and who wished to be discharged from his position as a bankrupt. The firm of Sir William Forbes & Coy., bankers in Edinburgh concurred in the petition.

The sequestration of James Stein's affairs occurred on 28 February 1788; the trustee appointed was David Stewart, an Edinburgh merchant, who having had inventories made, proceeded to convert the estate into money: five different divisions took place. The creditors who ranked on the estate for sums over £20 numbered 154, of whom 95 were represented in the 1805 petition. The total amount of debt was £199,497 2s. 1½d. Stein was not present, and there were objections to his obtaining a discharge;

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17. Forbes, op. cit., pp. 72-3.

he had to secure the consent of four-fifths of his creditors.<sup>18</sup>

Firstly, James Marshall, W.S., was opposed to the move: Stein and he had been in dispute for some years, and they had claims for damages against one another. This action concerned a demand for payment of £31; it was raised by James Marshall, Clerk to the Signet, and originated in 1788, when Steins stopped payment, and James Stein sequestered his estates, due to 'great and unlooked for losses in trade, as well as through sudden and unlooked for alterations in the Distillery Laws.' Stein had a counter claim on Marshall. He alleged that the Clerk to the Signet had 'conceived a groundless ill will and malice against him for the purpose of disappointing him in obtaining the aforesaid discharge by prejudging his creditors against him', thereby injuring his good name and character, both by word and in writing.<sup>19</sup> Stein averred that he was represented as a fraudulent bankrupt, and that in 1801, Marshall had repeated his allegations. Hence James Stein demanded £10,000 from Marshall's son by way of damages for defamation of character.

Details of the dividends from the estate are given.

	£	s.	d.
1 Dividend		1	9
2 "		15	5 <sup>1</sup> / <sub>12</sub>
3 "	3	5	2 <sup>1</sup> / <sub>12</sub>
4 "	2	2	-
5 "		6	-
	£6	10	4 <sup>1</sup> / <sub>12</sub>

This sum was equal to one-half of the interest due upon the creditors' money. Marshall argued that 'It is evident that Mr. Stein has not paid

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18. S.R.O., Unextracted Processes, I Currie Dal S11/1, Petition of James Stein, Oct. 1805.

19. S.R.O., Bill Chamber Process I, 1670-1852: 60,238, James Stein & Mandatory v. James Marshall, 1804.

one sixpence of the principal sums for which he failed.' A deficiency of £200,000 was still outstanding.

A second objection was entered by the Stirling Banking Company and others, whose debt was composed as follows:-

	£	s.	d.
Bank's Interest on Stein's estate	7,000	0	0
Messrs. Campbell, Thomson & Company (Bankers in Stirling)	1,073	0	0
Mr. William Paterson, merchant	1,200	0	0
	<u>9,273</u>	<u>0</u>	<u>0</u>

The bank had not received ls. of their principal. While James Stein's debt had formerly exceeded £220,974, the funds divided among his creditors had not amounted to one-quarter of the total. Furthermore, Stein had not endeared himself to his creditors by retiring to a foreign country, 'without the jurisdiction of the court, and beyond the reach of his creditors.' It was alleged that unspecified persons had received or been offered sums of money to secure their agreement in the discharge. An Inventory of Writings, dated 1802, shows that concurrence was already given by -

1. Messrs. Mansfield Ramsay, & Co. (Bankers in Edinburgh)	£2836
2. The Carron Company	403
3. Charles Ducat, Alloa	277
4. Charles Virtue, Alloa	2055
5. Earl of Elgin's Commissioners	43
6. Mr. John Matsell	311
7. Messrs. John Cowan & Coy. (representing Murdoch, Wharroch & Coy.)	149
8. John Campbell	?

The Stirling Banking Company presented a long statement, which discloses much about the supposed conduct of Stein's business.<sup>20</sup>

No fraud was imputed to Stein in the conduct of his business:

Mr. Stein was for many years the most considerable distiller of malt spirits in North Britain ... his books were regularly

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20. S.R.O., U.P., op. cit., Answer for James Stein, Dec. 1802.

kept and balanced occasionally; that his profits corresponded for many years to the singular skill, industry and spirit with which the business was conducted. And it appears from the correspondence, that large as his operations were, his stock bore such a proportion to them that his business was carried on with ease and independence. His credit was accordingly very extensive, and a very high opinion was entertained by the public of his wealth, ability and success. 21

The opinion of the Stirling Banking Company's officials thus endorses the statements of Sir William Forbes about the efficiency of Stein's business operations. The Bank also attributes his reverses to the export trade:

But Mr. Stein was the first Scotch dealer that sent considerable quantities of raw spirits to the London market, and in this way, having given offence to the London distillers by interfering with that monopoly which they had formerly enjoyed, he experienced from the close of the year, 1784 downwards, a systematic discouragement and opposition, which proved very fatal to his interest, and to which his misfortunes are chiefly attributed.

Not only did the London group seek duty increases to embarrass the Scots; but they were also active in impeding their trade in other ways; in December 1784, cargoes of spirits belonging to James Stein to the value of £8,000 were seized in the Thames at the instigation of rival dealers, and though they were afterwards restored by order of the Treasury, Stein suffered severely 'from the want of so much property during a very long detention of it, from the expense of the expedients requisite to supply so unexpected a want, from the diminution in the value of the goods by leakage and waste, and from the expense of the measures of obtaining restitution.'<sup>22</sup> The incident shows that very sizeable cargoes were being sent from Scotland. When Stein did get possession, his sales were unprofitable, because the market price of spirits had fallen to £7 per ton. The government lowered the duty on malt spirits c. 1784, and granted a refund of the duties for all spirits on hand, which amounted to no less than £22 per ton, but it was so arranged that the bank claimed the 'Scotch distillers' derived

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21. Ibid.

22. Ibid.

no advantage from it, while English ones had full benefit. James Stein thus could not sell as cheaply as they did.

The Kilbagie books were balanced at 1 March 1785 and showed a surplus of £37,948 5s. 8d., but it began to diminish:-

31st Dec. 1785:	£34,001	4s.	4 <sup>6</sup> / <sub>12</sub> d
17th Oct. 1786:	£32,078	10s.	6 <sup>6</sup> / <sub>12</sub> d.

This was the last balance prior to the bankruptcy; the decline was in great measure due to the artificial depression in the market price of spirits, which with the reduced volume of spirits available ought to have been worth at least £66 per ton (an additional duty amounting to £71 5s. per ton had been imposed in 1786). The rivalry between the Scottish and English distillers became more acute.

English distillers ... hoping to drive the Scotch distillers out of the market, at the expense of losing a little money, brought the market price to under £60 per ton, being greatly below what they could afford to manufacture at, whereas when the Scotch distillers were expelled from the market, and though grain was cheap, and the duties remained as before, they raised the selling price to £66. 23

James Stein is shown to have been 'much averse to continuing that pernicious warfare', and he next considered manufacturing gin for the Scottish market, and was one of those who suggested and promoted the expedient of levying the duty on malt spirits in Scotland by an annual tax proportionate to the contents of the still, i.e. the still contents system of licensing. An equalizing duty was applied to such spirits on export to England.

In 1786, the Dutch were the main suppliers of gin in Britain, although they had to import both grain and coal from Britain, as well as having higher labour costs, and worked 'under all the disadvantages of a contraband trade.' Stein thought he could drive the Dutch smugglers at

least from the Scottish market. No expense was spared to gain knowledge of the processes in the Dutch distilleries, and because he heard that a Licence Duty Act for gin making would be passed, the whole system of the Kilbagie distillery was altered. The proper apparatus for distilling gin to the best advantage was constructed.

By 1787, James Stein had brought gin making 'to such perfection that very few persons were able to distinguish Kilbagie gin from the best Holland's gin, and none from the ordinary Hollands or Flushing gin.' When Exchequer trials of Stein's product were performed, even the London rectifiers admitted that while Kilbagie gin might be distinguished by persons 'who diluted their gin with water, all the drinkers of gin drams in Great Britain would have received equal satisfaction for it as from right Hollands.'<sup>24</sup>

Stein proposed to sell Kilbagie gin at a price lower than that for Flushing gin: he made a profit of £15 15s. 7d. per ton, and his works were capable of yielding a profit of £235 per day: hence the plant must have been big enough to turn out approximately 16 tons of gin per day. On the assumption that it worked for 300 days in the year, his anticipated profits would have been over £700,000. Certain Excise regulations however stood in his way; for example, he was not allowed to have warehouses in different parts of Scotland, nor could he obtain permits for the free conveyance of his products. Accordingly he raised an action for damages in the Court of Exchequer against the Board of Excise in Scotland but failed to recover his losses.

The embargo laid upon his sales of gin in Scotland compelled Stein to recommence the distillation of spirits for the English market. Another factor which weighed with him was that his still content was no less than 9478 gallons, on which he paid duty amounting to £14,217 - a sum which he

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24. Ibid.

would lose if he stopped production. In addition, he had '1000 oxen and immense multitudes of swine on hand', to be fattened on the waste from the distillery. These animals were not marketable until fattened. He did not think that re-entering England would be unduly dangerous, and it was only on a temporary basis, until he could obtain permits for his gin trade. Meanwhile, 'his private intelligence' confirmed that London spirit prices would rise to a just level, instead of being kept in a state of artificial depression.

When Stein's entry as a distiller was renewed in October 1787, he struck off 4,700 gallons from the volume of his working stills, in order to give less offence and offer less competition, as he averred, and also presumably to pay less duty. His friend and London agent, Mr Sandeman had recommended such a reduction in capacity, saying:

I am as certain as that I live that you will find the measure ... to be the wisest and most prudent you ever yet adopted in business. Above all, you lay an adamantine foundation for independence, the dearest blessing a man in business can possess, and which I cannot say you have ever enjoyed since that fatal seizure, the 15 Dec., 1784.<sup>25</sup>

Stein and other Lowland distillers had started to send supplies to London sufficient to alarm their English rivals. It was alleged that the Scottish market situation obliged distillers to manufacture and export in order to employ their works and support their credit. The Londoners' selling price had been cut to £60 per ton, and was already too low to defray the expense of distilling spirits in Scotland. The London distillers concluded however that it was the lure of profit that prompted the Scots to engage so extensively in exportation. Representations were made to the government that both the still licence duty, and the equalizing duty on

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25. S.R.O., U.P., op. cit. Letter: Mr. Sandeman to James Stein, 31 Oct. 1787.



imports into England appeared too favourable to the Scots. The English threatened to stop payment if they did not get relief from Parliament. The Scotch distillers reacted so strongly, that a pledge was received from the government that the duty would stay unchanged until July, 1788. Stein and his confreres expected that the English distillers would have to increase their prices, and that the position in Scotland must improve. But a petition was presented by the London group to the House of Commons on 12 December, 1787, and considered on 1 February 1788. The House imposed 6d. extra as an additional equalising duty on a gallon of spirits. John Stein brought the news from London to Kilbagie on 22 February, 1788, and payment was stopped the next day.

James Stein reckoned that such was the scale of his transactions that had the selling price of spirits risen to about £66 per ton, he would have gained a net profit of at least £13,000 a year, by the sale of spirits alone, regardless of the proceeds from his cattle and farms. After his bankruptcy, the London price did go up £5 per ton, and then by another £5 increment to £66 per ton.

The refusal of permits by the Excise meant that his stocks of gin were kept locked up, and his London agents refused assistance offered to them by their friends. Although his subsequent degree of insolvency was very great, the Stirling Banking Company considered that the stoppage of payment had perhaps been premature. The creditors acquiesced in the foregoing account of Stein's failure in business. The evidence had been presented in the House of Lords during one of Steins legal entanglements; Stein himself had given 'the fullest satisfaction to all concerned' about his bankruptcy.

In 1805 the composition of the debt was as shown

Debts of James Stein: 4th Division made up by Trustee

Total debt: £208,145 0s. 0d.	
Funds recovered by the Trustee:	£68,000
Securities for Messrs Haigs	73,000
Retained by Sir William Forbes } & Company } and not deducted from claims }	59,140
Spirits retained by Messrs. Sandeman } & Graham }	5,000
Deduct	135,140

£ 23,005

J. Stein at the balancing in 1786 of his books previous to his connection with Mr. Cross was worth in cash and debts

	£ 12,000	
The works are valued at	£ 20,000	
		32,000

In all     £55,005.

There was expended on the works after that time proved in Exchequer	£15,000
Supposed value as above	20,000
	35,000
But they only sold for	6,000
	29,000
Bad debts	8,000

Loss upon sales of raw spirits at London after the Commissioners refused gin permits, also proved in Exchequer	11,000
Expense of sequestration	10,000
Together total	58,000

which exceeds the sum to be accounted for by £2,995.

(In the 5th Division the debts were reduced to £199,497 by the claims of Messrs Cross & Harris and other creditors being struck off).<sup>26</sup>

Despite the protestations of James Marshall, W.S., a concurrence embracing four-fifths of the value (£163,073) was forthcoming, 102 out of the 114 creditors being in agreement. The accusation that sums had been offered to creditors was investigated: Stein positively denied 'this

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26. S.R.O. U.P. op. cit.: Statement of the Position of James Stein's Affairs, 1805.

slander.' The Stirling Banking Company had taken the lead in Stein's vindication, but Marshall alleged they had met and stated that they would not concur in the discharge 'without a consideration', and they had specified the sum they would accept. Another party had demanded 5s. in the £ as the price of their consent - which was reduced to 2s. 6d.

The low price which the distillery at Kilbagie fetched was explained by the fact that it was bought soon after the stoppage 'for behoof of the family' for a mere £6,000; they continued to carry on the business, trying to keep the good name of James Stein, because 'a bankrupt was not ipso iure infamous.'

These explanations did not satisfy Marshall: Stein and his family had been examined before the sheriff, when 'very plausible stories' had been told about the cause of the deficiency, which was 'beyond all former example in the trade of this country in the Distillery branch at least.' Stein had to fly the country because of Marshall's proceedings against him. Marshall's view was that it was problematical that Stein would ever have rid himself of the immense load of debt he had contracted, even if the prohibitory duty of 1788 had not been imposed. How did Stein come to lose £202,000 in the seventeen months prior to the collapse? Was Stein's conduct thereafter not infamous in applying deceitful and unfair means to secure his discharge? asked Marshall.

In July 1787, James Haig, Stein's nephew, told Stein of his own intention to stop payment as he found his affairs in a very bad state. Stein was said to have dissuaded him, otherwise Stein would have had to stop too. An accumulation of debt was contracted, whereby the creditors suffered severely.

A deep and extensive traffic in accommodation bills exchanged between these persons and their agents was the engine employed on that occasion ... which was soon perceived and disapproved of by Mr. Stein's Agents in

London, Sandeman and Graham who (16 July, 1787) wrote to Thomas Smith, Stein's chief clerk and confident,' as follows

It is also much against us the exchanging of paper betwixt your principal & Messrs. Haigs & Coy. We easily see the channel here, and we must entreat that it be discontinued.' 27

In the interval, James Stein wrote to his nephew Haig:-

I have with much difficulty provided for this month, & next month, including the drafts to you, I have no less than £32,560 to pay to make up which will subject me to apply to every channel, and I am really diffculted [sic] about it. 28

Sandeman and Graham were so anxious about the extent of these bill transactions that Sandeman visited Scotland in October 1787, in the course of which he went to Kilbagie. He found that his house was expected to meet payments in excess of £40,000 very shortly. Stein was however friendly and encouraging, but when Sandeman went South his doubts and fears returned; he wrote to Stein 'To meet this I begin to tremble, and indeed have not enjoyed an hour's rest since I received it ... I rely on your exertions to support us.'

Thereupon, Sandeman and Graham determined to reduce acceptances. He reminded Stein that his role as acceptor had been a distressing one - 'the frequent near approaches of the worst events only prevented by the regularity of a post', when he was a spectator at a distance of 400 miles. Sandeman's feelings tempted him to say 'ill natured things.'<sup>29</sup>

Marshall believed that Stein had then redoubled his efforts to conceal his situation, 'and deceive the world for some time longer.' Hence in October, 1787, Stein had recourse to the measure of establishing two

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27. SRO. U.P. op. cit.: Letter, Sandeman & Graham to Thomas Smith, 16 July, 1787.
28. SRO. U.P. Op. cit., Letter, James Stein to James Haig, 23 Sept. 1787.
29. SRO. U.P., op. cit., Letter, Mr. Sandeman to James Stein, 23 Oct. 1787

fictitious or nominal companies for the sole purpose of finding a temporary support for his credit by using their names in bill transactions. One was Reid, Brown & Co., at Mainpoint near Edinburgh, the only known partners being Reid (formerly a country schoolmaster) and Brown, a young man who was a nephew to Stein. The second one was John Buchanan & Co., at Kincardine, whose ostensible business was to trade in timber and iron, but whose real purpose was to accommodate Stein. Apart from Buchanan who was a farmer near Kilbagie, the partners were John Philp, Stein's brother-in-law, and Stein's clerk, Thomas Smith. The capital was £8,000, a sum wholly advanced by Stein. This firm stopped payment in February, 1788. The trustee on their estate entered a claim for £25,000 against Stein, 'all arising from the use which was made of Buchanan & Coy's name in Mr. Stein's bill transactions.'

Stein had been active in seeking funds for the new company; he wrote to the agent of the Bank of Scotland in Dunfermline, notifying him of the formation of Buchanan's firm, and asking for a credit of £500-800. Stein offered to stand cautioner.<sup>30</sup> Scarcely did 48 hours elapse before he also contacted the Stirling Banking Company asking for a cash account of £500-1,000 to be opened for Buchanans, saying that they had not yet made any such applications, and his personal recommendation was that the bank should have first refusal.

At Kilbagie, great quantities of spirits were being distilled, and sold in the London market at a loss of £5 per ton. The situation was fast deteriorating, and Stein was subsequently accused of lack of compassion for the multitude of creditors, whose money and effects he was throwing away:

The great machine employed to keep him afloat, was an immense and complicated circulation of bills conducted by

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30. SR0: U.P., op. cit. Letter, James Stein to Mr. Dickie, 20 Oct. 1787.

Sandeman and Graham in London, and by himself and his agents in Scotland, a circulation that was studiously involved in order both to facilitate and conceal his transactions.<sup>31</sup>

Other acts of deception were shown to have occurred; two promissory notes sent by Stein to a Charles Dudgeon, with directions to discount them with Sir William Forbes & Co; Reid, Brown & Co. were in turn to take the money 'raised by the expensive mode of discounting', and lodge it as their own with the same bankers at 3 per cent till called for, although it cost Stein 5 per cent to raise. Stein then countermanded this instruction - the bills were taken to Mansfield Ramsay & Co., and the monies placed to the credit of John Buchanan & Co. Meantime, Stein was dealing with the Stirling Banking Company, discounting often with them, and attempting to counteract any scruples they might have about the frequency thereof. In a letter, he pointed out:

I have been courted for London paper for some time past, but as you are always so regular, I make it a rule to let you have the refusal two posts ago, I had advice of sales to the extent of £16,800, so that I will have a good deal to draw for, for a few weeks to come.<sup>32</sup>

The Banking Company responded that far from being 'courted' for 'London paper', Stein was in the greatest difficulties to get bills remitted at all. He had nothing to draw for on many occasions, because the proceeds of sales fell short of London payments, a fact supported by the letters of Sandeman and Graham. Thomas Smith, the chief clerk at Kilbagie wrote to a cashier in a Glasgow bank in November: the aim was to persuade the bank to discount more for Stein. He told them:-

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31. SR0: U.P., op. cit.: Replies for William Telford, Cashier, the Stirling Banking Co., Jan. 1803.

32. SR0: U.P., op. cit.: Letter, James Stein to the Stirling Banking Co., 3 Nov. 1787.

The statement of our account with Sir William Forbes and company (a balance of more than £20,000 just now in Mr. Stein's favour) does not make it necessary to send any large sum of London paper through them ... you may get the greatest part of what we have at present to draw.<sup>33</sup>

One bank was played off against the other: the circulation of 'wind bills' continued, and the shadow companies were simply a means whereby Stein could contract more debt. Stein and Smith began to arrange credit facilities for these in London, through John Stein, the petitioner's son; the letters of instruction to John are remarkably candid. Stein told John that the Buchanan company was wholly for his accommodation. Because Stein was so hard pushed, John was to make his arrangements without giving the impression that Buchanan & Company were wholly merchants or wholly bankers - 'a part of both will answer best.' A postscript warns John not to let the letters fall 'into any hands whatever', because they were 'of the greatest consequence with respect to our credit.'<sup>34</sup>

The objectors repudiated the notion that Stein's bankruptcy was due to 'innocent misfortunes'. If that was so, why then did he resort to all those 'pieces of management continued, and put into execution'? They regarded the change in the distilling laws in 1788 as an excuse put up by Stein - a pretence, not a cause of his failure. The Stein firm, Sandeman & Graham, and Haig were believed to be distressed long before December 1787 or February, 1788. As to the English distillers, it had been known in London in October 1787, that they intended to apply to Parliament for an alteration in the law. Furthermore, the objectors saw his persistence in the ruinous London trade from 1784, as 'culpable and undue conduct'.

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33. SRO: U.P. op. cit., Letter, Thomas Smith to a cashier in a Glasgow Bank, 6 Nov. 1787.

34. SRO: U.P., op. cit., Objections of James Marshall and Others, 20 Nov. 1802.

They were at a loss to understand how a man of business like Stein should persist for 3 years in a market in which he was incurring losses, and they gave a remarkable description of his gambler's behaviour:

Only the adventurous spirit of speculation joined to the certain knowledge of the consequences falling upon others and not upon himself might ... induce him to persist for years in this ruinous traffic.

Money was thrown away, month after month: £200,000 had disappeared, which was equivalent to £1,500 a month over 16 months; evidence of Stein's expenditure during that phase was not adequate. Based on a report prepared by John Taylor, agent in the sequestration, the trustees had only recovered £50,000. With his affairs in such a state, the objectors wished to know how Stein could give Haig £73,000, on which no dividends were to be paid, although interest was in fact drawn from Haig's estate. When Haig was some £6,000 'under par' at his works at Canonmills, Stein had stood guarantor on his behalf at the bank for £15,000. The creditors questioned Stein's outlay of £15,000 on his own works pre-1786, even although there was Exchequer evidence. The loss of £11,000 in raw spirits in London was also doubted: 'proofs are spoken of, none are produced,' while sums were mentioned in slump. The objectors could not determine where a tenth part of Stein's £200,000 went; they had not received one farthing of the principal sum, and barely half their interest. Banks had been duped by Stein's artifice - he gave the impression that bills were for real value, yet he informed Reid Brown & Co. that 75 per cent of them were for accommodation.

Besides accusing Stein of eliciting money and credit under false pretences, the objectors showed that in his seeking a discharge it emerged that a creditor, Ducat, had received more than the usual dividend 'as a consideration for his silence.' An offer of 2s. 6d. in the £ came from John Philp, of Dolls, Menstrie, a brother-in-law of Stein, and one of the



partners in Buchanans, while Robert Alan, an Edinburgh banker, was alleged to have been paid £400 to abandon his claim.<sup>35</sup>

To these objections Stein replied that he might 'employ well' what he had used 'ill means' to obtain. He cited the perfidy of the Stirling Banking Company which had employed certain documents in defending him against his creditors (an action in which they had been successful), but they now turned their opponents' ammunition against the petitioner.

Previous appearances in the courts must however have cast some doubts on Stein's integrity. In 1786 a trial had been held at the instance of the Lord Advocate against James Stein for the alleged crime of bribing or attempting to bribe John Bonnar, Solicitor of Excise in Scotland. It was claimed that James Stein had given the latter £500 - a fact which Stein freely acknowledged, but he succeeded in satisfying the jury that he had no corrupt intentions in the matter.<sup>36</sup>

Stein was persuaded that Bonnar had rendered special services to the Scottish distillers before 1786, when there were several bills before Parliament for regulating duties on malt spirits in Scotland. Hence the reason that Stein wanted to give Bonnar a present to mark his appreciation of the efforts of the Solicitor of Excise. The present was alleged to have been passed off as a pair of gloves in a parcel. Bonnar was embarrassed to discover the true nature of the contents; he wrote to Stein in strong terms deploring the action. The distiller replied blandly that as he, James Stein, had been very active in opposing the use of the hydrometer in Scottish distilleries, by representations and obstructive behaviour, which, 'no doubt had prevented many seizures of spirits,' and

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35. Ibid.

36. SR0: U.P. Innes Durie S6/5. Petition of James Stein, 18 June, 1789.

consequently 'great loss of revenue,' to Bonnar's office, some reparation was due to the Solicitor.<sup>37</sup>

In December, 1785, Stein was tried before the High Court of Justiciary in Edinburgh for a supposed attempt to bribe Bonnar, but he was acquitted.<sup>38</sup> Nevertheless, the damage to his name had been done, and a subsequent petition from Stein was intended to re-establish his good name, which was in question, even after the jury had found no charge proven against him.<sup>39</sup>

The liquidation of Stein's business was both protracted and complex. The Steins had struck a bargain with an English distiller, Richard Cross, who had premises in Bristol: they agreed not to send spirits for a period to the London market. The outcome was that the Steins received funds, and the Bristol firm became involved in Kilbagie distillery. Two claims were eventually entered against Stein by the Bristol distillers; firstly, a 'Mr. Harris pressed for £10,000 with interest, which was the sum contained in James and John Stein's bond to Messrs. Cross and Harris at the time of the dissolution of the partnership at Kilbagie.'<sup>40</sup> Hence the Bristol house had acquired a financial interest in the distillery, which had not been made public. At law they were held to be partners in the distillery at the time of Stein's failure. David Stewart, Stein's trustee, chose to regard the sums received by Stein from Cross and Harris as 'gratuitous deeds', the result of unlawful, if not fraudulent negotiations, which could not compete with the claims of genuine creditors. A further claim by Cross,

37. The Scots Magazine, 4 Dec. 1785, Index.

38. SR0: U.P., op. cit. Letter: James Stein to John Bonnar, 10 Sept. 1785.

39. S.R.0: U.P., op. cit. Petition of James Stein, 18 June, 1789.

40. S.R.0: U.P., 1 Currie Dal, S 9/16. Petition of David Stewart, 1796.

under the firm of Cross, Son, and Harris and Co., for £12,684 6s. 1d. 'being the balance arising from the circulation and accommodation of bills furnished by James Cross to James Stein in consequence of the agreement of dissolution' was also repelled by the trustee.<sup>41</sup>

#### Lobbying the Government:

The legislative position from 1788 to 1795 is worth restating in brief. The Act of 1788 put a premium on rapidity of working, thus setting in train experimentation whose logical outcome was a still capable of continuous distillation, which one of the descendants of the Steins patented in the 1820s.<sup>42</sup> As the United Kingdom became enmeshed in the wars of the 1790 era, the tax on excisable liquor was increased as a means of raising revenue, and on occasion, reducing the quantity of grain used for making alcohol. Spirit duty was stepped up in 1791, 1794, and 1797, and also in 1800, as shown in the table below:

Spirit Duty: 1791: 1800

Year	England Duty/Gallon		Scotland Duty/gallon: still content						Ireland Duty/gallon		
	s.	d.	Lowland			Highland			s.	d.	
	£	s.	d.	£	s.	d.	£	s.	d.	s.	d.
1791	3	4½	3	12	0	1	4	0	1	1½	
1794	3	10½	10	16	0½	1	16	0	1	1½	
1797	4	10½	64	16	4	3	0	0	1	5½	
1800	5	4½	64	16	4	7	16	0½	{	2 4½	2 10½

Source: Clow A and Clow N.L. The Chemical Revolution, p. 450 and p. 568.

These events did not pass unnoticed by the Steins, who made repeated representations upon the subject of duties in Scotland. In the 1790s,

41. Ibid.

42. The Patent Still; vide infra.

Henry Dundas, later Lord Melville, had nearly the whole government patronage of Scotland in his hands, and it was to him that John Stein wrote on the matter in May, 1793, when a new Distillery Bill was proposed.<sup>43</sup>

Although I have not the honour of being personally known to you ... yet [being] impressed with the highest sense of your many disinterested exertions in favour of your country ... [I] address you on an subject in which the interest of Scotland is particularly concerned.

Stein goes on to say that he understands a new Distillery Bill is to be moved in a few days, whereby the duties are to be considerably increased 'not only with a view to augment the publick Revenue but also to lessen the consumption.' As a member of the trade, he believed it was his duty and interest to oppose this, and instead he proposed an alternative. The Bill would cause a virtual suppression of the Scotch distillery, if the licence duty were advanced to £9 per gallon of still content, resulting in spirits being so high priced that consumption would fall away, and every distiller would be left with too much stock, and 'the consequence of an overstocked market may soon prove the ruin of the whole Trade.' To prevent such a situation arising, Stein urges that the distillers in Scotland be allowed free and unfettered exportation to foreign markets 'where we can always be certain of finding a demand when policy or any other motive may render it necessary to suppress the consumpt. at Home.' He then elaborates upon the export position of the Scotch whisky industry -

We are at present ... in a very unfortunate situation with regard to the Export Law - we cannot export without entering a work expressly for this purpose, and that work must be an extensive establishment of Sixteen Hundred Gallons, which is about double the size of the whole stills at present belonging to any Distiller in Scotland.

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43. SR0: Melville Castle Muniments, GD 51/5/192, John Stein to Henry Dundas: 6 May, 1793.

Stein's estimate of the optimum financial capacity for a unit engaged in the export trade is an indication that cost accountancy must have been carried out by his firm. The registration of premises either for the Scottish market or for export production was one of the outcomes of the battle with the London distillers from the previous decade. The scale of distilling demanded made it impossible to change quickly from one market to the other, 'without great expence for alterations &c.'

A solution proposed by Stein was the introduction of a drawback on the exportation of Scotch spirits equal to the amount of the licence and malt duty. By this means, the Scotch distillers would be enabled 'to combat every opposition in the Foreign market, and to secure an Export Manufacture which would ultimately prove more beneficial to the Country than any other Trade at present carried on in it.' To objections that his plan would give fraudulent distillers an opportunity to sell in Scotland what they declared was for export only, Stein argued that so trifling would be the gain that 'no man would have the folly to run the risk of prosecution, detection penalties and loss of character, to obtain it.' Things might be different in England, and accordingly Stein suggested that the 'Export work in England where the height of the duty viz. 3/3d p. gallon might be a temptation to commit the fraud' might perhaps be a good reason for 'fettering the Export Work' there. Furthermore, if the scales of penalties in force were too mild, these could be made more severe.

The other course which Stein approved was to allow the Scotch whisky distillers to work for export to foreign markets under the same regulations as applied to exports to England. Two substantial obstacles would be removed - namely, distillers would not need to register stills of a larger size than 250 gallons, nor to extract such a high quantity of spirits from the wash. Stein stated that this requirement made it practically impossible to carry on business, as 'the late Corn Law' had often shut different

districts in Scotland to the importation of English grain. Accordingly the distillers were forced into using Scottish grain for about half the season "from which it is impossible to produce wash that will yield 22 gms. of Spirits of the strength of 1 in 6 under Hydrometer proof," which every distiller under the export arrangements was obliged to do.

As a final inducement, Stein praised the many services Dundas had performed for Scotland, and added that in the matter of the Scotch distilleries, the landed interests in particular would be able to reap the benefits of their prosperity - if Stein's measures were adopted. While Stein was lobbying Dundas, another entrepreneur had been putting pressure on the Prime Minister, William Pitt, urging him to increase the duty rather than to diminish it.<sup>44</sup> A Mr David Steuart writing to Dundas, informs him that he waited upon Mr. Pitt when he was last in town with a Memorandum showing 'the propriety of raising the licence Duty on the Scotch Distillery.' The results were encouraging, for he adds -

I am happy to see by the Publick newspapers that my Ideas on the subject have been honoured with Mr. Pitt's approbation, as a large additional Tax on that branch of the Revenue has been voted in the House of Commons.

Steuart was certain that the new tax would be a productive one - 'notwithstanding I learn Mr. Stein has gone to London to endeavour to persuade Ministry of the contrary'. If Stein were to succeed in having the new tax extended to the Highland stills 'as making as much Work in proportion to their contents as is done at Canommills or elsewhere - a thing he knows not to be fact - indeed they cant do the twentieth part of the work ... as can be proved to a Demonstration', then it would be a deception, of which many were reputed to be committed by 'Distillers, Brewers,

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44. SRO: MCM, GD 51/5/215. David Steuart to Henry Dundas, 13 April, 1795.

Maltsters, Soap & Candle makers, Starchmakers and Tobacconists.'

Steuart then propounds his ideas on the mode of collecting duties on their products, without increasing the duty in any way. Only 'a few small alterations, and additional checks' would be needed. He remarks upon the decreasing annual revenue from the duty on malt 'when the quantity of liquors extracted from the Material and the consumption of them are increasing daily', concluding that 'there must be a Vice existing somewhere.' The trouble appears to lie in the quality of the Excise officers - namely, their low status, education, and standard of living, allied to their small salaries exposes them to great temptation. He asks Dundas and Pitt to allow him to explain his plans to them. Meantime, contact via the Revenue Boards, or their officers, 'especially their Solicitors' is declined in case Steuart's plan should meet with the same kind of opposition as 'Mr. Palmer's one for the Post office.'

Steuart's intentions are not free from the flaws of self-interest:

As my plan will require a very active Superintendance, I should propose as a recompense for my services I should have that appointment, and lieu of salary, a percentage for fifteen years certain ... the present value of these Duties to be as ascertained by the average of the last five years - And should this increase fall short of the sum of one hundred thousand pounds, p. annum ... I ask no reward whatever.

Dundas appears to have pursued Steuart's interest, because the latter in a subsequent letter 'returned hearty thanks for having put my letter ... into Mr. Pitt's hands.'<sup>45</sup> At the same time Steuart had had second thoughts on the question of his percentage or commission on the increase of the Revenue. He wanted to contribute to the strengthening of the administration, and was prepared to leave his share out of it, leaving the matter to the superior judgement of Dundas.

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45. Ibid.

Meanwhile other people were also offering Dundas advice on the problem of the Scotch distillery.<sup>46</sup> A Mr Edgar Corrie wrote from Liverpool, stating that he had also approached Pitt on the matter. Dundas is addressed as 'the Governor of the Bank of Scotland, with the desire of preventing any general distress to the Distillery', which the country in that event would share with the distillers. Corrie believed that if the Bill passed into law, the duty thereby being raised, it 'would occasion inevitable distress to the great Distillery, before the expiration of six months.' He was of the opinion that the Scotch whisky distillers could not be working to much, if any profit under the current system, at the prevailing prices for spirits in Scotland, with the duty level which existed.

Thereafter, Corrie set out his arguments in detail. He surveyed the position from July 1786 to July, 1788 when the licence duty was £30 per gallon on stills used for 'making spirits from Corn', and at higher rates on stills used for making spirits from other materials, yet it was in February 1788, 'after the Distillery had been in possession of the business for eighteen months on those low duties, that a general convulsion [sic] took place among these Distillery.' In 1795, the duties in operation were £9 per gallon on stills used 'in making spirits from Corn', and at higher rates in proportion on the others. All the raw materials employed in distilling cost more in 1795, because 'Corn, sugar, all Foreign materials, are enhanced in their value.' Spirits in Scotland were selling for as little as 3s. 10d. per gallon. Corrie is of the view that, 'If the Distillers sold spirits to a loss in 1788 from motives of necessity, or to force the sale and consumption of their stock, the same motives may induce them to sell Spirits to a loss in 1795.' If the duty level were to be doubled, distillers may be put out of action, but with this difference,

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46. SRO: MCM: GD 51/5/216. Edgar Corrie to Henry Dundas, 7 April, 1795.



that their distress would be imputed to excessive rates of duty.

Corrie doubted whether the additional duties proposed in 1795 were 'a solid resource of Revenue,' or whether they were but a prelude to a reform in the system of collecting duties. Whatever the intention, he stressed the importance of saving the distillers from sudden changes in legislation, and to protect the property and credit of the industry. So it seemed that 'The property and credit of the Scotch Distillery hangs at this moment by a thread ... their fate with which the happiness of their families & the security of their creditors are involved depend upon the stroke of Mr. Rose's pen ...'<sup>47</sup> He saw their wellbeing as lying in the hands of Parliament, of Mr. Pitt and of Dundas, and urged them to relax for a year the duties and regulations proposed, and tried to persuade them against sudden changes in the system. Corrie's correspondence also refers to occasions when he communicated with both Pitt and Dundas on commercial subjects.

There was also contact between Corrie and Mr Patrick Heron, M.P. for Kirkcudbright, and fuller details of the former's views are contained therein. Corrie congratulates Heron on taking his seat in the House of Commons 'before the Scotch Distillery Bill went to the committee.'<sup>48</sup> It appears that Corrie is the supplier of background information to Heron on the question of the distilleries' legislation. It is maintained by Corrie that the licence duty based on the contents of stills has had fatal effects on the Scotch whisky industry; increasing the duties violently could not remedy the impolicy of that system. The operation of the licence duty on stills had a two-fold impact - firstly, to force the distillation of the utmost possible quantity of spirits that could be made within a year, and

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47. George Rose, Chairman of the Board of Excise in Scotland c. 1795-9.

48. SR0: MCM: GD 51/5/216. Edgar Corrie to Patrick Heron, M.P., 4 April, 1795.

secondly, to force the sale and consumption of the vast quantities of inferior alcohol thus obtained. Accordingly, 'when Scotland is saturated, the sales must be extended into the forbidden ground of the English market; & the prevention of this contraband trade is less practicable, than it was to restrain the smuggling from the Isle of Man in the Reign of his Late Majesty.'

The Isle of Man had been the focus of a vast growth in contraband trade when under the ownership of the Dukes of Atholl. It became such a serious menace to British revenue that Parliament resolved to suppress smuggling from that source. A reversioning Act was accordingly passed in 1785 purchasing for the Crown the sovereignty of Man for the sum of £76,000 together with an annuity for the Duke and Duchess of £2,000.<sup>49</sup> The family of Murray of Atholl was of course noted for its Jacobite sympathies.<sup>50</sup>

Corrie's aim was the prevention of the immoderate use of spirits, by means of a complete reversal of the distillery laws in Scotland, without crushing the distillers themselves, 'whose Ruin would infallibly distress their Creditors, & their Country.' He was of the opinion that a repeal of the licence duty would be forced on the Chancellor and the legislature, and he therefore proposed:

To reverse in one year (5th July 1795 to 5th July 1796) all that the Distillers and theorists in the Distillery Laws have done in nine years' preceding: to restore the operation of the Laws which have continued in force in England on 5th July, 1796, in Scotland again,

and, as well as attending to the moral welfare of the people and distilling investments,

to give protection to the brewery in Scotland, as would convert one half or more of the present distilleries into Breweries, in a period of less than seven years.

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49. Encyclopaedia Britannica, V, Vol. 14, p. 745.

50. Legislative Change and Distilling in Scotland, vide supra.

By these methods, desirable ends would be obtained

It would enable them [the distillers] ... to enhance the prices for what they sold, by removing the necessity to force the sales for the reimbursement of the duties; which would tend to prevent the immoderate use of Spirits, would protect in some degree the morals of the People, & would lessen the temptation for smuggling the Spirits out of Scotland into England.

Distillers in Scotland would have to confine their production

to such quantities only as would yield them a profit after paying the full duties, by fair & regular sale at prices adequate to those duties, by which I mean prices not less than 7/- p. galln. duty included.

Corrie saw no reason why the revenue in Scotland would be diminished because a smaller volume of whisky was being distilled, as other exciseable liquors would in time be substituted for spirits - especially 'good & sound Beer, brewed by persons competent to the management of the Business, with sufficient capitals to carry it on'. It is stated that the distilleries are overworked, while the breweries in Scotland are depressed. Most revealing comments are made about a visit paid to Scotland by Corrie.

I visited a new Distillery last week in Galloway, not a mile from Dumfries, nearly completed but not yet begun to work, built very probably in the encouragement of the Act 34 Geo 3<sup>d</sup> cap. 33, for making the licence duty on stills in Scotland perpetual .... I have known the Proprietor of this new Distillery in Galloway from my earliest infancy. 51

Corrie, it appears had tried to dissuade him from building the distillery, but the proprietor argued that 'he was under a kind of necessity to build a Distillery as a necessary appendage to his other more important Business. He is the first Miller and the most considerable Baker in the South of Scotland; & in consequence of the quantities of Spirits sent from Distilleries to Dumfries by land carriage since 1786, he could not procure Yeast to raise his Bread. He therefore urged the inducement of building a Distillery to supply Yeast for his own consumption.' Despite his efforts, Corrie did

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51. The miller/baker may have been William Hyslop, described in the Report: Distilleries, 1799, p. 663, as 'late distiller in Dumfries.'

not change the baker's mind, nor could he advise him to 'attempt the Business of a Brewery in a situation where Spirits were retailed in last month at 13d. p. quart!'

Corrie then discloses the reasons for his knowledge and opinions. He had been engaged in the brewery business in England for twenty-five years, and wished to see this industry flourishing in Scotland. He discerns unmistakable signs that the Distillery laws in Scotland have been destructive to the moral welfare of the people, and he recalls his opposition to 'the Distillery Bubble' of 1783. At that period, he had attended the annual meeting of the Commissioners of Supply for the Stewartry of Kirkcudbright (30 April, 1782) whose purpose was to renew the appointment of delegates with powers to meet other representatives of Scottish counties in order that measures might be taken 'for the Relief of the Distillers under alleged grievances of which they complained.' Corrie opposed the object of their attention, and the means of pursuing it, through the medium of 'an Out-of-Door Parliament.' Corrie's opinion prevailed, and no representative was sent from the Stewartry. Although some of his views as a brewer seem somewhat harsh on the whisky distillers, he was prepared to allow them a draw back on their payments of duty.

The Melville Castle Mmiments thus afford us three views relevant to the distilleries in Scotland and their legislative problems - that of Stein, the capitalist distiller, of Corrie, the brewer, and Steuart, whose scheme for improvement recognised weaknesses in the structure, but also contained possibilities of reward for its originator.

The problem of legislating for the Scotch distilleries were not resolved at this stage; there were renewed difficulties with the Excise, for instance in 1798, when an additional tax was levied on spirits. Revenue officials demanded admission to the Haig distilleries and were refused - on the ground that the new regulations did not come into force until a

fortnight later. The action of the Haigs in refusing them admission was upheld by the Court of Session in Edinburgh, but the decision was later reversed by the House of Lords. It was one of the earliest appeals from Scotland to be heard by the Upper House. It was the Canonmills Distillery which was the centre of attention, an establishment run on a very extensive scale, its production being a little less than that of its parent house at Kilbagie. By 1795, the Steins had taken over the operation of Canonmills, and retained it at least as late as 1799.<sup>52</sup> Meantime, James Haig, in partnership with his brother, John, acquired a distillery at Lochrin, near Edinburgh. The Report of the Committee upon the Distilleries in Scotland gives an indication of the dominance of the Stein family in distilling. One finds James Stein at the head of the Canonmills Company, Robert Stein at Kilbagie, Andrew Stein at Hattonburn, John Stein at Kennetpans, and Charles Stein at Hattonburn. Output was substantial:

Production of Scotch Whisky: 11 Oct. 1798 to 10 Feb. 1799

Selected Distilleries	Gallons	Malted Grain Quarters	Raw Grain Quarters
John Stein, Kennetpans	51,290	4221	80
Robert Stein & Co., Kilbagie	76,340	5644	97
John Stein, Cannonmills	73,870	5074	788
Charles Stein, Hattonburn	23,893	2463	126

Source: P.P., Report from the Committee upon the Distilleries in Scotland: 1798-9, p. 653.

Distilling at Kilbagie:

The evidence and memoranda of John Stein, as contained in the Reports upon the Distilleries in Scotland (1798-9) are an outstanding indication of

52. P.P., Report: Distilleries, p. 492.

the character and enterprise of the distilling dynasty. The problem of the use of raw grain in distillation was referred to the Commissioners. John Stein was able to state from his own knowledge and from information supplied by others, that all over Northern Europe, especially in Russia, five-sevenths of the grain distilled was raw (i.e. unmalted), and the remainder was malted. He knew that the same proportions were employed in the Netherlands because he was 'in possession of the process practised in the first distilleries in Rotterdam and Skeydam, which was handed him by a person who attended in these distilleries for several weeks, and he also employed a Dutchman who made Gin on this principle in Scotland'<sup>53</sup> At his distilleries, rye and wheat were used raw, and in his view, were more productive of alcohol than barley alone. Stein believed that a mixture of malt and raw grain was a perfectly wholesome combination. Distilling from malt only was a Scottish peculiarity, and he had not heard of it in any other quarter.

Stein was clearly intent on technical innovation, and the influence of Dutch technology is noteworthy; it was a feature of economic growth, especially in textiles, in the eighteenth century.

Besides employing a malt/raw grain mixture, the Steins were approaching a continuous process of distillation by stages. The duty being based on still content was urging them towards ever more rapid rates of distilling; the pace of innovation appears to have been induced partly by legislation, and partly by the considerable cost of fixed assets in distilling which promoted an increased capital/output ratio, involving an acceleration of processing. The stills at Canonmills (whose contents were 250 gallons) ran '2,500 gallons Spirits per day', which worked out at less than 4d. per gallon in terms of duty.<sup>54</sup>

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53. P.P. Report: Distilleries, p. 369.

54. P.P. Report: Distilleries, p. 662.

Fig. 2.

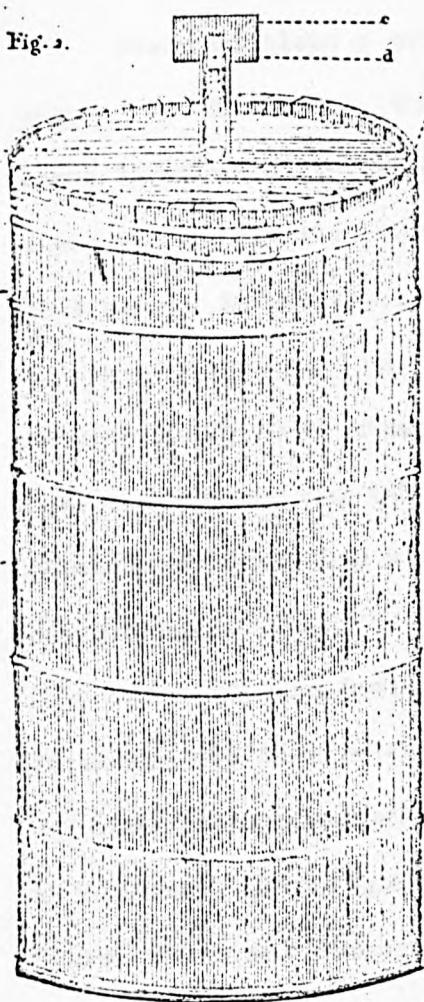


Fig 5

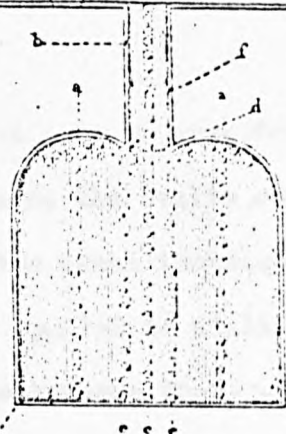
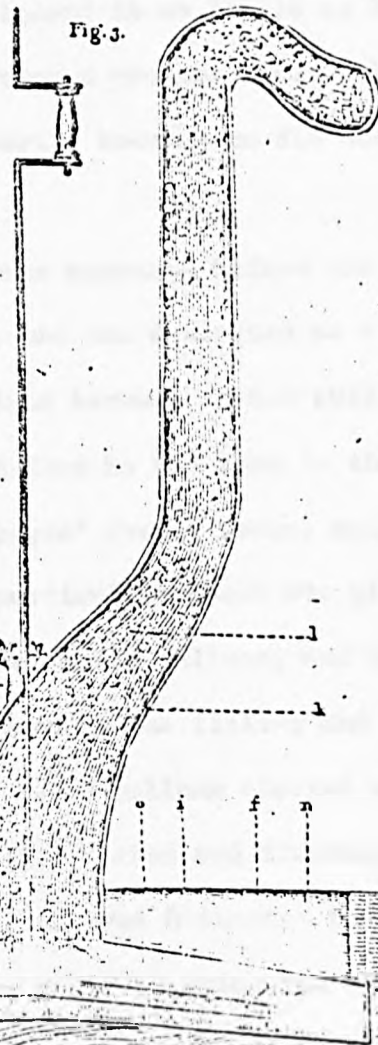


Fig. 3.



A shallow still with stirring gear or rummager inserted P.P. Report: Distilleries 1799, App. M. p. 758.

Stein mentions a proposal to erect an apparatus for distilling in vacuo; by this means, the running time of the stills could be raised to three times what could be obtained by the usual techniques.<sup>55</sup> John Stein would not allow the air pump, as applied to stills, because 'liquids boil sooner in vacuo', and also perhaps because there was a danger of stills collapsing. In 1799, the Steins could fill and work off their stills in 12½ to 15 minutes, and indeed in as little as 8 minutes on occasion. Stein did not take up the vacuum process because he thought the premium asked was too high, and partly because he did not see the apparatus demonstrated.<sup>56</sup>

Some of John Stein's employees appeared before the Committee, as, for instance, did Richard Cartwright, who was described as a distiller.<sup>57</sup> He may have been recruited from England because of his skill in gin making. In evidence, Cartwright confirmed that he had been in the service of Messrs Cross, Stein and company at 'Kilbogie' for 24 weeks, and looked after the stills there. Cartwright gave particulars about the plant: there were three wash stills of 1,288 gallons, 2,118 gallons, and 2,388 gallons content. Questions followed regarding the filling and working off: how often in 24 hours was a still of 2,000 gallons charged with 1,800 gallons wash (at the usual English strength) worked and discharged at Kilbogie? Cartwright's reply was 3, 4 or 5, or even 6 times; the average being 5 times in general practice, and he compared this with 'Bristol practice' whereby a wash still of 5,000 gallons was worked every 10 hours.

Cartwright's experiences at Kilbogie are illuminating. He found the

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55. P.P., Report: Distilleries. p. 686.

56. P.P., Report: Distilleries. p. 652.

57. P.P., Report: Distilleries. p. 433.



works of Cross and Stein in anything but new and perfect order, and during his engagement, considerable alteration had had to be made. The reason was that the wash, with the rapid working, caused the stills to burn. Copper-smiths had to be called in to raise the bottom of the stills because the casings were in bad shape, and masons repaired the base of the stills. Yet at this time the rummager was known to distillers, and was in use in Scotland: it is a copper mesh device on rotating arms, that can be dragged round the base of the still to keep the solid matter in the wash from burning on to the base of the wash still.<sup>58</sup> There may have been apparatus of this kind in the Kilbagie wash stills. Haigs had 'engines' in their stills. Two Dutch distillers were brought over from Schiedam by the Haigs c. 1787, and the latter discovered that the Dutch had no 'engines' in their stills to keep the bottom and sides clean; instead they employed a man to agitate the liquor by means of a wooden pole with iron chains at the end of it. Later they returned to Holland, and introduced 'engines' into their stills on the Haig principle.<sup>59</sup> 'Bottom scraping engines', were also fitted to stills by Highland distillers; one was noted in the Oban distillery of Hugh Stevenson & Co. in 1798.<sup>60</sup>

Cartwright recalled stoppages at Kilbagie of 3 to 5 hours, and sometimes of 12 hours, '10 times in 24 weeks', the outcome being that the spirits were rendered 'almost useless.' He was asked about the stoppage of the stills due to shortages of water, but declined to answer; he would not disclose any differences between summer and winter working. In his opinion, the quality of the wash at Kilbagie was poor; compared with that

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58. Richard Cross was a Bristol distiller, and a partner of James Stein.

59. P.P., Report: Distilleries, p. 691

60. P.P., Report: Distilleries, p. 752.

made in England, it was only half as strong. This was a merit in distilling good Scotch whisky, but as the legislation was designed to meet English circumstances, it compelled the Scots to attempt rapid working with the hazardous consequences already described.

Further questioning elicited the information that English distillers were accustomed to draw 18 or 20 gallons of spirits from 100 gallons of wash, but stills were definitely worked much faster in Scotland. The loss of 14,000 gallons of wash at Kilbagie was mentioned - Cartwright explained that it was due to a defect in a new back (possibly a wash back or an under back). Losses also happened because the stills were worked so rapidly that they ran hot.

Cartwright was asked if he knew that the distillers in Scotland paid so much duty a year for their stills, and not so much per gallon on the spirits produced (as in England), but he disclaimed all knowledge of this. He did know however that many English brewers and distillers were in the employment of Scottish Lowland distillers in the 1790s.

Cartwright was examined on the question of work days. At Kilbagie, stills were not worked on a Sunday, and as a foreigner in a Presbyterian country, Cartwright became somewhat confused regarding 'preaching days' and 'Fast days.'<sup>61</sup>

These matters may be of less economic significance than other controversies in which the Steins were implicated, but the response of the distillers to the acceptance of religious mores is noteworthy. The minister of Clackmannan remarked that although the stills were worked four times daily during the week, on Sundays distilling was only carried on for 10 to 15 hours, and the same on 'Fast days'. Kirk opposition must have presented

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61. Fast days were observed as a preparation for communion in the Church of Scotland.

more problems the more closely distillation approached continuous working.<sup>62</sup>

In 1797 complaints were made against the proprietors of Canonmills and Lochrin distilleries by the clergy and Kirk Session of St. Cuthberts, Edinburgh. The distillers were fined £10 Scots, and banned from working their stills and coppers on Sundays, under the penalty of £100 stg. for each contravention.<sup>63</sup> Both the Steins and Haigs protested, and 14 June 1797, the dispute again came before the court, when the plea of defence was founded 'upon a Necessity', namely that the process of distillation from its very nature must be kept in continual progress. On Stein's behalf, it was said that operations were limited on the Sabbath to the work necessary for the preservation of the manufacture performed only by two or three of his servants. The English manufacturers were not placed under such a disadvantage because they could work on Sundays, and indeed distil spirits for the Scotch market. Andrew Stein of Cowden, distiller at Hattonburn and his servants were also restrained from working the distillery on Sundays by George Peat, Prior Fiscal of Court in 1798.<sup>64</sup>

Valuable evidence was also given by Alexander Fairly, described as 'Overseer of Mr. Stein's workmen at Kilbegie.' He also confirmed that Stein had erected 'very great additions to his premises after the Licensing Act of 1786.' He put the value of these at £15,000, and disclosed that Stein did so 'in consequence of his intention to make Gin.' Two distillers were brought over from Holland, but the gin trade was virtually stopped because a permit system was applied to dealers, rectifiers and agents by the Excise authorities in Scotland.

62. O.S.A., XIV, Clackmannan, p. 623 et seq.

63. S.R.O.: Bill Chamber Processes I, 14, 728.

64. Ibid.

The scale of the capital additions was very considerable, and Fairly later disclosed that in 1797, the Steins had been mainly occupied in making gin, but as the permits were not forthcoming they were forced into permanent suspension of distilling, even selling some of their utensils. The brake on their enterprise led to such heavy losses that part of the buildings and stills were pulled down in November 1797. Fairly emphasised that gin stills were not made on a different principle, and could have been used for normal distilling. The Steins thereafter began preparing raw grain spirits from 'London malt', to a much greater extent than hitherto. The stills were worked 4 times in 24 hours, and Fairly reported that they were stopped for 10 to 15 hours on Sundays and the same on Fast days appointed by the Church.<sup>65</sup>

The overseer also said that the stills were very often overrun, so that they were singed and burned, causing breakdowns of 6 - 8 hours, or even some days on occasion. The Steins gave up working part of their installation of around 4770 gallons capacity early in November, 1797, despite the fact that the winter season was the best time for distilling.<sup>66</sup>

#### The Use of By-Products;

Questions followed regarding Stein's farm, which extended to over 1,500 Scotch acres; the rent paid was at one time 15s. per acre, being very poor land, before the Stein family improved it. Thereafter Fairly believed that the land would fetch 25s. to 30s. per acre. He was of the opinion that the by-products from the distillery had been the basis for the increased production from the holding - in 1797, 200 acres of wheat were grown on it, and 700 oxen were fattened, while between 2,000 and

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65. P.P. Report: Distilleries, p. 447.

66. Ibid.

3000 hogs (pigs) were fattened. Fairly stressed that he had particular knowledge of James Stein's farm, rather than John Stein's one, which only extended to some 300 acres. The by-products of the distilleries plus the manure from the animals, not only supplied the Stein farms, but also neighbouring units. John Stein's farm could support 400 to 500 cattle.

The farms were not solely agricultural enterprises; besides being a means of disposing of waste products, and turning these to a profitable use, the holdings also provided coal for the distilleries. A ton of coal cost the Steins about 4s. Their grain was ground in their own mills. Even in 1795, there were however cases of thirlage in Clackmannan. An agricultural machinery innovator named George Meikle developed a mill at Kilbagie driven by water power, which was capable of threshing 8 to 10 bolls per hour.<sup>67</sup> It permitted small scale farmers to thresh their own grain. There were nine of Meikle's mills in Clackmannan, varying in cost from £25 to £60. It was in fact John Stein who commissioned Meikle of Alloa, probably under the direction of his father, Andrew Meikle of Houston Mill, East Lothian, to erect the mill in 1787, and only the finest brass and iron brought from Sweden were used in its construction. This threshing mill was regarded as a pioneer effort.<sup>68</sup>

#### Water and Fuel Supplies:

The water supply for distillation and for working machinery came through the Stein works, as Fairly related, 'two falls within and one without', and entered the Forth as the Canal Burn, which is still extant. Fairly also showed that the distilleries had sea communication via a canal.

67. Gordon, T.C., The History of Clackmannan, pp. 162-3; also North British Agriculturalist, 14 Dec. 1859

68. In 1857, W. Downing Bruce, a cadet of the House of Bruce, who later went to Jamaica as a Judge, and died there, purchased Kilbagie, and dismantled the mill. He claimed that Meikle had not only evolved the simple thresher, but also the shaking and winnowing machinery.

The Steins had a dispute about their water supply for Kilbagie between 1793-6.<sup>69</sup> A partnership of John Bald, Robert Stein, John Primrose, and James Scott, who traded as John Bald & Company, Distillers of Tulliallan, sued John Stein, distiller at Canonmills, Edinburgh, Robert Stein, distiller at Kilbagie, and John Taylor, W.S.

Bald & Company had obtained a lease from James Scott, feuar of Tulliallan of a brewery, malt barn and kiln for a period of 19 years. They converted the works into 'a distillery of whisky', where they made spirits until distillation was stopped by Parliament in 1796. They laid a wooden pipe 3 inches in diameter from Peter's Dam to supply the premises.

In 1793, Robert Stein attempted to cut off the flow because he claimed a lease of the water and coal in the area. The landowner, James Erskine of Cardross had let the rights to John Taylor, W.S., who in turn rented them to the brothers Stein. Balds meantime offered to pay rent for the water they used at the distillery, and expecting an amicable settlement, they enlarged and improved their works 'at a very considerable expense'. The rent for water was fixed at £40 per annum. Robert Stein preferred that the water be got from the Mill of Tulliallan instead of Peter's Dam, and required that the diameter of the pipe be reduced from 3 to 2 inches in case of water scarcity. Matters dragged on until 1795, during which time Balds formed the impression that the Steins wanted to be in a position to deprive the rival distillery of water whenever they chose to do so.<sup>70</sup>

Earlier in 1782, James and John Stein (the former then being described as a distiller at Kilbagie, and the latter at Kennetpans) had sought a bill of suspension and interdict against Crawford, Chapman & Co., who were

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69. S.R.O: UP: Adams Mack B 6/38: Bald & Co. v. Taylor & Steins, 1796.

70. Distilling in Scotland in the Mid-Nineteenth Century: Inverkeithing distillery, vide infra.

tacksmen of the coal on the adjacent estate of Tulliallan. This may indicate their interest in the coal resources of the area, and anxiety about ensuring adequate supplies of fuel for their distilleries.<sup>71</sup>

Production Costs and Marketing at Kilbagie:

Fairly, Stein's overseer also knew much about costs and wages at Kilbagie. For instance, the cost of warehousing grain in 1797 was about  $\frac{2}{3}$ d. per quarter, while the wages paid to the workmen at the distillery were about 9d. and 10d. a day. On some points he had insufficient information to give concrete answers - in particular, he could not tell the number of bushels of grain needed to make 100 gallons of wash, probably because it was a quantity that varied considerably with the quality of grain used.<sup>72</sup>

In answer to the searching question, 'Do you think that Mr. James Stein's greatest profit arises from his farm and fattening cattle, or from the sale of Spirits?', Fairly was able to disclose that the profit on oxen had been averaging £4 to £5, six months being needed to fatten the stock. He stated categorically that 'If it was not for the cattle and farm he [James Stein] would not carry on the business [i.e. at Kennetpans].'

Since distilling had been suspended, cattle were not being brought in, as there was no spent grain on which to feed them. As to the pigs reared, Fairly had no details about profits, as the pigs were sold by contract by Stein himself, whereas the overseer was responsible for disposing of the cattle. The level of industrial integration, both vertical and horizontal was thus very considerable in the Stein enterprises.

Regarding the marketing of spirits in England, freight and insurance charges were not known to Fairly, because the Steins carried the whisky

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71. S.R.O: Bill Chamber Processes II, 23, 339

72. P.P., Report: Distilleries, p. 447.

in their own vessels. A commission or salary was paid to an agent to sell the spirits in London. Nor was the traffic all in one direction, because 'barm' (or yeast) was brought from London, as well as parts of Scotland, for use in the distillery at Kilbagie.

The Steins' Scottish outlets were mainly among spirit dealers, like Robert Wemyss, who had a shop both for wholesale and retail trading in Edinburgh.<sup>73</sup> He bought most of his whisky stocks from John Stein's distillery at Canonmills, paying generally in cash, as he seldom issued bills. Mrs. Wemyss sometimes made direct payments to Stein's salesmen, and this may have been a source of trouble. Both parties had numerous and extensive dealings in whisky. Between May 1796 and December 1797, Wemyss purchased spirits valued at £800 from John Stein. The account was regularly paid within a few days of the consignment being delivered, and Wemyss's purchases varied according to demand:-

25 May 1796: whisky:	£60	16	0
11 June "	116	17	6
6 August	113	10	6
14 Nov.	35	8	4
4 Jan - 15 Feb. 1797	148	15	0
25 April	113	3	0
21, 22, 23 Dec., 1797	93	7	0
21 March	62	6	6
	<u>743</u>	<u>13</u>	<u>10</u>

Subsequently, Wemyss was surprised to have a demand made on him for the price of a puncheon of whisky (£33) said to have been delivered on 20 December, 1796, plus £1 ls. for an empty cask. He averred that there must have been an oversight in Stein's books. On investigation, Stein's books appeared to be nothing more than 'jottings', with many errors and mistakes: the clerk had not entered the information correctly on the debit side in

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73. Signet Library, 417:66: Wemyss v. Stein, 8 July, 1800.



Stein's books. Wemyss showed that he had paid over £99 for whisky in February, 1797, which was not recorded in Stein's accounts. He alleged that Stein was guilty of over-charging, sending ~~him~~<sup>only</sup> 120 gallons, when the account entry was for 125. Wemyss moreover had Excise evidence about deliveries, which showed that he had been charged for no less than 221 gallons in excess of what he had received.

Stein's Sales Books were produced, and his clerks questioned, thereby revealing much about business procedures: it appeared that if cash was paid, whisky was allowed a discount, although it was charged at the credit price. Casks were numbered, their contents gauged, and invoices sent to purchasers. These facts were noted in the books. The Steins had no fixed period of the year when the books were balanced: none had happened between December 1796 and April 1797. The details of the casks despatched were transferred from the Sales Books to the Cash Register Book, while a Return Cask Book was kept for empty casks, a clerk being employed to check their numbers and enter these. Carters gave details of cask ownership, which could be verified from tickets or directions on the casks. The stock position was recorded in a ledger.

In another dispute, where James Stein, at Canonmills, sold whisky to a spirits merchant and grocer, the trade was on a ready money basis, the whisky being 3s. 10d. per gallon in 1795. When the dealer used bills instead, the Steins were very annoyed, but in their own purchases, they were prepared to give bills, occasionally using a Leith merchant house, James Somerville & Company,<sup>74</sup> in that connection.

Andrew Stein also had disputes over bill paper: in 1793, David Paterson claimed that a bill was falsely signed 'Andrew Stein & Coy,' and another name inserted without his consent. The transaction linked the

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74 S.L. 378:64: Stein v. Gilmour, 1797-8.

Steins with an insurance broker in Edinburgh, a spirit dealer in the Grass-market, Edinburgh, and with a brewer near the Water of Leith, who had a 'sort of concern' in a Stein distillery, at Burnhead. False bills added to business problems.<sup>75</sup>

John Stein and the Investigation of the Scottish Distilleries, 1798-9

Documents from John Stein of Kilbagie were presented to the 1798-9 Committee of Inquiry: these are obviously the work of a well informed, astute man of business. In 1797, John Stein was not only associated with Kilbagie, but also owned Canonmills distillery, near Edinburgh: he submitted a list of matters which the committee should investigate.

The Highland Exemption:

Stein believed that the Highland exemption (which conferred favourable duties on that region) was grossly abused. It was a notorious fact that most private families in Edinburgh consumed Highland, rather than Lowland whisky. He pointed out the great temptation to smuggle held out to Highland distillers, observing that unless free pardons were offered to witnesses who had broken the law, the Committee would have difficulty in gathering evidence. The revenue was consequently deficient - Stein estimated that instead of £500,000 only £200,000 was being raised. Lowland distillers had indeed abandoned the trade before the distilling season ended, and their licences expired, because they were unable to sell the stocks of spirits on hand. In his view, the revenue would continue to give diminishing returns.<sup>76</sup>

Having a vested interest in the Lowland trade, Stein did not want to see any Highland whisky in Southern Scotland. He would allow Highlanders to make their own spirits (which they were determined to do in any case),

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75. S.R.O: Bill Chamber Processes I, 51, 091.

76. P.P., Report: Distilleries. p. 492.

but they should not export the produce. Yet he was at a loss to suggest how to handle the 'Highland exception', as 'exceptions are always ruinous to the Revenue.'<sup>77</sup> The Highland distillers were led into fraud - making large volumes of spirits, and stockpiling materials 'without hindrance or molestation' from the Excise. Their output was plainly intended for the Lowlands: Stein objected to them far more than to the unlicensed 'poteen makers' or true smugglers, stating that 'a person in the Highlands working fraudulently, and altogether without a licence cannot do one-twentieth part of the same injury', because he had no protection for his still, implements, materials or manufacture - 'everything he does must be smuggled: in case of detection everything about him is seized and confiscated ... if the law is executed he is ruined.'<sup>78</sup>

Compared with the smuggler, the Highland licensed men only suffered the seizure of a cask or two in transit to the Lowlands, but they often had numerous guards to protect their convoys: Stein concluded that they still found it a profitable traffic if one cargo out of six escaped.

Nor did he have sympathy with entrepreneurs who merely became distillers to take advantage of the duty differential between the Highlands and Lowlands. These were the operators who used 'ingenious and illegal machinery', and widened the market 'beyond the limits of the law.' To judge by their reasons for keeping the Highland exemption, Stein concluded that it appeared 'no less difficult to estimate the capacities of men, than the qualities of soil, by degrees of latitude and longitude.' Stein's final plea was to be secured from the smuggling from the northern counties, into Central Scotland, even if this meant giving the Highland area an indemnity from the duty.

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77. P.P., Report: Distilleries, p. 494.

78. P.P., Report: Distilleries, p. 492.

Another member of the Stein family, Andrew Stein, distiller at Hattonburn, near Kinross, 'the northernmost distiller in the fourth district', was also suffering from the depredations of Highland distillers. He had carried on business for many years, and his chief market had been Perth, when the Highland and Lowland duties were more alike. After the Lowland duties were raised, his former customers had been supplied with Highland whisky. Accordingly, he gave up business in June, 1797, with a large stock of spirits on hand, and provided witnesses would obtain free pardons, he undertook to prove that Highland spirits were sold in Milnathort and Kinross ... at 4d. and 6d. per gallon below his price.<sup>79</sup>

As to the contention that Highland barley was inferior, Andrew Stein submitted that grain at Dunkeld and Crieff was often of better quality than at Kinross, while James Miller of Craigend Distillery, 4 miles from Stirling, used northern barley; he employed an agent to buy barley at commission of 2½ per cent, carriage costing from 10d. to 1s. per boll. Meanwhile, like other middle district, and Lowland distillers his market was swamped with Highland whisky, and he knew it overran Glasgow, Greenock, Port Glasgow and Dumbarton.

John Stein reconsidered the problem of the Highland exemption in his First Memorial, presented to the Committee in April, 1799.<sup>80</sup> By drawing a line on a map, which could not be ascertained on the ground, parliament had given to 'the favoured side of the boundary' the facility of manufacturing for both sides. While Highlanders were prohibited from smuggling into the Lowlands, the same might be said for 'the Flushingers', but 'where the temptation is so strong, it would be ignorance of human nature to expect obedience from either.' He observed that few licensed Highland distillers

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79. P.P., Report: Distilleries, p. 494.

80. P.P., Report: Distilleries, p. 686.

were ignorant of technical improvements, but he admitted that imperfect apparatus, or poor supplies of raw materials (e.g. grain) might justify exceptions. A distinction was drawn between the commercial distillers in the North, and Highland tacksmen and farmers 'who distil in private for their own families and neighbourhood.' It was to Stein an ancient Highland custom, despite the lack of evidence for its existence in Gaelic literature, or other sources, and should be respected, 'so long as it does not degenerate into trade', i.e. Stein would allow 'subsistence' distilling in the Highlands, but no illicit distilling for commercial purposes. Highlanders had no intention of submitting to the law - in Stein's words, 'they have proceeded in their own way, without regard to survey or licence; and they will proceed while a pot or tin cannister [sic] is to be found in the Highlands.'

#### Distillery Operation:

As to distillery operation, Stein wrote that he knew solely about Canonmills and Kilbagie 'which are my own,' and that he had scarcely ever been in any other distillery in Scotland. Hardly any two distillers had identical modes of production, and 'none would enter candidly and fairly' upon his methods of working, always choosing to conceal some parts thereof. Stein therefore warned the Committee that if it wished to find out particulars about costs, quality and the value of spirits, comparing one distiller with another, it would be 'totally impracticable', and that 'the further you investigate the more difficult and uncertain will be the result.'

The reasons assigned by Stein involved complex technical matters - for example, the strength of the wash, the manner of filling the still, the speed of working it. With experience, some distillers got more spirit from grain than others, because their skill varied, resulting in a 10 to 15 or even 25 per cent difference. Most preferred large supplies of

water for condensation; some used less or more yeast; others tended to rectify their spirits which probably means they triple distilled, instead of the more normal doubling. Cost was therefore affected by all those considerations. Stein warned that there might be as many cost patterns as there were distilleries.

The proportions of malted and unmalted grain was variable, as the 'Scheme of the quantities malted and raw grain used, of Wash made, and of Low Wines and Spirits produced'<sup>81</sup> by the Stein distillers in Lowland Scotland indicates:-

	QUARTERS				GALLONS			Spirits at Spirits 1 to 10 O.P. 1 to 10 from Quart- er of grain
	Malted Grain	Raw Grain	Wash	Low Wines	Low Wines	0. P.	er of grain	
Charles Stein, Hattonburn 11 Oct. 1798-10 Feb. 1799	2463	2	126	3	324,982	60,287	23,893	9
John Stein, Kennetpans 11 Oct. 1798 -10 Feb. 1799	4221	5	80	4	517,356	131,252	51,290	12
Robt. Stein & Co., Kilbagie 11 Oct. 1798 -10 Feb. 1799	5644	3	97	-	626,247	29,192*	76,340	13
John Stein, Canonmills 5 July - 9 Aug. 1798	998	-	935		281,077	-	27,288½	14

\* Probably an error in table for 129,192

The spirits yield at other distilleries ranged from 7 to 14½ gallons per quarter of grain processed.

As well as cost patterns varying, Stein also called attention to the fickleness of market forces reminding the Commissioners that 'The value of the spirits is what the distiller can sell them for in the market, and this too depends on a variety of causes, such as the state of Highland smuggling at the time, whether the market be bare of spirits or glutted, whether the sales be for ready money (in which case large discounts are given) or for

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81 P.P., Report: Distilleries, Appendix B2, p. 652

long credits ...'.<sup>82</sup> He then proceeded to a cost analysis of the position as it affected Highland and Lowland licensed distillers, carefully comparing the two. In consequence he believed that the Highlanders were better off in terms of 'materials, labour & incidental expenses.' While coal cost 7d. per cwt. (Scotch coal) or 10d. (Newcastle) at Canonmills, the hundredweight was 1 - 2s. dearer in the Highlands, but this was more than compensated by the cheapness of labour, the cheapness of living, and the low rents of Northern Scotland. The Haigs endorsed Stein's analysis. They paid nearly double the wage rate to their servants as was paid in Highland licensed units. Hence the difference in labour costs alone must have affected the competitive position of Lowlanders versus Highlanders, and acerbated the trade hostility of the former for the Highland exemption.

Stein took up the question of still size. The Highland distillers were limited to stills of 40 gallons content, whereas the Lowland men could use ones of 52 gallons and upwards. This the Highlanders resented, but were liable to a lesser rate of duty - which Stein regarded as a 'jest', believing that small stills required no allowance in the rate of duty at all, and citing the opinions of his own workmen and of the London distillers to support his view. He argued that there should be stills of the same content in both Highlands and Lowlands with one duty for both areas.

Moving next to the issue of grain quality, Stein showed that when duty was levied upon the capacity of a still, the quality of the grain used was quite irrelevant, adding that it was to the distiller's advantage to make the wash weak, and that grain in the Highlands was capable of yielding wash quite strong enough for distilling purposes. London distillers were accustomed to having a stronger wash, enriching it with a mixture of fine wheat flour, so that 20 gallons of spirits could be extracted

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82. P.P., Report: Distilleries, p. 492.

from 100 gallons of wash. An account is then given of the procedure at Stein's distilleries when the mash bill was made up.

My practice is to weigh the Corn into my mash tun every morning, without regard to its quality and price; according to the weight I pour on my liquor; it matters not to me whether the Barley cost 16s. per boll or 20s.; if the price is higher, I have quality and weight in proportion.<sup>83</sup>

It was a well known fact, Stein wrote, that inferior barley went to distillers. He recalled purchasing 10,000 bolls of Norfolk and Suffolk barley ('very inferior') to use in his own distilleries. The apparent lack of interest in the control of grain quality may have been intended to persuade the government that prohibitions on the use of grain in distilling were unnecessary, as the cereals required therein were unsatisfactory for other purposes.

Stein thus submitted that the Highland exemption was neither expedient nor practical; there was no foundation for duty concessions on account of still size, or the quality of grain, because many parts of the Highlands were capable of producing as good grain as the Lowlands in his estimation.

#### A Cost Analysis:

The 1799 Report contains two lengthy documents sent in by John Stein, who was a senior spokesman for the Lowland capitalist distillers. Stein mentions his delay in submitting written remarks until the Committee had completed its first report, because he could not expect 'entire credit for impartiality', when his private interest was so deeply involved. This time he did provide an analysis of costs of production. He estimated that the annual Lowland consumption of spirits at 1 to 10 over-hydrometer proof to be about 3.5 million gallons. Taking productive capacity, it was reckoned

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83. Ibid.



that 'each gallon of the capacity of a still ... diligently worked 6 days in a week, allowing for common accidents and interruptions, and also the usual abatement on strength and quantity to the spirit dealers, can be made to yield per annum ... 1,620 gallons. The level of consumption would require a licencing of stills equal to 2,160 gallons: on each gallon of still content, a duty of £162 per annum would yield £349,920, the spirits duty being 2s. per gallon. Against this, Stein set out the price of whisky:

Cost analysis of Scotch whisky: 1799.<sup>84</sup>

	s.	d.
Prime cost to distiller )	2	7
& wear and tear on utensils )		
Interest of money, bad debts, expenses )	1	3
of sales, loss of casks, etc. 'with a )		
very reasonable profit'.		
Adding the duty at 2s. p. gallon	2	-
	<u>5</u>	<u>10</u>

Stein did not believe that whisky, even in favourable trading conditions, could hold its ground with Highland distillers, smugglers, or the legal importation of foreign spirits, if sold for more than 5s. 6d. per gallon. If profit margins to dealers were added, the retail price would be driven above that of smuggled Dutch geneva,<sup>85</sup> 'even in the present time of war, when the protection of our coasts is the most complete.' A distiller who marketed whisky at 5s. 10d., had therefore to make up the difference either 'by a further improvement in his art' (i.e. in his methods of production), or by a decrease in his profits. Some Lowland distillers reckoned that spirits would require to be priced at 6s. per gallon before

84. P.P.; Report: Distilleries, 1st Memorial of John Stein, London, 24 April, 1799, p. 687

85. Dutch geneva = gin.

they could carry a duty of 2s. on that volume.<sup>86</sup>

Stein's estimates were based on the most up-to-date stills in operation, combining 'the principle of expeditious working', with the latest 'flat construction.' He blamed low whisky prices not on glut caused by rapid processing, and high output, but on the flooding of the market with smuggled whisky.

Thereafter Stein investigated the problems raised by the acceleration in still operation. A sore point was the impairment of spirit quality; illicit whisky was claimed to be infinitely more palatable than parliament whisky. He tried to counter the arguments, firstly by stressing the 'wholesomeness' of quick distillation, citing the opinion of others 'who have combined chemical skill with practice in the business.' Stein actually thought an improvement in the quality of Lowland spirits had occurred in the 1790s, owing to the more intimate knowledge of the art of distillation, and 'the more accurate distribution of labour and care', which had had beneficial effects on the manufacture.<sup>87</sup> An indication of his own practical knowledge is given in his discussion of the merits of copper worms then used in both Scotland and England for condensing the distillate; he stated that the 'poisonous quality of that metal is extracted least of all by great heat', adding that exposure to air, to cold, and intermittent use formed more verdigris, the still being a greater source of danger than the worm.<sup>88</sup>

One difficulty with rapid distilling was the tendency of the wash to boil over into the worm. Stein was reported to put soap into his stills as a preventive measure, and he was said to have spent £1,500 on soap in 1797

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86. P.P., Report: Distilleries, p. 737.

87. P.P., Report: Distilleries, p. 687.

88. P.P., Report: Distilleries, p. 688.

at 7d. per boll.<sup>89</sup> Was the spirit harmed by this treatment? One explanation was that the alkali in the soap by its chemical action on the wash accounted for the difference between 'the mild, fragrant Highland whiskey', and the harsh tasted, pungent Lowland variety.

In 1799, Andrew Stein of Hattonburn had an argument with a grocer in Stirling over the quality of spirits supplied by him. The grocer had bought the whisky on the recommendation that it was as good as the spirits produced by the Dolls Company at Menstrie. Accordingly, he purchased two puncheons from Stein by way of a trial, the price being 3s. 8d. per gallon for cash. The total outlay was £47, and the grocer (Robert Binnie) paid £6 15s. of this in halfpence.<sup>90</sup>

When the spirits were tested, Binnie found them 'of a very bad quality, being distilled from raw grain, having a disagreeable taste and a very unpleasant flavour.' He therefore requested Stein to take back the whisky as it would not suit his customers. The action soon came before the magistrates of Stirling, Binnie contending that he bought the whisky from Stein's clerk on the assurance that it would be of sound quality; but unlike that of the Dolls Company, he found it 'of a very inferior quality, distilled from raw grain, stinking and unmarketable.' Another spirit merchant agreed with this opinion; he had bought whisky from Hattonburn, and had sent it to Edinburgh 'where people are accustomed to use spirits of a similar quality', which would 'sink head thirty-one in temperate weather', and were sold at 4s. per gallon at 3 months' notice.

Another Stirling merchant, William Paterson, stated that he had dealt in spirits for over 20 years, having been a distiller for seven of them. He said he had frequently seen spirits made at Dolls: as for the Hatton-

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89. P.P., Report: Distilleries, p. 732

90. S.L., 406: 57: Binnie v. Stein, 17 June, 1799.

burn product, he would not purchase it at any price, and thought it 'ls. a gallon worse than any spirit ever he saw come from the Dolls.'<sup>91</sup> Paterson suggested that the grain must have been unwholesome as well as raw, because the alcohol had such a peculiar rotten flavour. John Mowbray, clerk to the Dolls Company, also found it 'to smell a little ... one puncheon was of a whitish blew colour, and the other is high coloured which he supposes is due to the cask.'

Paterson also spoke of an occasion in the Coffee House in Stirling, when he had shared one gill of Hattonburn whisky with a friend, because they could get nothing else. In consequence, the pair 'neither staid so long nor drank the quantity they might have done.'

To support his case, Andrew Stein produced witnesses, who had also bought whisky from him for use in Stirling. He contended that there was no fall in the market price of whisky since Binnie had made the bargain, and which might have caused him to return the consignment. Secondly, Stein reasoned that the taste of whisky was very arbitrary and depended much upon custom, and that there were not two distilleries in Scotland that made whisky exactly similar.<sup>92</sup> He believed Binnie was trying to delay payment, but this was countered by the fact that Binnie was able to discharge his accounts to the Dolls distillery promptly and thus he was not trying to avoid paying because of an insufficiency of funds.

#### Towards the Patent Still:

Andrew Stein also figures as a representative of the Lowland Distillers, along with other members of the Stein connection.<sup>93</sup> At a meeting at

91. SR0: Bill Chamber Processes II, 36, 235.

92. Ibid.

93. P.P., Report: Distilleries: Minutes of Meeting, 26 Jan, 1799, p. 678.

Falkirk in 1799 the following Steins or Stein representatives were present:

James Stein for Canonmills Company  
 Thomas Smith, Edinburgh for Robert Stein & Co.,  
 Kilbagie.  
 John Stein, Kennetpans,  
 Charles Stein, Hattonburn, and  
 Andrew Stein for Mrs. Cowie, Whitehead.

The group met 'to consider the most proper model of stills, and such alterations with regard to the distillery export arrangements, as might be proper to suggest.' James Stein was a leading member of the eastern committee. The existence of such a body of Stein distillers, accompanied by others, is a sure indication of the technological ferment in the Scotch distilleries at the period leading to break-throughs in design and performance. The rapidity of distillation has already been remarked upon, but Dr Jeffrey noted other advances, which could be regarded as mere stages in the evolution of still design, which was to culminate in the outstanding innovation of the Patent Still for continuous production of alcohol.

In contrast to earlier statements, in which little knowledge of the practice of other distillers was claimed by John Stein, he wrote in 1799 that there were 'no secrets within distillery walls', technological changes spreading quickly due to the well informed nature of the trade - a pattern which is equally true of the Scotch whisky industry to-day.

Dr. Jeffrey describes a plate inserted in stills,<sup>94</sup> (the patent still has a series of plates at various levels). Heated liquor ascended through a central hole in the plate, and the denser liquor descended at the sides, and swept along under the plate rendering this a kind of double still - the under one for generating steam, the upper for supplying liquor. This type of still 'might be brought sooner to yield steam.' As Dr Jeffrey had not been able to see a plate of this kind, he had a drawing made, and with the

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94. P.P., Report: Distilleries, pp. 730-1.

co-operation of Mr Glen, of Mains Distillery, near Linlithgow, a flat still was constructed with such a plate. The effect was that it enabled Mr Glen, with the same capacity of still to process three-sevenths more work each week, than he had done before, and once his men had become acquainted with the new apparatus, Dr Jeffrey foresaw that he could do even more. This experiment resulted in plates being built into stills for other establishments such as that of Millar of Craigend, near Stirling. These modifications are interesting examples of a prelude to innovation which led to fundamental technical change in distilling.<sup>95</sup>

Advances in still pattern, and other improvements were not always well received by the Excise authorities. Prosecutions in the Court of Exchequer between July 1795 and July 1798 show that licensed distillers were liable to fines for supposedly contravening regulations.<sup>96</sup> The general run of offences were 'Distilling from Grain during the Prohibition', 'Heating wash in a vessel other than Licensed Still,' 'Making Stills without notice', 'Buying and Receiving Highland Spirits', etc. James and John Haig appear, charged with the carrying on of the business of distillers with that of compounders. Among cases referred by the Board of Excise to their Solicitor are two involving Steins - namely, John Stein at Kilbagie being sued for non-payment of duties, for which the penalty is stated to be £100, and also Andrew Stein, for using illegal pipes and tubes to his Still, the penalty being put at £200. Ingenuity - such as pre-heating wash, or modifying piping - was thus punishable, presumably on the grounds that alterations made Excise control more difficult, and rapid working more possible. Indeed the whole idea of pre-heating wash is a basic one for the advent of the patent still, which is essentially a heat

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95. Technological Change: The Patent Still, vide infra.

96. P.P., Report: Distilleries: Account of Distillery Prosecutions, July 1795-8: Appendix A 13, pp. 634-6.

exchanger.

John Stein's Recommendations:

The first memorandum from John Stein also outlines his recommendations for the distilling industry in Scotland. He reiterates his strong belief that a simple licence upon a still was 'the only mode of taxation' by which the revenue could be secured and the manufacturer protected, decriing 'an admixture of survey' as a means of meeting Scottish conditions - the joint operation of survey with licences had resulted in the still content licence promoting fast working, while the survey system encouraged 'the whole unmitigated evil of smuggling.'

The English position was quite different: there a survey was used, but doubts were cast on its efficacy as a proper means of collecting duty. The English distilling industry was concentrated upon London, numbering in total about 12 major establishments producing on a large scale. They had few domestic smuggling distillers with which to compete, and Stein observed, 'had formed themselves into a sort of fraternity' to regulate prices according to changes in duty, i.e. they could either choose to pass on duty increases in the form of higher prices, or they could absorb the rise by accepting lower margins. The location of the English industry mainly in London and Bristol, and its organisational ties made it practicable to collect the tax by a survey of the wash to be distilled, from which officers could deduce the yield of spirits.

Far different was the Scottish situation. Stein's graphic description reads:

In Scotland the distillery is in a thousand hands. It is not confined to great towns or to regular manufacturers, but spreads itself over the whole face of the country, and in every island from the Orkneys to Jura.

It was in the hands of both knowledgeable and illiterate distillers, and

to raise revenue, the Excise would have 'to search for revenue in the woods or on the mountains.'<sup>97</sup> Few Scottish distillers 'registered their works' as required by law, the rest being smugglers and of course paying no duty. The highest sum collected pre-1780 was less than £13,500 (when the duty stood at 2s. 11d. per gallon), and Stein reckoned tax was paid on about 90,000 gallons of whisky, which would appear to be the total consumption of Scotland, but he was equally certain that whisky consumption was nearer 3.5 million gallons - duty was thus paid on barely one-thirty-ninth part of the total consumed. In consequence, more taxes were imposed by the government to swell their revenue receipts, and were augmented by a more rigorous survey, which forced regular distillers 'on whom the duty almost exclusively fell', to abandon the Scotch market, which then became the particular sphere of influence of the smugglers. By these means, revenue was increased to almost £100,000, but said Stein, this sum was the produce of spirits exported to England.

Stein also complained of the changeability of duty assessment in Scotland: duty had once been charged on low wines and spirits yielded from a volume of wash, and later from wash only 'allowing a credit for such a portion of spirits as a given quantity of wash was supposed capable to produce.' All proportions of duty were tried from small sums to 2s. 1d. or 3s. 9d. per gallon. The hapless licensed distillers were put under 'the most severe regimen of the Excise', with guards of officers and military discipline, the personnel at distilleries being frequently changed, lest they be corrupted. Locks and seals were applied to the utensils at every stage of the process. These 'multiplied precautions' are sneered at by Stein.

As he had an intimate knowledge of the four principal distilleries in Scotland (i.e. Kennetpans, Kilbagie, Canonmills and Lochrin) he revealed

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97. P.P., Report: Distilleries, p. 684.



that in spite of Excise vigilance, not one-third of the wash distilled in these plants paid duty. Stills were filled unknown to officers, and no lock or seal could be devised to circumvent the ingenuity of the distiller. With the occasional connivance of Excisemen, distillers deceived the authorities by 'complicated methods of managing the stock and the permits.' Although these episodes were disclosed with candour, Stein did not approve of them: 'It is to be deplored when civil institutions place men in a situation where the inducement is so strong to corrupt, and to be corrupted.'<sup>98</sup>

Regarding the smaller distilleries, Stein believed they were even better placed for evading the Excise, otherwise they would not have survived; the current price of their whisky ex-distillery was at that time (1799) lower than the bare duty in many instances. It was the 'private smuggling distillers' who were supplying the bulk of the consumption, and Stein saw no end to 'the buccaneering war' of the Excise versus the smugglers. Indeed, he believed the Excise authorities had an interest in continuing the contest - because it was clear that a large share of the fines and confiscations went into the pockets of the officers. The Exciseman's position was summed up as follows:

Such a man thinks more of punishing frauds than preventing them, of laying traps to catch the offender, than of a regulation that would render the offence impossible.

The results of the Excise shortcomings were scrutinised. Firstly, the assortment of regulations oppressed and even overwhelmed, those distillers who had 'irrevocably embarked their credit and fortune in the trade', subjecting them to duties which could not be exacted from illegal operators. Secondly, Stein thought that the fraud and corruption in the trade had

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98. P.P. Reports Distilleries, p. 685.

prevented the industry and genius of the distiller from the improvement of his manufacture; the sad state of the law had meant a poorer product, but not necessarily poorer methods. The legal position was in fact provoking technical improvements towards continuous distillation. The bribing and deceiving of distillery officers caused derangements in processing, the wash was often inadequately fermented, or had been allowed to go acid through delays. Stein knew of the mixing of wash of different ages and different stages of fermentation, and warned that quality must be harmed.

Stein gave his advice as to what should be done for the distilling industry in Scotland. He pointed to the improvement which he considered came with a licence on still content at 50s. per gallon, and a levy of 6d. on a gallon of spirits, but subsequent amendments had undone the good work. Stein also suggested changes in the law relating to spirit dealers and maltsters, but his concern was most naturally with distilling. For example, he thought officers issuing permits to distillers should also send copies to surveying officers and to dealers, that dealers' sales should be checked, and they should be compelled to keep books. Severer penalties should be enacted for people committing fraud. By such measures, he foresaw the reduction in the smuggling of Highland, and also Lowland, illicit whisky. In addition, Stein would like to have seen 'cross surveys of maltsters' in different districts, the licensing of still makers, the creation of a circuit Court of Exchequer (as a more impartial tribunal for delinquents against the revenue laws than Justices of the Peace), publication of the names of licensed distillers, so that a landowner might without injustice be made accountable for every unlicensed still on his grounds, and finally, the appointment of 'coursing surveyors of stock' to prevent the fraudulent transfer of goods.<sup>99</sup> Stein goes so far as to suggest a licence system

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99. P.P. Report: Distilleries, p. 626.

for metal workers, like tinkers and pewterers to hinder their working for illicit distillers. He had good cause to suspect this source of utensils, when one considers the nature of the trade of Robert Armour, a copper-smith and plumber in Campbeltown, who made small stills for illicit distillation.<sup>100</sup>

### Exports:

Stein also turned his attention to Scotch whisky exports to England; distillers had been driven to it, because they were cut out of their own home market by smuggling distillers, and by the vigour of Excise surveys. He argued that they had as much right to enter the English market as 'any other King's subjects', a matter which Stein developed in detail in his Second Memorial. Nevertheless, that right was more or less abandoned 'to allay the jealousies and contentions which subsisted between the English and the Scotch', the Scots being granted the Licence Act of 1786 as a quid pro quo. But Stein believed the right to export to England could be claimed with confidence by the Act of Union of the Crowns (1707), which prescribed an equality of duties between the two countries.<sup>101</sup>

### Social Problems:

The social problem of drunkenness was also scrutinised by John Stein. At the period it was causing concern among 'higher ranks of life in Scotland.' Stein stated that drunkenness was always hurtful, no matter whether it was induced by 'Wine, Brandy, by Beer or by Whiskey', observing that there were many who abused all the varieties of liquor. Like General Stuart of Garth, Stein inclined to the view that the Scotch are in general a sober people and

100. An Illicit Still Maker, vide infra.

101. P.P., Report: Distilleries: 2nd Memorial of John Stein, London, 7 May, 1799, p.688

the great majority of families who drink their native Spirit, use it with sufficient temperance, and generally diluted with water, in which state it is perhaps as wholesome a beverage as any that can be found.<sup>102</sup> Yet some people would oppress whisky distilling, breaking it up, and thereby throwing it into the hands of adventurers. Stein believed that no good could come from such persecution because 'No manufacture ever yet produced revenue, or rose to excellence, but in the hands of men who could conduct it on a large scale, and mix science with their operations' - in other words distilling required the technical innovators and the entrepreneurs, of which the Steins were such conspicuous examples.

Emphasis was also placed by John Stein on the interdependence of farm incomes and distilling, because the established distilleries had had a steady demand for grain which had long been beneficial to agriculture. Stein saw that the farming community in the Lowlands was well placed in this respect; he discounted any monopolistic tendencies on the part of distillers, remarking that grain could be sold to breweries, to other consumers, or else exported.

A flourishing distilling industry in Scotland would serve as a check on the powerful English distillers, giving them some tough competition, as would the legal importation of spirits from abroad. Stein anticipated a time when the trade would be dominated by regular distillers - distinguishing the latter from the 'occasional' distiller, who by not embarking his future and prospects in the trade can lay it down or resume it at pleasure, so as to accommodate himself to the circumstances of consumption.' The government ought to create legislative conditions favourable to large scale distilleries, and then leave distillers well alone. Stein appreciated the value of public relations - the public must be informed about the industry's

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102. P.P., Report: Distilleries, p. 686.

problems and peculiarities, otherwise misguided regulations would be foisted upon it. His position is admirably summed up in his concluding sentences -

The public interest is seldom promoted by controlling a trader on those points on which his own interest and experience can best direct him.<sup>103</sup>

Stein wanted distillers to be free to choose their own locations, to buy and sell as they pleased, to have the liberty of disposing of grains and refuse as they saw fit, and to be free to select their own sizes and types of equipment, under an equitable licensing system.

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103. P.P. Report: Distilleries, p. 688.

THE STEINS, PART II

During the early years of the nineteenth century, the affairs of the Steins were again upset by litigation and financial stringency. Echoes of the 1788 bankruptcy of James Stein recurred, and new problems arose, but the family was still connected with distilleries - James Stein's kin bought back Kilbagie for £6,000 after 1789.

John Stein was in control at Canonmills distillery, Edinburgh, where in 1790 he entered an agreement with an agency - none other than Reid and Brown, his brother's shadow company - for the selling of spirits made at Canonmills. One may perhaps conclude that whereas Buchanans had been spurious, Reid and Brown may have become a genuine outlet.

The partners in the agency were to be paid by Stein, drawing a fixed sum of commission per gallon of whisky sold; sales were made in Stein's name, to whom all bills were payable and by whom consignments were sent directly to customers. Later evidence shows that Steins also dealt with spirit dealers and others, through their own salesmen.

In 1800, an adjustment of accounts took place, bringing an acknowledged balance of £1,792 against Reid and Brown; £550 was paid by a good acceptance, bills being granted for the remainder. Besides this amount outstanding there was a sum of £1,090, being accounts disputed by customers (22 in number). A document was signed by both sides, stating that Reid and Brown would be held accountable for the outstanding amount, when accounts were settled. In the interval, a previous adjustment showed a balance of £1,603 against Reid and Brown. It was not therefore surprising that the new company, the firm of Brown, Murray & Co., formed from that of Reid and Brown, became insolvent in 1801. Stein was persuaded to accept a composition of 10s. per £ of the £1,603 deficit, provided all the

partners of the company granted a bond for this. It was in fact eventually paid up in 1821. In 1826, the assignees of Stein raised action for the £1,090 debt against Brown, the sole surviving partner.<sup>1</sup>

These transactions, and law suits do not disclose much about what was happening in the Stein enterprises, nor do they show when or why the enterprises became bankrupt. They do indicate one type of marketing system which the Steins employed.

The sequestration of 1788, and another involving James Stein, who 'failed in his circumstances in 1793', caused confusion about the true ownership of the distilleries. In 1805, John Stein, though residing in Queen Street, Edinburgh, had an interest in Kilbagie, which was tenanted by Robert Stein & Co., distillers. Alexander Bruce was laird of Kennet, and James Stein had entered into a feu contract with him - the original document between Robert Bruce, and James Stein, farmer at Kilbagie, being dated 31 October 1776. The farm consisted of 25 acres, of Shanbody Kerse (Carse), Shanbody Bank, and the Wet Acres. It may have been shortly after 1776 that the Steins entered distilling. When James Stein was in difficulties in 1793, the lands at Kilbagie were sold by his creditors to the Earl of Dundonald who conveyed them to John Taylor, W.S., in Edinburgh. Bruce wanted Stein and Taylor to draw up a proper feu contract - if they did not, then they should 'flit and remove themselves.'<sup>2</sup>

A year later, John Stein at Canonmills is named in a bond of caution on behalf of Robert Stein & Co., at Kilbagie.<sup>3</sup> It appears that the firm

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1. Court of Session Records: Cases decided (report by Shaw, Dunlop & Bell): Steins' Assignees v. Malcolm Brown, No. 517, 10 July, 1830, p. 1064.
  2. S.R.O. Unextracted Processes: Adam Mack, B9/45, Alex. Bruce v. John Stein and others, 1805.
  3. S.R.O. Bill Chamber Processes II, 5,424. Robert Stein & Co. v. Scott.

was obliged to pay damages as they had wronged and interdicted Scott, a feuar at Tulliallan, adjacent to Kilbagie. In 1807, Robert Stein was in dispute with John Bald and John Primrose, distillers at Carsebridge near Alloa. Stein, Bald and Primrose had in fact agreed to function as a distillery company under the name of John Bald & Co: the business was carried on first at Tulliallan, and later at Carsebridge. Subsequently, Bald and Primrose wished to withdraw. Stein delayed, refusing to arrange the sale of the lease on the ground on which the distillery was built, or to give up the houses and utensils in order that the concern could be wound up.<sup>4</sup> The tack was dated 15 June, 1798, and was granted to J.F. Erskine of Cardross for a period of 19 years; it comprised the 'Waukers' Park' of 1½ acres, and water from a former wauk mill was available to the distillers. The area was in Alloa parish. The 1798 lease showed that rent was set at 17 bolls 1 firiot of wheat, and the same of barley, payable at Candlemas. The copartners were forbidden to grind grain for any purpose but distilling; they could use distillery waste on their farm, or give first refusal to the proprietor who in return would supply them with fodder for stock. The Steins were thus involved in the setting up of Carsebridge distillery, in addition to the part they played in assisting the Haigs, and other relations to enter the distilling industry in Scotland.

Stein, Smith & Company: London.

The Steins' involvement in merchant banking contributed to their financial embarrassments. A remarkable development of country banking occurred in the expansive years of the 1790s, and received added stimulus from the wartime growth in credit which followed the suspension of cash payments in 1797. Country bankers were eager to have London offices and

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4. S.R.O. U.P.: Adams Mack, B10/37: Bald & Primrose v. Stein, 1807.



these enterprises tried to overcome tightness in commercial discounts by acting as accepting houses.

A company consisting of John Stein, Thomas Smith, his chief clerk, Robert Stein and James Stein, plus Robert Smith carried on the business of banking in London, under the name of Stein, Smith & Co., and in Edinburgh under the firm of Scott, Smith, Stein & Co. A reference to the latter occurs in 1806, when 'James McAlpine, clerk to Scott, Smith, Stein & Co., bankers in Edinburgh' is mentioned.<sup>5</sup> At the same time, John, James and Robert Stein were in partnership as distillers at Canonmills (the firm being John Stein & Co.) and at Kilbagie (the firm being Robert Stein & Co.). Having a merchant banking connection must have provided the Stein enterprises with helpful supplies of variable capital, and the convenient settlement of bills in both Scotland and England.

There was also a branch establishment at Workington, which functioned under the name of Wood, Smith, Stein & Co. It began about 1801, and failed in 1812.<sup>6</sup> A Mr. M'Gae received bills of exchange from captains of vessels trading to the port. In 1809, he arranged with the local bankers, Messrs Wood, Smith and Stein, that 'he should pay such Bills into their Bank, indorsing them, and should take out in Exchange their promissory Notes, they allowing him as a consideration for such Issue of their Notes 24 days' Interest on each Bill paid in ...'. Country bankers were notorious for forcing their issues, which resulted in note issues appearing to be uncontrolled, and even reckless. It inevitably proved disastrous to banks who indulged in it - hence bankruptcy overtook the Workington bank.<sup>7</sup>

There were several collapses among such banks in the 1812-13 phase,

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5. S.R.O. Bill Chamber Processes II, 5, 424, op. cit.

6. Pressnell, L.S., Country Banking in the Industrial Revolution, pp. 108-110.

7. Pressnell, op. cit., pp. 213-4.

when failures have been explained as mainly agricultural in origin. Some have been ascribed to the stoppage of the London bank, Messrs. Kensington, Styan & Adams, who had 12 country correspondents in England, besides others in Scotland. Wood & Co. were the Workington correspondents of this firm.<sup>8</sup> Eventually, the Kensington partnership became assignees of the Steins' London house.

On 22 July 1812, Stein, Smith & Co. in London stopped payment, and on the following day, four separate commissions of bankruptcy were issued against Robert and James Stein, who were in London, and against Thomas and Robert Smith. No commission was issued against John Stein who was in Scotland. On 25 July, the Edinburgh banking house also stopped payment. As 'the affairs of the distillery concern were embarrassed', a meeting of its creditors was held on 3 August, which 'declared their unanimous opinion, that, in the situation of the Distillery Company, of which the funds so far exceeded the debts, it would be much more for the benefit of the creditors that the affairs be managed by a voluntary trust, than by a sequestration.'<sup>9</sup> Accordingly a trust embracing the whole estates of the companies at Canonmills and Kilbagie was executed in favour of Walter Brown, merchant, and James Gibson, W.S., Edinburgh.

John Stein took himself to London, where on 12 August, a commission of bankruptcy was issued against him. The outcome was a battle between the English assignees and the Scottish trustees over the validity of the trust deed. The case went to the House of Lords, and from there it was remitted back to the Court of Session. The creditors finally renounced all claim on the distillery effects on being paid 15s. in the £. The

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8 Pressnell, *op. cit.*, p. 470.

9. Court of Session Records, Cases decided (Shaw, Dunlop & Bell) Stein's Assignees v. Gibson Craig & Brown (Stein's Trustees), No. 322, 15 June, 1832, p. 647.

conclusion reached was that John and Robert Stein had been made bankrupt under a Scottish statute in August, 1812. The rights of these men as partners in the distillery company had been vested on the English assignees, after the Acts of Bankruptcy of 22 July, 1812. John Stein was therefore shown to be in no position to give either his distillery or its equipment to other parties.<sup>10</sup> Much wrangling revolved round this 1812 debacle of the Stein financial and distilling enterprises. Some of the debts owing by the distillers were substantial. An Edinburgh lawyer sued them for £3,427 ls. ld. for business done. The Royal Bank was another creditor.<sup>11</sup>

The 1812 bankruptcies became intertwined with the repercussions of the earlier ones. James Stein, 'merchant in London', presented a petition to the Court of Session for payment of 3 bills of exchange which he had accepted. He had formed an acquaintance with Sir Charles Gascoigne, about 1790; Sir Charles was English by birth, but a naturalised Russian, being employed at the Russian Court in St Petersburg where he had risen to a high degree of rank and influence. At that time, 'Mr Stein had newly arrived on the continent from Great Britain, which commercial embarrassment had obliged him to quit.'<sup>12</sup> Letters to Scotland from James Stein disclosed that he had received help and favours (presumably money) from Sir Charles. By 1794, James Stein was in Rotterdam, and Sir Charles was demanding repayment. In 1800, James Stein had to bind himself to obtain a bill from James Stein, junior, for 9,025 roubles, drawn on the house of Stein, Smith & Co. London, plus acceptances for 27,675 roubles on James Stein, junior. Sir Charles was to be indemnified against the claims of the

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10. Ibid.

11. S.R.O. U.P. Adams Mack: J/32/2, Inglis v. Stein, 1815.

12. Signet Library: 250: 19: Stein v. Haddington, 1810.

Cammer College (?) to which he had stood security for James Stein for 15,000 or 20,000 roubles. The daughter of Sir Charles was the Countess of Haddington for whom he also got a promissory note from the Steins payable in St. Petersburg for the sum of '10,000 roubles at 28d. per rouble for value received from his Excellency, Sir Charles Gascoigne.' The signatories were James Stein, and James Stein, junior; the note was addressed to the latter in Edinburgh.<sup>13</sup>

James Stein's property in Russia, estimated to have a value of 72,000 roubles, had subsequently been confiscated, presumably for debts contracted there, but the Scots were anxious to know why Stein abandoned this property to the disposal of a foreign state. No legal explanation is given.

It is possible that James Stein was trying to run a brewery and distillery in St Petersburg, because his accounts to a firm, Messrs A and C. Grant, 'merchants in St Petersburg', includes 6,250 roubles worth of hops, stored in Grants warehouse. Among his papers were accounts with various merchants for goods sent on consignment to Moscow, Revel and Riga, as well as other parts of the Russian Empire, plus a list of bills, and a list of articles left at 'Bolin's Place' in St Petersburg, and arrested by Sir Charles. These include casks of old porter, and strong vinegar. Meantime, Sir Charles Gascoigne allowed Mrs Stein to have the use of her house, but warned her that he wanted no more dealings with the family. Stein himself was asked to leave Russia, from where he probably went to Poland.<sup>14</sup> He was there in 1805. Stein was outraged, accusing Sir Charles of 'the most gross and barefaced usury', claiming that the bills had been granted under duress, that the greater part of the debt had been recovered, and

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13. Ibid.

14. S.R.O. U.P. 1 Currie Dal S/11/1: Petition of James Stein, 1805.

that the whole of it might have been cancelled by the funds available in Russia. The Countess of Haddington succeeded in obtaining a decree against James Stein, junior, but thereupon, Thomas Smith, the banker and Stein's former partner sued the Countess for payment of debts due by her father, Sir Charles. The incident indicates that after his departure from Scotland, James Stein, senior, formerly of Kennetpans, became a migrant adventurer, and that a Scottish merchant colony, of which Grants were an example, had formed in the Russian capital.<sup>15</sup>

A protracted action occupied John Stein & Co., distillers at Canonmills from 1813 to 1815. Prior to the commissions of bankruptcy, John Stein, as manager of the distillery company had completed a trust deed for the whole property heritable and moveable in favour of Walter Brown and James Gibson. Rival claims to the ownership were put forward - firstly, by the assignees of Kensington, Styan and Adams, who said John Taylor, W.S. had given his agreement - Taylor had a disposition of the premises as security from the Steins many years before. The assignees of Kensington & Co., of Lombard Street were:

John Carstairs, Abchurch Lane, London, merchant.  
John Alphonso Daxat, Bishopgate Street.  
George Sandeman, Swithin's Lane.

Secondly, there were claims from the assignees of Scott, Smith, Stein & Co; the assignees were:

James Cuthbert, Savage Gardens, London, wine merchant  
James Smith, Watling Street, London, warehouseman.  
David Duval, Laurence Pountney Lane, London, merchant.  
James Gibson, W.S., and Charles Bremner, W.S., Lawyers in  
Edinburgh.

The Steins made application to both groups for leave to purchase Canonmills and Kilbagie on the following terms:

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15. S.L.: 250: 19, op. cit.

1. For the lands, distillery and utensils at Kilbagie,  
the sum of £12,500

These premises are liable in the annual payment of

£33 3s. 2d. barley )  
£33 3s. 2d. oatmeal ) Stirlingshire measure

8 capons )  
38 hens ) and several carriages

2. For the lands, distillery and utensils of Canonmills  
the sum of £12,500

These premises are liable in an annual payment of  
55 bolls of barley

Say twenty five thousand

16

£25,000

Casks and all utensils were included in the estimate, which also comprised rights to wagonways, the harbour at Kennetpans, the use of water from Lord Keith's estate at Kilbagie, without which it 'must be totally useless as a distillery.' The water rights were held under a 19 years lease, but were under scrutiny; Lord Dundonald had assigned coal and water facilities to Kilbagie, but Lord Keith later purchased Tulliallan estate, and disputed the rights to water.<sup>17</sup>

Regarding the condition of Kilbagie distillery, it had stood idle for five years before being bought by John Taylor, W.S., in 1793, for the sum of £3,000 - thus it had been out of production from 1788 until that year. The roofs had never been renewed, and as the whole of the distillery section of the premises stood on wooden piles put up in 1786, its stability was in doubt. The utensils were old and in poor shape. The Steins were intent upon buying themselves back into the distilling industry at low prices. The same technique had won them Canonmills from David Stewart, their trustee, for £3,500 in 1790. It then had two maltings; one was destroyed by fire,

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16. S.L. 333: 7: Stein v. Stirling, 1813-8.

17. Ibid.

£1,200 being recovered for it, presumably from an insurance company, but it was not rebuilt. The age and value of the equipment were similar to those of Kilbagie. Of the total valuation, the estimate of the worth of the lands, buildings, engines and mills was five-eighths of the total, the remainder (three-eighths) being the utensils. The Steins reckoned, however, that the stills and worms at Canonmills were their own property. Yeast was to be taken over at £2 per puncheon; it varied in age from 12 months to 5 years - the latter was 'quite useless.'

The terms of payment offered by the Steins were £5,000 a year, plus a security for £5,000, the arrangement to begin at Whitsun 1814. They were advised to make an offer for a lease rather than purchase; the terms were:

Cannonmills	...	...	£ 625	0	0
Kilbagie	...	...	430	0	0
Rent of Waggonway	...	...	175	0	0
Few duties to Mr. Bruce	...	...	67	3	0

The assignees met in London, and agreed to accept these proposals, and the Steins thus renewed their business as distillers. After 16 months both groups were at loggerheads, because the assignees demanded a year's rent, with £5,000 for the crops and stock of the farms at Kilbagie. The Steins demurred, saying that their Scottish creditors had a right to be paid before the assignees - the latter in consequence threatened to confiscate the spirits being sent by the Steins to England. The distillers had to accede, issuing a bill for £1,055 at 3 months to cover rent, with another at 4 months for £5,000.

At this juncture it was discovered that neither party of assignees had any claim to Kilbagie, because ownership had passed to William Inglis, W.S. The creditors were also restive, and hence the Steins decided to pay no more rent, while the assignees determined to remove them from the premises.<sup>18</sup>

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18. Ibid.

By 1812, John Stein was conducting his trade through 'a man of business', Mr Bartram, who managed his warehouse at Edinburgh. Spirit dealers bought supplies from him; a merchant, J. Shirreff purchased 100 puncheons of spirits, and Stein wrote:

I hereby propose to deliver you that quantity [100 puncheons arranged with Mr Bartram] upon which you are to advance me by bill at three and four months, as soon as the spirits are warehoused and an invoice thereof furnished to you, at the rate of 9s. per gallon, one in ten under hydrometer proof. When the first bills become due, I engage upon you renewing your acceptances, to retire these myself; or failing to do so, you shall be at liberty to sell so much of the spirits above consigned, at such a price as you can obtain, as will amount to the bill or bills to be retired by you.

The letter was dated 20th February, 1812, and Stein stipulated that he should be free to sell the spirits consigned to Shirreff at any time during the currency of the bills; and he undertook to retire Shirreff's acceptances, or to put him in funds eight days before the bills fell due, in order that the spirit dealer could retire them himself. Stein agreed to pay cellar rent, insurance against fire, and likewise to sustain all loss by leakage, falling off in strength, and such like. The distillers acceptance of responsibility for losses and damage to stocks is worthy of note.

Eventually acceptances of £6,417 were granted by Shirreff, but in the interval Stein became bankrupt, and stopped payment at his distillery, where he had a counting house, whereupon Shirreff sold the spirits for £7,235 taking bills for the price from the purchasers, with which he retired the bills granted by him to Stein. The merchant deducted £180 17s. 6d. commission (i.e.  $2\frac{1}{2}$  per cent), and £108 10s. 6d. (i.e.  $1\frac{1}{2}$  per cent) as 'del credere' on the sales. He paid the balance to Stein's trustees.<sup>19</sup> A del credere agent, like Shirreff, may contract with his principal to

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19. Court of Session Records, Cases decided (Shaw & Dunlop), Stein's Assignees v. Shirreff, No. 28, 21 Nov. 1828, p. 47.



guarantee the performance of third parties in any contracts he procures. If this is so, he is acting 'del credere'. In return for this caution, he will normally be paid a higher rate of commission.<sup>20</sup> It was a more expensive system, but gave Stein some protection against default by agents and third parties. Employing commission agents was hazardous - there were risks due to lack of direct control, and to lack of attention to business, but there were some advantages, such as savings in personnel, premises, and business procedures. Stein's assignees under English law, asked Shirreff to account for his sales, and claimed that he was not entitled to sell, nor to take any commission.

Another transaction involving '50 puncheons of aqua' was disputed. John Stein proposed to deliver the consignment to an Edinburgh spirit dealer, James Williamson. Stein desired that the whisky should either be placed in Mr Bartram's store, or in a suitable cellar for seven months, or 'such shorter period as may suit your convenience, upon which you are to advance me by bills at three and four months, as soon as the spirits are warehoused, and an invoice thereof furnish you.'<sup>21</sup> Stein bound himself to retire the bills after one renewal, failing which Williamson was to sell the spirits. Bills amounting to £3,414 15s. 6d. were accepted; the bills were renewed when the bankruptcy took place. In 1819, Williamson's estate was sequestrated. It was then alleged that no actual consignment had been made, when Williamson accepted the bills, and that within 60 days of Stein's bankruptcy, he had obtained whisky from Stein's stock, put in Bartram's cellars, in order to protect himself. Stein's trustees contended that Williamson should pay the proceeds of his sales to them.

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20. Burns, C.B., The Commercial Law of Scotland, p. 88.

21. Court of Session Records, Cases decided (Shaw, Dunlop & Bell), Stein's Assignees v. Burton & Wardlaw, No. 167, 12 Feb. 1833, p. 575.

Charles Stewart, a Greenock merchant, was sued by John Stein for £262 18s. 9d., the price of 8 puncheons of spirits furnished by Stein in April 1811, and £17 1s. 2d. being the balance from a former account.<sup>22</sup> After Stein's failure, Mr Bartram made an offer for a composition of the account to Stewart, provided he bought 10 puncheons more. In the spring of 1811, the Stein price of spirits fell to as little as 1s. 3d. per gallon; in due course, Stewart got an invoice for 10 puncheons, Stein drawing upon him for that amount. Stewart also dealt with other distillers, e.g. Robert and George Blairs of Greenock who sold him three puncheons of 428 gallons at 7s. 6d. a gallon (about £160) and Harvie (probably of Yoker) from whom he purchased one cask of 158 gallons at 7s. a gallon (£59). The transaction may indicate that Bartram was trying to dump out price stocks on Stewart in order to raise the wind either for himself or Stein.

These actions disclose in a limited way how the Steins arranged their dealings, but the raising of funds was not entirely one way. Steins assignees, for example, sued the Earl of Mar for loans made to him. It appeared that Robert Stein, the managing partner of Robert Stein & Co. had prior to 1812 advanced money to the Earl of Mar, then Mr Erskine, and entered the sums in the books of Stein & Co. As security, the Earl of Mar conveyed certain superiorities to Stein; it was a point at issue whether these were in fact security, or a sale. Steins creditors brought an action for the balance of £1,288 against the Earl of Mar; a bill was drawn upon him for that amount, and was renewed in 1820.<sup>23</sup>

#### Stein Interests in Scotland c. 1820.

Accounts giving names of distillers for home consumption in Scotland

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22. S.L. 487: 16; Stewart v. Stein, 1814.

23. Court of Session Records, Cases decided (Shaw & Dunlop), Stein's Assignees v. Earl of Mar, No. 1, 13 Nov. 1827, p. 1.

c. 1816-17 show that John Stein's distillery at Kennetpans produced 106,683 gallons of spirits, valued at £29,000, while John Stein & Co. at Canonmills made 93,258 gallons valued at £25,711, or approximately 5s. 5d. per gallon.<sup>24</sup>

The Steins, like the Haigs, conducted distilleries in Ireland; in one instance, they joined forces with their relations the Jamesons, probably to take advantage of Irish duty concessions. Accounts of Dublin Excise for 1802 show the following Scots were engaged in distilling there:-

<u>Distillers</u>	<u>Gross Content ; Gallons</u> <sup>25</sup>		
	Still	Head	Both
Jameson & Stein, Marrowbone - Lane	946	260	1206
Robert Haig, ) 1	980	157	1117
Dodderbank ) 2	557	132	689
Regauged at 2	1472	75	1547
John Stein, Bow Street	479	44	523

A reference also occurs to James Stein & Co., distillers, Dutcher Row, East Smithfield, London who produced the following volumes of alcohol:

1817:	481 gallons	<sup>26</sup>
1818:	8,997 gallons	
1819:	4, 853 gallons	
1820:	3,218 gallons	
1821:	3,007 gallons	

Hence the Steins may have tried to establish themselves in the London area to obviate the persistent difficulties in their export trade with England.

Returns and accounts of stills licensed in Ireland for 1822 name

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24. P.P., Accounts of the Names of Distillers in Scotland (1816-17), XIV, p. 6.
25. P.P., Fifth Report of the Commissioners of Inquiry into the Revenue, 1823, p. 116.
26. P.P., Accounts relating to Distillation in England and Wales (1822) xxi, pp. 168-9.

the following Scottish distillers:-

Robert Haig:	Dublin 2 stills:	501 and 750 gallons. <sup>27</sup>
John Stein:	Limerick	501 gallons
Andrew Philp:	Dublin	500 gallons
Andrew Stein:	Clonmel	300 gallons.

They were assessed as 'first class' distillers at the highest rate, their stills being worked with imported coal. Andrew Stein was the son of John Stein of Canonmills and Kilbagie.

Among the Lowland distillers in Scotland, two groups persisted - those who catered for the Scottish market and those who exported to England. The Steins were foremost among the exporters, who had formed into a monopoly of five firms by 1820-1.<sup>28</sup>

Distillers in Scotland making for the  
English Market.

Robert Stein & Co:	Kilbagie, (Alloa)	372,570 gallons*
James Haig & Son:	Lochrin (Edinburgh)	259,703 gallons
Wm. Haig & Co:	Bonnington (Leith)	319,045 gallons
Andrew & Charles Stein:	Hattonburn (Milnathort)	75,284 gallons
Wm. Haig:	Seggie (near St. Andrews, Fife)	133,973 gallons

\* gallons of spirit at 7 over proof.

There were only two representatives from the Stein-Haig connection preparing whisky for the Scottish market: these were John Stein & Co., at Kennetpans, who was producing 61,155 gallons a year, and James Haig & Son at Sunbury, Edinburgh, making 137,699 gallons.

Robert Stein's Kilbagie distillery was the largest unit at the time of the Fifth Report of 1823; he was concentrating upon the export trade, while Kennetpans was being reserved for the home market.

With other Lowland distillers, John Stein provided evidence for the

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27. P.P., Fifth Report, p. 117 and p. 126.

28. P.P., Fifth Report, p. 162.

1823 Commission, in which he stated that he had been engaged in distilling since 1790, possibly having taken over the management of the companies after James Stein's bankruptcy in 1788. By 1822, John Stein had divested himself of Canonmills, but he controlled both the Kilbagie and Clackmannan (Kennetpans?) distilleries although he resided in West Heriot Place in Edinburgh.<sup>29</sup> Kilbagie was however in the name of his son, Robert, and there was 'a practical partner' who attended to the immediate management of the distilleries, and another man was appointed to sell their products.<sup>30</sup> It was from him that John Stein had his information about illicit distilling.

Three matters were alarming distillery managements in Lowland Scotland - frauds perpetrated by distillers, the exportation of spirits to England, and illicit distillation. Regarding Excise supervision, a preference was expressed by Stein and other Lowlanders for a combined system of licences (specifying the gallonage to be distilled), and survey in distilleries - in his opinion this was the most effective means of securing the revenue. In 1807-8 under a combined system of survey and licence, Stein believed frauds had been trifling. The cost of buying a licence fell equally on all producers. The enforcement of regulations however depended too much on officers' exactitude, and the low prices for whisky convinced Stein that some distillers were not paying fairly.<sup>31</sup> He believed he had lost money on account of being honest - his losses were over £20,000 in the years before 1822 on his 'Scotch house'. Stein suggested that he would gladly farm the revenue from legal distilleries for £1 million a year; the state only received £600,000 to £700,000 from them. Objection was thus

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29. P.P., Fifth Report, p. 200.

30. P.P., Fifth Report, p. 196.

31. P.P., Fifth Report, pp. 197-8.

taken to the laxity of enforcement, rather than to the distilling regulations per se. Officers at his distilleries had however always been attentive, and Stein had not taken advantage of them.

I beg to avail myself of this opportunity of declaring upon my oath, what I have often stated upon my honour, that the various concerns with which I have been connected, have, in the course of not many years, produced to government, I believe about five millions of money; and that in contracting this amount of duties, we neither directly or indirectly, to the best of my knowledge, defrauded the revenue of the extent of one shilling. 32

One loophole was the possibility of cheating when the officer measured the strength of the wash; another was the drawback on malt whisky, which induced distillers to seek the connivance of officers in showing that they had used more malt than was the case.<sup>33</sup> Distillers were estimated to make 11 gallons of spirits per 60 lbs. of wash, but in Stein's view they could produce more - perhaps 12 $\frac{3}{4}$  gallons. They avoided testing the gravity of worts, and of wash, because prices of spirits were so low - if Stein made the specific gravity of wash 75 $^{\circ}$  instead of 65 $^{\circ}$  he won an extra gallon of spirits from 44 gallons of wash.<sup>34</sup> Hence surpluses were yielded, but not recorded. Alexander Haig reported that the saccharometer was applied: 'when we brew, the strength of our worts is ascertained by an instrument called a saccharometer, which gives a true indication of the quantity of spirits which can be produced from these worts .... After the brewing operation is at an end the distiller must distil all the worts or worts in his possession before he can brew again.'<sup>35</sup> This procedure was designed to prevent cheating. The snag was that officers could not stay at the worm -

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32. P.P., Fifth Report, Appendix to Supplement, p. 17.

33. P.P., Fifth Report, p. 196.

34. P.P., Fifth Report, p. 193.

35. P.P., Fifth Report, p. 242.

hence as much as five gallons of spirits might be drawn off in their absence, and the overall loss to the Exchequer was considerable. William Aitchison of St. Clements Well, East Lothian, corroborated Stein's evidence.

#### The Export Trade:

John Stein based his preference for the English, rather than the Scottish market, on a price analysis. Raw grain spirits sold in Scotland for about 6s. per gallon, malt spirits were dearer, and smuggled Highland whisky even more expensive. Duty on spirits stood at 4s. 9d., which left only 1s. 3d. to cover other costs - coal, grain, yeast, malt duty, and other overheads. The price did not give sufficient recompense to an entrepreneur; this was why he had largely withdrawn from Scotland, because he had lost much money, 'having paid the full amount of the duty' - a remark which would suggest that those who defrauded the revenue stayed in business. Haig had also abandoned the home market principally for the same reasons.

Nevertheless, the Scottish distillers preparing exports were subject to irksome restrictions:-

1. No distillery could be entered as distilling for England except on 1st October, and one year had to elapse before it began exporting. As John Padon, a Scot, remarked a works could not be entered 'for exportation without having previously been thrown useless for a whole year.'<sup>36</sup>
2. No distillery could distil exports if there was another within a mile radius entered for the Scottish market.
3. The wash stills had to be four-fifths charged (as in England) instead of only 75 per cent as in Scotland. Alexander Haig stated that the quality of the product was thereby impaired. He spoke of the unpalatable and unwholesome spirits made for England - alcohol distilled for strength rather than quality. Spirits

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36. P.P., Fifth Report, p. 203. John Padon was a partner in the Bo'ness distillery.

had improved just before 1822, because lack of demand caused stocks to be kept longer than was customary, and hence they were more mature.<sup>37</sup>

4. Only six charges of wash a week were permitted, and the shape of the stills was controlled with 'jealous vigilance.'

The Scots deduced that the object was to maintain a monopoly position for English distillers, guarding them from a sudden influx of cheap Scottish exports. The English were supposed to work under similar arrangements, but according to the Scots, the reciprocity was more specious than real, as the English distilling industry was not interested in exporting to Scotland.<sup>38</sup>

The aim of the Lowland distillers was to have free access to England, especially to the London area. Alexander Haig believed that a lowering of prices by 2s. a gallon would break the monopoly there. After all, Scotch ale was sent to London, and London porter came to Scotland, so why should there not be a free exchange of the distillers' products? The Scots knew that there was demand for whisky in Northern England, because much was smuggled across the border.<sup>39</sup>

Some Scots resented the increasing monopolistic trend in the export trade which was controlled by the five distilling firms belonging to the Steins and the Haigs. They strongly objected to John Stein's practice of 'offering spirits at 6s. 4d. which others could not sell for 6s. 8d.' and in addition, Stein was said to give a free gallon in every cask.<sup>40</sup> The bitterness was acerbated by the deterioration of the home market, which was swamped with smuggled whisky. Formerly the Haigs had sent consignments to the north, but they found business very poor in the Aberdeen area in

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37. P.P., Fifth Report, pp. 235-6.

38. P.P., Fifth Report, p. 108.

39. P.P., Fifth Report, p. 246.

40. P.P., Fifth Report, p. 242.



the 1820s.

Allegations were even made that certain distillers had been paid not to work for the English market. Those who had the export trade under their control raised prices as they saw fit, and according to John Padon, frequently enlarged their distilleries each time the 'period for entry' came round; a 'negociation' took place between these distillers and any intending exporter. The newcomer would be induced to confine his attention to Scotland, and barely earn enough to cover his costs, because the exporters cut back the Scottish price level, making good their losses in the South.<sup>41</sup>

The Haigs argued however that a monopoly of the leading distillers had formed because there were always more distilleries working in Scotland than was necessary for that market. Nevertheless, only five distilleries Kilbagie, Lochrin, Bonnington, Hattonburn and Saggie, all under Stein or Haig management - exported to the South. There the price of raw grain spirits was 1s. 9d. per gallon higher than in Scotland:

All this because they [English distillers] had a better opportunity of managing the price and of making a monopoly of it than the many [the Scots].<sup>42</sup>

The Scottish units numbered over 100, and the English ones about eleven; hence price agreements or quotas were possible in the South, but unworkable in a market flooded with illicit whisky.

Investigations into the exporters' conduct were held in 1823, when Archibald Dunlop of Haddington distillery revealed that there were in fact two groups of miscreants, firstly those who had been 'paid by the English monopolists not to enter their Works for the English market'. He gave their names as:-

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41. P.P., Fifth Report, p. 203.

42. P.P., Fifth Report, p. 209.

John Stein, Kennetpans, for several years

John Mowbray, Cambus

Robert More, Underwood,

John Philp, Dolls.

Secondly, there were 'Distilleries which have been either bought or leases taken of, by the Monopolists, and kept unemployed':

Cameronbridge Distillery, Fife, (bought): unemployed.  
 Rock Villa " Glasgow, (lease): Do.  
 Paisley " bought by James Haig and since  
 sold to James MacFarlane with a reservation that it was not to be  
 entered for the English market for nine years from date of sale.  
 Tulliallan Distillery (bought): demolished  
 Inverkeithing " (lease) of adjoining corn mills  
 taken, by which the distillery was prevented from getting water from  
 the stream passing its walls).  
 Liverpool Distillery (bought): unemployed.<sup>45</sup>

Robert More, who was connected with distilleries at Underwood and at Bonnytown near Linlithgow had previously divulged in 1822 that the former unit was not in production. Notice had been served on the Excise authorities that Underwood was to enter the export trade, but it had then closed down.<sup>44</sup>

John Stein was called to account for these irregularities, in which as one of the monopolists, he was involved. Formerly, Stein's distillery had been the only one distilling for export, then the Haigs and three more joined him; by 1814, five houses were participating. Other distillers had expressed a desire to join, but they had 'not considered it in their interest to enter for the English market', because the price level fluctuated.<sup>45</sup> Stein was prepared to admit that they had perhaps received some recompense for staying out, but the main reason was thought to be their

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43. P.P., Fifth Report, Appendix to Supplement, p. 31.

44. P.P., Fifth Report, p. 247: Underwood was beside Lock 17 on the Forth & Clyde Canal.

45. P.P., Fifth Report, Appendix to Supplement, pp. 16-7.

fear of 'a most destructive trade' with those already established, as a number of distillers had been ruined by exporting to England in the past. When asked outright if the proprietors of Underwood had received compensation, he declined to answer as the question might be 'productive of inconvenience to him in his trade.'<sup>46</sup>

The Commissioners inquired about Canonmills distillery. Was Stein still in whole or in part the owner? He then said, 'I know that Canonmills has been purchased with a view chiefly to feuing: the people who bought it have been unable to get a tenant.' Stein denied that it was a condition of sale that the premises should not be used as a distillery. He had conveyed the works to Kensington, Styan & Adams, the London bankers, with whom his merchant banking firms had been linked. The works were sold by the Assignees of the London bankers without any conditions.

Other witnesses indicated that Underwood distillery had been intended as an exporting unit, being fitted with large stills made in Alcoa for that purpose; thereafter its owner was paid £10,000 not to proceed. John Stein at Kennetpans was said to strike a bargain each year to stay out of the English trade - Stein had not taken out a licence for 4 or 5 years.

James Williamson, a partner in Underwood distillery, and a merchant in tea, wines and spirits in Edinburgh, admitted that there was an understanding between the partners and the five export firms - but he had not been present at the negotiations, where the leaders were reputed to be John Stein and James Haig. Williamson was reminded that as a partner, he would be due part of the sum paid: he understood bills for £4,000 had been advanced.<sup>47</sup>

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46. Ibid.

47. P.P., Fifth Report, Appendix to Supplement, p. 14.

Coppersmiths who had constructed new utensils for the exporters were also consulted. Millar, an Alloa coppersmith, had supplied stills for More's firm, while Henry Armstrong of Leith who had been in distillery engineering for sixteen years had equipped both Kilbagie and Cameronbridge.<sup>48</sup> His men had fitted up boilers at Underwood. When Cameronbridge was dismantled, about 1816 he bought back the utensils; he did not agree that it was stopped because of a proposed entry into England, but merely because the owners had lost money in the Scottish trade. Orders for plant did not indicate whether the units were designed to produce for home or abroad.

Thereafter William Ellis, a man of business for Robert More at Underwood distillery was examined. He had drawn up the contract of copartnership, yet he was uncertain about its composition - More, Williamson, and the latter's son were members - and he was reluctant to disclose what arrangements had been reached. Ellis had conducted a transaction between the partners and the exporters. Legal objections had also been placed before the Board of Excise to have the proposed entry rejected.<sup>49</sup>

The final chapter about Underwood distillery was closed in February, 1826, when the affairs of More & Williamson, distillers at Underwood in the Parish of Falkirk, were sequestrated. Robert More and James Williamson, junior, are named as distillers, and James Williamson, senior, Edinburgh, as a partner.<sup>50</sup>

It may therefore be concluded that the exporting group were determined to maintain their advantage by confining rivals to the already saturated Scottish outlets. They had taken a leaf out of the Londoners' book. The movement marks the beginning of trade agreements, quota systems and other practices which were to reach fruition in the distilling industry in Scotland with the negotiations, which opened the way to the formation of the

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48. Mackenzie of Seaforth: Stornoway Distillery, vide infra.

49. P.P., Fifth Report, Appendix to Supplement, pp. 15-16.

50. Minute Book of the Court of Session, 1825-6, Vol. 45, p. 242.

Distillers' Company Ltd from the 1850s onwards. Kilbagie and the other distilleries appear to have been technically advanced - Robert Stein was a pioneer of continuous distillation. The export group was not only a monopoly of five distillers, it was also a monopoly of two inter-related families, the Steins and the Haigs.

Nor were negotiations happening solely in Scotland - arrangements were drawn up with several units in Ireland, which were proving troublesome. Alexander Haig, for instance, believed that the price of Scottish spirits was kept down by occasional imports of 600 gallons lots from Ireland. The Irish had access at all times to the Scottish market, and if similar opportunities to export were created, the Scots would make and export three times as much whisky as they did.<sup>51</sup>

#### The Legitimate Industry and Illicit Distillation:

Stein's evidence gives his opinion of the merits of slow and rapid working, and the resulting differences in the price and quality of the whiskies. For every gallon of still entry, it was necessary to produce 2,025 gallons of spirits a year, which demanded great ingenuity on the part of the distiller. Over-rapid working had itself engendered compulsory rates of output, but Stein maintained that rapid distillation was better than slow; tests had been carried out at Canonmills, the rapid distillation giving a better separation of the vegetable oils according to Stein. He seems to have disliked slow working because he was intent on producing a big output.<sup>52</sup> Archibald Dunlop of Haddington had tried both large and small stills, the latter being used experimentally with Treasury permission. He found that the quality of malt spirits from the large stills was inferior to those from the small ones - indeed, his

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51. P.P., Fifth Report, p. 242.

52. P.P., Fifth Report, p. 193.

customers returned the whisky, which he sold off as common spirits.<sup>53</sup>

Hence rates of distilling and a still of modest volume had a bearing on the character of the whisky.

It was put to Stein that Glenlivet illicit whisky was better than any spirits which could be produced rapidly in large stills. Stein disagreed - Glenlivet would contain more vegetable oils, which to-day would be termed secondary constituents and congeners, the matter which gives malt whisky its distinctive flavour. About 1822, Glenlivet fetched twice the price of ordinary spirits in Edinburgh, yet Stein disputed that it was superior, or more wholesome, attributing its high price, not to quality, but to inflated demand for a limited article in a black market - those who wanted it were willing to pay any price to get it,<sup>54</sup> whereas the lower orders had to be content with raw grain spirits.

In Glasgow, as much as a guinea a gallon was paid for smuggled whisky: the Highland population of the city made Glasgow a major market. At the still mouth, however, 'strong illegal whisky' could be bought at 6s. a gallon, while legal malt whisky was 8s and upwards.<sup>55</sup> Stein remarked on the wide variety of Highland whiskies, and equally variable prices, but whatever their prices, they were purchased because of their taste. He ascribed 'the particular flavour' of Highland whisky to the malt having been dried with peat, and he admitted that malt whisky was 'a very fine spirit.' Lowland distillers copied peat drying for malt to give their spirits a simulated Highland g<sup>o</sup>ut.

John Stein sold his malt whisky at 8s. 9d., 7<sup>o</sup> over proof, from a wash yielding 16 gallons of spirits per 100 gallons of wash. The smugglers employed a much weaker wash, taking 7 or 8 gallons of whisky from the same

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53. P.P., Fifth Report, p. 211.

54. P.P., Fifth Report, p. 194.

55. P.P., Fifth Report, p. 221.

volume. The gravity of the wash prepared by Stein was higher than required by law; he was eventually ensnared by saying that by making the wash weak the substance of the grain would be more effectively extracted than if it were strong. A corollary was that the spirits yielded by weak wash were more acceptable; given a chance, Stein admitted that he would reduce the wash strength to beat the smugglers at their own game.<sup>56</sup>

As to the price differential between smuggled and legal whisky, Stein noted that illicit whisky of Lowland origin was cheaper than the Highland type. People had to pay more for the latter in places distant from the smm' still, as risks of loss in carriage were so great.<sup>57</sup> On a quality and price basis, illicit whisky had become a widespread article of consumption: Haig showed how consignments of 50 puncheons were formerly sent to Aberdeen, but by 1820 they sold very little there, having lost their market to illicit distillers.<sup>58</sup>

#### Costs of Production c. 1820:

A detailed analysis of costs was compiled by John Stein; the data was subsequently amended in a letter to the Commissioners.

#### 1. Grain:

Barley at 16s. per Stirling boll or malt at 34s. per boll.  
 47 quarters of malt (63½ bolls) at 40s. per boll or less  
 (malt drawback 6s.): giving 34s. total: £107 13s. 4d.  
 423 quarters of barley (564 bolls) at 10s. per boll: £451. 4s.  
 ∴ grain cost £551 17s. 4d.

#### 2. Yeast:

6 puncheons of London yeast at 73s. £21 18s.  
 2 hogsheads Scots yeast (from breweries in neighbourhood)  
 'which we find the most lively': 120s. per hogshead: £12. 0 0

#### 3. Fuel:

300 tons of coals at 6s. 8d per ton: £100 0 0

56. P.P., Fifth Report, p. 250.

57. P.P., Fifth Report, p. 198

58. P.P., Fifth Report, p. 234.

4. Labour:

Servants' wages 'which is as low as they can be put down:  
£38. 0. 0

5. Sundries:

Other small articles £25. 2s.0d.

Total outlay: £755.17s.4d.

## 6. Deduct draff &amp; dregs

67. 0s.0d.

£688.17s.4d.

7. Suppose a quarter of grain produces  $19\frac{1}{2}$  gallons,  $7^0$  over proof ('which is a great work') the yield would be 10,786 gallons of spirits at  $10^0$  under proof.

<u>Costs of production per gallon</u>	s.	d.
Grain expenses	1	$0\frac{1}{2}$
		<u>4<math>\frac{1}{2}</math></u>
total	1	4 $\frac{1}{2}$
deduct draff		<u>1<math>\frac{1}{2}</math></u>
	1	3 $\frac{1}{2}$
Duties	4	9 $\frac{1}{2}$
Carriage to Leith		<u>1<math>\frac{1}{2}</math></u>
2 months' interest on the duties per gallon		<u>1</u>
<u>Total</u>	6s.	2 $\frac{1}{2}$ 59

Grain was thus the major element in costs (75 per cent), when the total cost was 6s. 2 $\frac{1}{2}$ d. per gallon; meanwhile, the general price of spirits was 6s. or less for the raw grain type, or 7s. 2d. to 8s. 4d. for malt spirits from legal distillers. Had there been no duty on malt, the Steins would have employed malted grain, avoiding raw grain mixtures; before 1807 they took identical proportions of malted and unmalted grain. Like other Lowland distillers, they disliked London porter yeast which tended to taste the whisky; the smugglers never touched it.

When Stein read over his cost analysis, he found serious omissions; for example, he had taken the lowest priced grain delivered to his Clackmannan distillery, and the prime costs were incomplete - the interest on



the capital sunk and employed in his business, wear and tear on buildings and utensils, the expense of making sales, the risk of bad debts, the loss of casks and other contingencies (together being not less than 6d. a gallon) had been overlooked. The deficiency between cost and price was thus 8½d. per gallon, and not 2½d.

The analysis shows considerable accountancy proficiency. Stein had been accused of earning exorbitant profits in distilling, which he tried to disprove. On 1 October each year, an exact balance of his firm's profit and loss at each distillery was made. During 1821-2, there were losses in trade with England, as well as in Scotland. Whisky prices had risen, Stein said, not because of inflated profits but because barley prices had gone up. What he earned was no more than 'a remunerating price.'<sup>60</sup>

With illicit whisky from Lowland sources costing ½s. 1d. a gallon, George Dunlop of Haddington found that he could not compete - he had done little business since 1820. He felt disadvantageously placed vis-a-vis other distillers both for coal supply, and sea or canal transport. Market prices for whisky were inadequate.<sup>61</sup> It had been his practice to take 3 month bills from wholesale merchants when selling at 6s. 2d. to 6s. 8d. per gallon; the dealers paid up as they sold the whisky. Old malt spirits always fetched a good price in trade with private families; Haig observed that whisky from the sma' stills was already supplanting brandy as the basis for punch and toddy.

The recurring themes of the 1798-9 submissions are thus discernible in the Fifth Report - Excise control, the export trade, and illicit distillation. The Lowland distillers looked forward to a unified revenue system throughout Britain, freedom to trade where they wished, and the chance to set up large distilleries in the Highlands, where given a duty level of

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60. P.P., Fifth Report, Appendix to Supplement, p. 17.

61. P.P., Fifth Report, p. 208.

2s. to 3s. per gallon, they thought they could hold their own with the smugglers and produce good whisky.

John Stein's Estate:

John Stein of Kennetpans died in December 1825 leaving his sister, Miss Margaret Stein as his next of kin.<sup>62</sup> An inventory drawn up in June 1826, shows that his assets were:

	£	s.	d.
Cash in house	6	8	3
Promissory note granted by Lord Abercrombie, 12 Nov. 1821	1,000	0	0
Interest at 4%	42	8	2
Ditto 20 Nov. 1821	1,000	0	0
Interest	40	18	8
Ditto 2 Feb. 1822	2,000	0	0
Interest	66	3	10
Ditto 21 Oct. 1822 (payable one day after date)	2,000	0	0
Interest	9	12	10
Bill of Ramsay T. Wright in Alloa: (at 3 months)	145	0	0
Balance in books of Paisley Banking Company at Alloa	6,412	0	0
Bond by late Earl of Mar and his eldest son, 31 Aug. 1809	967	5	4
Bond of Corroboration of Mar. Nov. 1822	16	11	2
Promissory note granted by Mar, Feb. 1821	317	7	4
Interest	60	16	10
Sum agreed by deceased as debt due to him by William Haig of Seggie, payable by Whitsunday, 1826	12,000	0	0
Interest	30	5	0
One share in the Alloa Ferry Steam Boats	100	0	0
Balance due of sale of crops & Stocking at Parkhead farms: sold by auction, 1826	1,514	0	0
Value of deceased's distillery, utensils ) Crops & Stocking at Kennetpans )			
Household goods, silver, books, horses carriages, wines )	7,632	0	0
Sum due to deceased by Andrew & Charles Stein of Hattonburn, 1825	6,525	0	0
Interest	181	9	0
Balance due by deceased's son, Andrew Stein of Clonmell, Ireland	423	0	0
Sum recovered from Fred. Johnston for arrears of rent: granary at Newport	100	0	0
Sum due by Alex. Greig, W.S., account current	82	1	6

62. S.R.O. U.P: 1 SH: S/24/36: Stein v. Johnston: 1828.  
The Abercromby family was associated with the estate of Tullibody  
in Clackmannan.

The inventory thus discloses that Stein's financial standing was on paper considerable. As his sister was left as next of kin, a portion may have been given earlier to his son, Andrew to start a distillery in Ireland. The relationship with the Steins at Hattonburn is not specified, but they may have been nephews. Not only Steins, but also the Haigs had been financed by John Stein's capital; the £12,000 loan may represent the cost of the Saggie distillery. Substantial loans were paid to Lord Abercrombie and other landowners. The diversity of Stein's interest is clear - distilling and farming may have absorbed his attention and money, but he also had interests in ferries, in a granary and in banking.

An excerpt from the current accounts due to John Stein names the following persons and firms:-

	£	s.	d.
James Haig, Esq., Lochrin	174	15	4
John Jameson, Esq., Dublin	377	0	2
John & James Jameson, Dublin	38	6	7
The Devon Iron Company	164	12	3
Arch. Hill Rennie, Sheriff	35	5	6
The Alloa Colliery	32	19	3
Alex. Allan & Co., Bankers, Edinburgh	73	3	6
Robert Jameson, Alloa	16	6	5
James Westland, Clackmannan Colliery	52	0	10
Robert Stein & Co., Kilbagie	292	19	1
James Miller, Carrier, Alloa	10	4	2

His books note that much trade took place in Leith; of the whole book debts of £1,246 4s. 2d., only £57 was expected to be recovered, while of the remainder £7,118 4s. 3d. was debt 'doubtful and desperate' - the largest item was a sum of £1,165 7s. 2d. owing by Messrs Meldrum in St. Andrews. The total inventory amounted to £45,138. Robert Stein of Kilbagie was cautioner for Miss Stein, who sued Johnson, the lessee of the granary at Newport for £500: she got £409.<sup>65</sup>

Prior to 1826, Robert Stein was trying out a process of continuous

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65. Ibid.

distillation at Kilbagie; perhaps the loan of almost £300 to his distillery was in connection with his pioneering effort.<sup>64</sup> Shortly thereafter a patent still of the Stein variety was in operation at Kirkliston near Edinburgh.<sup>65</sup>

In 1832, the Stein group was still active; in that year, John Stein & Co. distillers had offices at the Royal Exchange, Edinburgh, the partners being John Stein, Robert Stein, and James Stein. They are mentioned in an action for payment of £54 10s. raised against John Henderson, a wine and spirit merchant in Constitution Street, Leith. The selling price of the 'aqua' was 6s. 8d. per gallon.<sup>66</sup>

Two years later, the following Stein distillers appear in the Seventh Report concerning the Excise Establishment:

<u>Distillers</u>	<u>Duty Paid</u>
Andrew Stein & Co., Helensburgh	£600
John Stein & Co., Wilsontown	?
Robert Stein & Co., Kilbagie	£30,000
John Stein & Co., Clackmannan	£4,000 <sup>67</sup>

Did Andrew Stein return from Clonmel to Helensburgh, or had he formerly been at Hattonburn? He refers to a model of a sample cock and safe 'which his Brother is to show to the Commissioners.' It is possible that this device was the result of the inventive capability of Robert Stein. Andrew Stein drew attention to the quantities processed at Helensburgh compared with Clackmannan - a factor which would point to that conclusion. The interest in Wilsontown may have been due to the development of the iron industry there.

64. The Patent Still, vide infra.

65. S.R.O. RH 15/185: Sed. Book: Andrew Stein & Co., Distillers, Kirkliston, 1831.

66. S.R.O. U.P. ISH: S/26/20. Stein & Co. v. Henderson, 1831.

67. P.P., Seventh Report of the Commissioners of Inquiry into the Excise Establishment, (1834) XXV, App. 67, p. 229.

The Seventh Report also contains a note on 'St. Marc's Patent Still'.<sup>68</sup> There were two in use in Scotland one at Cameronbridge (a Haig unit), and the other at Kirkliston (a Stein unit). Robert Stein had previously been concerned with Kirkliston, having 'first obtained the sanction of the Board [of Excise] for using them on 11th January, 1830.' From a revenue point of view, the invention was held to be 'quite unobjectionable.'

During the enquiries for the 1834 report, Robert Haig read a letter at a meeting of distillers in Edinburgh from 'Mr. Stein of Kilbeggie.'<sup>69</sup> There was a bill in Parliament to consolidate the several acts relating to distilling into one act, and Robert Stein wished the government to abolish differences in the Scottish and English systems. He asked that the gravity of the worts should be left to the distillers' choice. Proposals to remove the drawback on malt however met with his disapproval, 'the very existence of the Scotch trade depends upon their being able to furnish good malt spirits at a moderate price.' When the drawback was cut by 6d. a gallon, the volume of legally made spirits had diminished, whereas consumption had remained steady: i.e. the difference was supplied by smugglers. Maltsters cancelled their entries as suppliers to distillers, changing to 'general purpose' malting, all of which was sold for illicit purposes.<sup>70</sup> Stein was continuing to send spirits to England for rectification - a trade in which the family had been involved for almost fifty years.

The export situation was improving: George Dunlop of Haddington was selling the product of his Haddington works in London, via Leith. Demand was firm for sound malt spirits, but not for the raw grain type.<sup>71</sup> After 1823, exports from Glasgow to Ireland had risen, but a decline had set in,

68. P.P., Seventh Report, App. 7, p. 120.

69. P.P. Seventh Report, App. 116, p. 322.

70. P.P., Seventh Report, p. 54.

71. P.P., Seventh Report, p. 164.

because illicit distillation was too rampant in Ireland - exporters could not compete. Altogether foreign exports of whisky had not increased as much as had been hoped.<sup>72</sup> There is no indication that the Steins participated in the overseas whisky trade.

Andrew Stein of Helensburgh who by 1834 had been in distilling for 20 years spoke of the improved efficiency of the Excise department, which his relations had criticised ten years before. He had witnessed duty evasion of the order of £500 to £600 a week 'at extensive works.'<sup>73</sup>

In 1841, the only notable mansion house in Clackmannan parish was that of Kilbagie, the property of Robert Stein. There were then two distilleries in the parish - that of Kilbagie itself, and the other at Clackmannan. The former was 'a work of long standing and of great extent.' An area of about seven acres was covered by the premises, which were enclosed by a high wall. To consume the waste over 700 cattle were kept, large byres having been built to accommodate them, while 850 acres of land were cultivated 'in connection with the distillery.' This may indicate that the Steins were supplying some of their grain requirements from their farm. Compared with the Kilbagie complex, the Clackmannan distillery, close to the town, was 'a work of much less extent', the whisky being distilled solely for the Scottish market.<sup>74</sup>

As there were eight breweries in Alloa alone, besides distilleries at Kilbagie, Carsebridge and Cambus, a very considerable importation of barley from other parts of Britain was noted. To this fact was attributed the good price for local barley, which was equal to the cost of imported grain, plus the transport charges for carrying it to the area.<sup>75</sup>

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72. P.P., Seventh Report, pp. 64-5.

73. P.P., Seventh Report, pp. 149-53

74. N.S.A., Clackmannan (1841), p. 128.

75. Ibid.

The declining years of the Stein enterprises are less well documented. Some references to Kilbagie occur in the papers of Tods and Romanes, Edinburgh. One finds that Robert Stein was negotiating with 'Mr. Bruce's brother', about the lease of an adjacent 'rail road' for ten years c. 1845. Despite their financial crises, the Steins were undoubtedly progressive, but Robert Stein was an outstanding innovator. He told Bruce that unless the rent was moderate, he would take steps to see that the railroad was not let at all. Stein also consulted with Menzies, the factor on the Tulliallan estate over water rights, for which he paid £120 a year for 'full command' of two reservoirs. He seems to have been seeking tenants for the distillery. The factor offered the larger reservoir at £100 a year, with the overflow of the smaller - Stein was agreeable, 'This I consider moderate as it would save more coal than pay the rent.'<sup>76</sup> The copper utensils had been valued, with the view to a lease of the premises being taken.

Another reference to Kilbagie comes in 1851, when the title deeds of the property were acknowledged by William Chrystal of Newburgh. It seems that a rental of £600 p.a. was under discussion.<sup>77</sup> Chrystal complained that the sum was excessive;

Looking at the state in which the larger portion of the ground has been left by the razing of the Distillery, and the dilapidated conditions of the stabling as well as the exhausted state of the roof, doors and windows of the Dwelling houses, it is not supposed that the sum of £600 will be once offered. It will take several years, and involve considerably outlay to make the site productive of any kind of crop.'<sup>78</sup>

Hence it is apparent that the distillery was in part demolished

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76. S.R.O. Tods, Murray & Jamieson: GD 237/182: Letter, Robert Stein, Kennetpans to Tods & Romanes, Edinburgh, 21 July, 1845. The principal landowners in Clackmannan parish were Lords Zetland, Mar & Kellie, and Bruce of Kennet (later Dalfour of Burleigh): see Third Statistical Account: Clackmannan, p. 533.
77. S.R.O.: T.M. & J., op. cit. Letter, William Chrystal, Newburgh to Tods & Romanes, 3 April 1851.
78. S.R.O.: T.M. & J., op. cit. Letter: William Chrystal, Newburgh to Tods & Romanes, 8 April, 1851.

prior to 1851, and this Stein enterprise was in dissolution. Apart from Chrystal's client, an enquiry about the sale of the site of the distillery, and houses came from William Ramsay of Bellehill, near Airdrie. He made specific points about the supply of water, the property value, feu duties, burdehs and upset price, but no mention of his purpose is made.<sup>79</sup>

Despite the poor condition of the buildings, a tenant was found; George Dunlop, who had been associated with the Haddington and Lintonbridge distilleries c. 1816-34 rented the premises. Reference is made to his business connections - in Leith, and at the Corn Market and Cross in Edinburgh. Robert Stein was still to the fore, because in a dispute over water supply and the boundary of the Kilbagie feu in 1851, he was stated to be 'the only person who can point out the line of the feu', an earlier note showed that 'Mr. Stein is very far advanced in years', and 'no time should be lost in getting his opinion on it.'<sup>80</sup> The Steins had made ditches on farm land, which led to an action for water damage; a water course and tail race intersected their property, which fed the distillery, and 'served to drive Machinery at certain of Lord Zetland's farms, and coal works more than a mile distant.'

George Dunlop set about improving Kilbagie, but he found little profit in the distillery. His affairs were sequestrated in February, 1852. The malt duties had been advanced to the Collector of Excise to save a forced sale of the malt and equipment. Whisky had been produced, because the creditors wanted a local trustee to sign Excise bonds, and pay duty on consignments of spirits. A Mr Mitchell, a creditor of Dunlop, and

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79. S.R.O.: T.M. & J. op. cit., Letter, William Ramsay, Airdrie, to Tods & Romanes, 12 April, 1851.

80. S.R.O.: T.M. & J., op. cit., Letter, George Dunlop to Tods & Romanes, 18 Nov. 1851.



partner in the Clackmannan Coal Company, 'a shrewd and clever man of business' was a candidate. By trade, he was a 'maltster, miller, corn merchant, and farmer,' in addition to having 'a knowledge of Excise, Distillery, and Country matters.' He wanted Kilbagie to be carried on, 'both for the sake of consuming his coal, and supplying him with the offals for feeding cattle on his farms.' Furthermore, he was said to possess ample capital, and might be persuaded to take an interest in the firm. The Bank of Scotland seems to have been the principal creditor, being invited by Tods & Romanes to support Mitchell,<sup>81</sup> but John Alison of Alloa was chosen, paying rent for Kilbagie in 1852.<sup>82</sup>

Dunlop's account of the unhappy state of his business is outlined in a letter to Tods & Romanes. He referred to a meeting where he had been given the hope that if he reached a private settlement with his creditors, and thus resumed working the distillery, they would recommend to the Steins that some working capital be provided. Regrettably, Dunlop was unable to offer any security, and as he wanted to keep his remaining capital in his own hands, no compromise was possible. He wrote despondently - 'There is no doubt that I have made a "shipwreck" of my fortune in this place.'<sup>83</sup>

Creditors pressed upon him demanding that he realise the money he had sunk in the premises; people agreed that it was shameful that the proprietors had not helped him 'when in consequence of his outlay on their property, he had been ruined.' He had kept the distillery and utensils in good order, defraying much money on repairs; experienced workmen had

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81. S.R.O.: T.M. & J., op. cit., ~~Tods & Romanes~~; Sequestration of George Dunlop, 17 Feb. 1852.
82. S.R.O.: T.M. & J. op. cit., Letter, John Alison to Tods & Romanes, 29 March, 1852.
83. S.R.O.: T.M. & J., op. cit., Letter, George Dunlop to Tod & Romanes, 17 Feb. 1852.

been kept on after production was stopped in the hope that a restart would be possible - he had had to pay them high wages. A carpenter had been constantly employed, and a slater to keep the roofs in repair. The outlay was therefore very substantial, otherwise the neglected distillery 'if it had remained so for a few more years ... would have collapsed.'<sup>84</sup>

Kilbagie failed to make the transition to a patent still distillery when its neighbours and rivals at Cambus, Carsebridge and other localities were doing so c. 1840-50. Had it been equipped with a Coffey still, Kilbagie might have survived to become one of the foundation members of the Distillers' Company. Hence there is to-day no 'Kilbagie', a whisky which Robert Burns praised.<sup>85</sup>

Kilbagie has been the scene of industrial change. The Third Statistical Account of Clackmannan notes:-

The industries of the parish have altered in the last century. There are no iron works and no distilleries. The Kennetpans premises, once a busy distillery, became a chemical factory in the middle of the nineteenth century, but is now a gaunt relict. The Kilbagie distillery became in 1875 a paper-making mill, the founder being James A. Weir.'<sup>86</sup>

The paper mill is still active producing 20,000 tons of paper a year, and employing over 700 persons. As a link with the past, the name 'Kilbagie' has been retained.

84. Ibid.

85. Burns, R., The Jolly Beggars.

86. Gordon, T.C., County of Clackmannan, Third Statistical Account (1966), p. 540.

Illicit Distillation in Scotland

### A. Sites of Illicit Stills:

Malt whisky distilleries are commonly found to-day in regions where the sma' stills of former times prepared their whisky for local consumption, and gradually, with growing expertise for areas outwith the Highlands.

As the duty on spirits and licence charges rose, so Highlanders took exception to paying for the privilege of making their own whisky, and thus a flourishing commercial illicit trade developed. By the 1820s, so great was the traffic in the product of the sma' stills that it is clear that a cottage industry had been driven underground; the activity was so successful that the illicit distillers had supplanted 'parliament' whisky in terms of total output and also quality; it is estimated that over 2 million gallons of whisky came from unlicensed stills before 1823. Glenlivet, in Banffshire, Strathglass, and Strathconon in Ross-shire, as well as Kintyre, and certain of the islands were major centres of illicit distilling.

As the burden of taxation and interference concerning methods of legitimate manufacture became more vexatious, so did legislation become impossible to enforce in places where the Excise officers were despised, and of which they had only a tenuous knowledge. The service was impeded by inadequate transport, as much as by the resentment of Highlanders towards governmental scrutiny: the central government meant little in Highland Scotland, and obedience to tax laws was not readily acquired.

The situation envisaged by John Stein, a Lowland distiller, in his evidence before the Committee on Distilleries came to pass. Stein asserted that 'in Scotland, the distillery is in a thousand hands. It is not confined to great towns or to regular manufacturers, but spreads itself over the whole face of the country, and in every island from the Orkneys to Jura. There are many who practice this Art who are ignorant

of every other, and there are Distillers who boast that they make the best possible whiskey who cannot read or write, and who carry on this Manufacture in Parts of the Country where the Use of the Plough is unknown, and where the Face of an Exciseman was never seen. Under such circumstances, it is impossible to take account of its operations; it is literally to search for revenue in the woods or on the mountains.<sup>1</sup>

During the French Wars, the duty on spirits was substantially augmented, but it was the form of distillery regulations (e.g. the prohibition of stills of limited content) as much as the actual levy which hit the small still owners. The mode of assessing the duty was tailored to suit the requirements of English gin makers; the rate was based on the volume of wash placed in a still, compared with the volume of alcohol derived from it.<sup>2</sup> Small still distillers were immediately at a disadvantage because they liked to use a weak wash which yielded only a modest volume of spirits. Nevertheless, illicit stills produced a better whisky than legal ones, because buyers were prepared to pay more for an article they preferred even if it was illegal.<sup>3</sup>

Governmental mismanagement as in Ireland, had the effect of stifling a common adjunct to the Highland economy. In 1816 when legal distilling was at a low ebb, there were only 36 licensed distillers in Scotland producing 2.1 million gallons, whereas three years after the revisions of 1823, there were 263 units yielding c. 8 million gallons of whisky.<sup>4</sup>

#### The Sites of Illicit Stills:

The pot still hidden away at farm town or croft has been the

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1. P.P., Report from the Committee upon the Distilleries in Scotland, 1798-9, p. 279.
  2. Legislative Changes and Distilling in Scotland, vide supra.
  3. The Steins, II, vide supra.
  4. Nettleton, J.A., The Manufacture of Spirits, p. 6, and Sillett, S.W., Illicit Scotch, p. 58. Nettleton gives 329 units in operation c. 1823.

See Statistical Tables.

ancestor of many modern distilleries. Barnard cites examples of the change from illicit to legal distillation, in the Lowlands as well as the Highlands. The transition occurred once legislation had become attuned to Scottish conditions. Of a visit to Tambowie distillery, Dunbartonshire in 1886, Barnard writes:

The distillery takes us back to smuggling days ... the cave cut out of the solid rock, wherein they carried on their nefarious practices, is converted into and now used as stores.'

He also mentions 'a low arched gallery, ... a curious old vault ... well adapted for a hiding place, and subterranean distilling.'<sup>5</sup>

At Dalmenach in Strathspey, he discovered similar evidence:-

It possessed an underground spring, wherein the little coil of worm, which condensed the precious spirit, was laid, and at a lower level it dipped into a receiver, made out of an earthen jar some two feet high, with a wooden lid thereon. The little copper still stood on a furnace made with loose stones that had fallen from the rock behind, and the mash-tun had originally been a wash tub. The place was totally dark, and no light was ever permitted except that which came from the furnace fire. 6

Illicit distilleries are said to have functioned on the sites of Cardow, Dailthine, and Cragganmore on Speyside, as well as at Ardbeg and Lagavulin in Islay.

The 'bothan' or bothy was the favourite hiding place for the illicit distillery. Small in height, and roofed with turf or heather divots, it was almost impossible to detect on moorland. Osgood Mackenzie inspected such a place in Ross-shire. It had 'regularly built, low stone walls, water tight heather thatch, iron pipes leading cold spring water to the still rooms, and such an array of casks, tubs etc., as told that gangers never troubled their owners.' It was actually located 'in sight almost of the road in Strath Bran between Dingwall and Loch Carron, and on the

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5. Barnard, A., The Whisky Distilleries of the United Kingdom, p. 45.

6. Barnard, op. cit., p. 221.

hill road from Strathbran to Lechky within a few yards of its many passengers.<sup>7</sup>

Other illicit works were ingeniously located to defy detection. There is a record of the discovery of a private still by an Exciseman 'under very singular circumstances', at the notorious smuggling district of Abriachan on Loch Ness-side:-

It was in a vault, excavated in a rock, which formed the foundation of a house. The floor of the apartment above it was paved, and likewise covered with a bed of clay to the depth of 18 inches, to prevent noise. The entrance was from the stank or gutter of an adjoining byre. The smoke was conveyed into the common chimney of the house.

The Excise officer had to dig and bore his way into this distillery, and 'among other utensils found a tun capable of containing 400 gallons.'<sup>8</sup>

Old smuggling utensils sometimes turn up in the cellars or lofts of farmhouses, the owners having no knowledge of their existence or purpose.

General Stuart of Garth described how the smugglers shifted their plant from place to place to baffle Excisemen. He stressed the remarkable fact that 'a spirit of the best quality and flavour' could be 'distilled by men with their apparatus at the side of a burn, and perhaps changing weekly for fear of discovery; malting on the open heath far up the hills, and hurrying on the whole process [to avoid detection] under the shelter of a rock, or in a den.'<sup>9</sup> As early as 1798, when Excise intervention was less vigorous, illicit distillers in Ross-shire were prepared to transport grain or malt considerable distances, distil their whisky, and if necessary move their equipment two or three times a week.<sup>10</sup>

7. Mackenzie, O.H., A Hundred Years in the Highlands, p. 215.
8. Barron, J., (ed.), The Northern Highlands in the 19th Century, I, 29. Jan. 1818, p. 136.
9. Stuart of Garth, D., Observations on the Origin and Cause of Smuggling in the Highlands of Scotland, Q. J. of Agriculture, 1828-9, pp. 471-2.
10. P.P., Report: Distilleries, p. 38.

The site was carefully arranged beside running water, which was a prerequisite for mashing and cooling in distillation. Tell-tale smoke and burn water turned milky by contact with waste liquids were what Excisemen looked for. Sillett refers to an astute distiller near the Falls of Orrin, who made his chimney in such a way that smoke blended into the spray from the Falls; another device was to place a wash tub full of dirty clothing over a smoking vent, or to convey the smoke by ducts into the chimney of the distillers' house.<sup>11</sup>

Smugglers' caves are rarely associated with illicit distilling; they are more likely to have been dumps for contraband - rum, brandy, tobacco etc., - shipped from abroad. Some may also have served as caches for Highland whisky preparatory to shipping it to the Lowlands.<sup>12</sup>

Often the sites of illicit stills were quite unremarkable. Near Muasdale in Kintyre was a depression known as the Smugglers' Hole, where distilling was performed: a similar site was beside Ormsary farm steading in Glenbreckrie, while another lay at the junction of two small burns above Carrine farm.<sup>13</sup> Hence illicit distilling could be an outdoor, as well as an indoor pursuit.

Woods gave welcome cover, and an immediate fuel supply. In 1829, the Supervisor of Excise at Dingwall was actively engaged in rooting out private stills. He wrote to Mackenzie of Seaforth on the subject:

To apprise you of what is carrying on in your plantations ... Upon the 17th inst., I discovered a Private Distillery in the Belting of your third grass park west from the Castle, where we destroyed 6 tuns, 126 gallons wash, 18 Gallons Low Wines, and 1 still, head and worm. 14

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11. Sillett, op. cit., p. 93.
  12. Colville, D., The Origin and Romance of the Distilling Industry in Campbeltown, 10 Jan. 1923.
  13. Ibid.
  14. S.R.O., Seaforth Muniments, GD 46/17/79, Letter, D. McLaurin to J.A. Stewart Mackenzie, Feb. 1829.



The Supervisor warned the Laird that the pertinacity of the smugglers might be an embarrassment to him, as well as harming his woodland. Camouflage of birchwoods at Abriachan also gave the tenants protection; Excisemen occasionally found utensils there.<sup>15</sup>

During the clearing of Blairdrummond Moss c. 1792, the Highland settlers improvised houses by excavating blocks of peat, which they roofed with peat and heather on a wooden frame, after the manner of cruck houses.

The whole settlement was dotted with picturesque huts shaggy with purple heath, and moorland plants ... fragrant with peat reek and also with the aroma of mountain dew at times. 16

The gaugers needed a keen scent when they visited the colony. Peat stacks were made hollow; inside the innocent exterior 'there lurked the warm hearted "Ewie wi' the Crooked Horn" ' whose discovery and eradication gave the Laird and Excisemen much trouble.<sup>17</sup>

There was a revival of illicit distillation in the north west Highlands in the 1880s. Even Inspectors of Schools encountered illicit stills on their travels. One who journeyed in Wester Ross recounts how he 'saw the interior of a bothy where the smugglers were busy making the vile stuff.' His guide 'drew a sheet of coarse sacking from the end ... of a peat stack, when I beheld two men seated by a fire over which the distillery kettle was suspended.'<sup>18</sup> After being reassured by a few words in Gaelic, the distillers explained the simplicity of the process, with no reference whatever to its illegality.

In urban locations, illicit stills have existed in unlikely places - the more obscure the corner, the less the risk of its discovery. Hence

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15. Barron, op. cit., I, 2 April, 1818, p. 138.

16. Cadell, H.M., The Story of the Forth, p. 274.

17. Ibid.

18. Wilson, J., Tales and Travels of a School Inspector, p. 64.

some have been installed under the Free Tron Church in the High Street of Edinburgh; under an arch in the South Bridge in Edinburgh; in Leith closes and virtually next to the Customs House in Aberdeen; and in a clock tower in Dufftown (to take advantage of the public drains.)<sup>19</sup> Practically every close and pend in Campbeltown had its illicit stills c. 1811-17.<sup>20</sup>

The arrival of both Highlanders (as at Blairdrummond) and immigrant Irish in Lowland Scotland in the early nineteenth century, promoted illicit distilling; the activity had always been a more flourishing one in Ireland. The stills were sometimes planted in industrial locations. During the dismantling of the iron works at Wilsontown in 1812, an illicit distillery was exposed, and similar ventures were operated in an Airdrie coal mine.<sup>21</sup> The Supervisor of Excise at Newcastle in 1833 believed there was no illicit distilling in his area, but added that 'the Irish used to get into a wood and make some spirits.'<sup>22</sup> Philipson refers to the detection of a still in an old coal pit adjoining Newcastle Town Moor, and of another cut into the side of a peat moss about four miles from Rothbury.<sup>23</sup>

In Scotland the common locations were bothies, or gullies or depressions on moorland, perhaps concealed by a sheep fank or a plantation. Sportsmen, shepherds or stray animals constituted almost as serious a threat as did the itinerant Exciseman - a fact substantiated by the number of smugglers' bothies which were only revealed as a result of people falling through the roofs of them. Owing to taxation levied on malted grain, illicit maltings or malt barns were also secreted in caves and bothans.

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19. Bremner, D., The Industries of Scotland, pp. 448-9.

20. The Still Books of Robert Armour, vide infra.

21. The Story of Airdrie, p. 271, (quoted from The Glasgow Herald, 29 Jan. 1813).

22. P.P., Seventh Report of the Commissioners of Inquiry into the Excise Establishment (1834) XXV, p. 315.

23. Philipson, J., and Child, F.A., Remains of Illicit Distilleries in Upper Coquetdale, Archaeologica Aeliana, Fourth Series, XXVIII (1960) p. 157.

Mackenzie recalls that keepers frequently tramped through carefully hidden bothies full of heaps of malt.<sup>24</sup>

Lingering pockets of illicit distilling persisted in the Glasgow tenements, where the smell and smoke hid the presence of a still. In 1864, while on a visit to Glasgow, Tovey tasted home made whisky in a shebeen shop and noted:

The contraband operator now labours more successfully, and with little chance of detection in dwellings in large cities, and may practise his secret work even in model lodging houses ... wherever he has gas and water, and a flue to take off any vapours that may arise, he is pretty safe. 25

Current opinion tends to the view that illicit whisky is still made in parts of Scotland: stray cases occasionally come before the Excise authorities. The activity was renewed during the Second World War, but high rates of duty which have been applied in the post-war period, have not hitherto induced the same excesses as high duties did in the past.

#### The Industrial Archaeology of Illicit Distilling

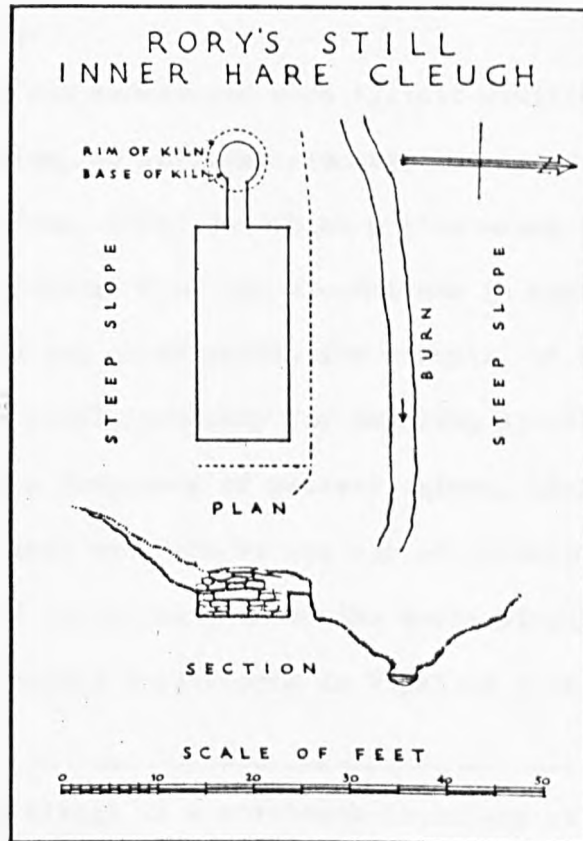
Investigations of the industrial archaeology of illicit distilleries have been undertaken at sites excavated in Northumberland.<sup>26</sup> No survey of such a precise kind has so far been attempted in Scotland. Philipson and Child examined sites of stills associated with a Highland smuggler, named Rory, who was distilling prior to 1830. He is said to have had six units in Upper Coquetdale, where traces of three were found.

The illicit distilleries usually consisted of a kiln for grain drying, built of rough stones; adjoining the kiln was a rectangular building of local stone, where distilling may have been performed. It is

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24. Mackenzie, op. cit., p. 216.  
 25. Tovey C., British Spirits, p. XX.  
 26. Philipson and Child, op. cit., p. 99



Excavations in progress at Wholehope Still, Northumberland in 1953, Philipson J., and Child, F.A., A.A.: 4th Series, XXXVIII (1960):



probable that the structures were roofed with turf, which may have continued into the steep face of the adjacent slope for camouflage. Rory's still on the Inner Hare Cleugh measures  $9\frac{1}{2}$  feet by  $22\frac{1}{2}$  feet inside, while the kiln is about 6 feet in diameter with a depth of  $5\frac{1}{2}$  feet.<sup>27</sup>

The Northumberland sites have common locational characteristics. All are in remote situations, and fairly well concealed; all stand beside burns to give cooling water for the worm, and all have good spring water nearby. Thus the site factors are similar to the Scottish ones. The Highland distillers of to-day dislike peaty water for mashing; they prefer water 'off granite', rather than 'through peat', and no doubt the same held for the illicit operators. If Rory was a Highlander, as he is reputed to have been, abundant clear spring water would be a prerequisite in siting his stills in the head waters of the Coquet. Near to his stills are peat deposits, peat being necessary for the kiln. Wood was however better than peat for still firing.

The fact that the structures were illicit distilleries is supported by local oral tradition, by written accounts, and by an Enclosure Award of Alwinton Common (27 June, 1862) for which a plan names a site as 'an Old Distillery.' The evidence from the excavations is convincing, showing detailed ground plans and photographs, for example, of Wholehope still near Coquetdale. A phial, probably for sampling spirits drawn from casks was unearthed, as were fragments of pottery, glass, timber and iron, dating from c. 1780-1830; this was 'the heroic age of illicit distillation.'<sup>28</sup>

The purpose of the kilns puzzled the archaeologists. These are frequently found on upland settlements in Highland Scotland as in

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27. The Inner Hare Cleugh is a northbank tributary of the Coquet. See Philipson and Child, *op. cit.*, p. 101.

28. Philipson and Child, *op. cit.*, p. 106.

Rothiemurchus in Inverness-shire, and in Glen Fearnach in Perthshire. The kilns were employed for grain drying, wherever harvesting had to be done in damp conditions, otherwise the grain would rot. Like the Coquatlale ones, they may also have been used for drying the malted grain preparatory to making whisky. A smooth cobbled floor which was excavated by Philipson and Child had every indication of being a malting floor, on which the moist grain would be spread to germinate. The smugglers appear to have lived, distilled and slept in one room. Distilling needed constant attention, whereas malting required intermittent visits to turn the grain on the floor or in the kilns.

Despite scrutiny in the Glenlivet area, no remains which could be clearly identified as belonging to illicit distilleries have been discovered. There are many possibilities, but they could equally be abandoned crofts or summer shielings. Sillett has searched in vain for traces of such distilleries in the Cadrach and Glenrinnas; he has only come across a 'steeping vessel' hollowed out of the moor in Glenrinnas.<sup>29</sup> Perhaps the lack of evidence on the ground is indicative of intensive persecution, leading to more cunning arrangements to conceal stills, and more determined efforts to remove traces of their existence. Frequently, the illicit works were hidden within farm or croft buildings, and there were no separate structures with an exclusive distilling function - a conclusion which the entries in the Still Books of Robert Armour would support.<sup>30</sup>

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29. Sillett, S.W., Letter, Huntly, 7 April 1966.

30. The Still Books of Robert Armour, vide infra.

### Equipment and Organisation

Illicit distillation in Scotland is replete with romantic accounts of smuggling, of guerilla warfare against the Excise authorities, and with official reports giving the number of detections made or fines levied on offenders infringing the law.

Little or nothing has been known about the supply of equipment to the illicit distillers, and hence the Still Books of Robert Armour are not only of considerable value but also of unique interest in this respect. The firm of Robert Armour, Plumber and Coppersmith, was established in Campbeltown, Argyll, in 1811.<sup>1</sup> Armour was a well known name in Kintyre, and the family may have derived some of its initial capital from agriculture, from malting, and from distilling. The Report from the Commission upon the Distilleries in Scotland (1799) shows that one at least, James Armour, had been guilty of illicit distilling in the South Argyle Collection prior to 1798.<sup>2</sup> Colville refers to a licence, dated 1791, reproduced in The Wine and Spirit Trade Record, 14 December, 1922, issued in the name of James Armour, Junior, and to another in the same name, dated 1796, which was preserved at Hazelburn Distillery, Campbeltown.<sup>3</sup> Other Armours were connected with Meadowburn Distillery (founded in 1824) and with Glenside Distillery (1835), both in Campbeltown. The family, in company with many of the customers whom they supplied with distilling utensils, may have been Ayrshire settlers who came to Kintyre between 1600 and 1760.

The Still Books were found among family papers, and they cover the period from May 1811 to September 1817. There are four jotters, now bound together into one volume of manuscripts, entitled 'Old Smuggling

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1. The Still Books of Robert Armour are in the possession of Mr. R.R. Armour, 14 Braehead Road, Edinburgh.
  2. P.P., Report: Distilleries, 1799, pp. 597-8.
  3. Colville, op. cit.

Stills', which forms a simple sales record and account book. Some pages at the end of the second jotter are missing. The documents provide the basis for a case study of illicit distillation in Kintyre and the Inner Hebrides.

Distilling had become well established in the region by the mid-eighteenth century, although as late as 1772 whisky was described as 'a modern liquor', because in former times spirits had been prepared from herbs, and ale was in common use.<sup>4</sup> The activity experienced fluctuating prosperity depending upon changes in Excise laws and the availability of grain. About 1795, next to herring fishing, the distilling of whisky was the major industry of Campbeltown.<sup>5</sup> The greatest disincentive came in 1797 when the licence duty was raised to £9 per gallon of still content in the Middle District of Excise in which the burgh was situated. Legal distilleries then ceased to exist in Campbeltown for a twenty year period, from 1797 to 1817.<sup>6</sup> Meanwhile illicit distilling and smuggling developed on an unparalleled scale, which is a sufficient commentary on the unsuitability of the legislation: in the Highland District no less than 859 private stills were seized in 1797.<sup>7</sup> The local Collector of Excise had no success in 1799 in obtaining information about the extent of the activity: at the time there were only three licensed distillers in his area, all of them in Bute.<sup>8</sup> 'The landholder and the tenant (though not openly) give every encouragement to the business as without it they say rents

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4. Pennant, T., A Tour in Scotland and the Western Isles, p. 194.
  5. O.S.A., X, Campbeltown, p. 556, et seq.
  6. Colville, op. cit.. No licensed Campbeltown distillers are mentioned in the 1799 Report.
  7. P.P., Report: Distilleries, 1799, p. 746.
  8. P.P., Report: Distilleries, 1798, p. 432



cannot be paid' ... 'penalties are so easily laid on as rather to encourage than suppress the business.'

His opinion was that heavy duties served to stimulate private distilleries. The revisions of 1816 and 1822-3 laid the foundation for the growth of the modern legal industry in Kintyre and the islands.

The first nineteenth century licensed distillery in Campbeltown was erected in the Longrow in 1817 by John Beith & Company.<sup>9</sup> Indeed a 'John Beith', in association with others, was one of the regular clients of Robert Armour prior to 1817, because his name figures several times in the Still Books. It is not unlikely that John Beith endeavoured to keep his craft active during the hiatus in legal distilling, and once conditions for legitimate trade appeared more reasonable, he obtained a licence.

It is regrettable that the Still Books cease in 1817 because it would have been useful to know whether Robert Armour's business was also deflected towards legality and whether he began supplying equipment to the new licensed distilleries which were set up in Campbeltown in increasing numbers from 1817 onwards, when there may have been less need for his services in an illegal capacity. Many Scotch whisky distilleries owe their origins to illicit beginnings. The names of some of the distilling families of Campbeltown recur throughout the Still Books - Colvilles, Fergusons, Greenlees, Harvies, Johnstons, Reids, Mitchells and Galbraiths, among others - as purchasers of utensils for private distilling.

From the Still Books, it appears that Robert Armour, the founder, was the principal workman, although the employment of a lad is mentioned. Initially, the business was a small scale family enterprise which seems to have used the cover of a plumber's shop to conceal its principal function

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9. Colville, op. cit.

as a manufactory of distilling equipment, mainly still bodies, heads and worms.

The first two pages of the Still Books read as follows:

Samuel Harvie

August 16, 1811

To a body	23lib.
To a head	6lib. 10ozs.

August 21

To a body	<u>13lib. 8oz.</u>
	£ 5    6    3

Daniel Kelly Smith

August 21

To a worm 6½ lib. at 2/6	£ 0 .. 16 .. 3d.
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Mary Kelly, Jene Taylor, Barbra McTagart, Lochend.

Sept 8

To a worm	£ 1 .. 2 .. 6
To repair a Body & Head	2    6

Archibald McKendrick, Mrs. Thomson, Widow Johnston,  
Florance Armour & Co., Longrow

Aug 29

To a body 13 lib. 8oz. at 2/6 per lib.	£1.13. 9
" a head 5 lib. 6ozs	13. 4½
" a worm 9 lib.	<u>1. 2. 6</u>
	£3. 9. 7½
By cash from Widow Johnston	£0.10. 0
By cash from Arch. McKendrick	1.10. 0
By cash from Mrs. Thomson	1. 0. 0
By cash	<u>1. 0. 7½</u>
	3. 9. 7½

Alexander Craig, Nockniha

Sept. 13

	£	s	d
To going out to Repair a body		1	6
To copr. pack & Souther 2 lib	0	4	8
To a worm 11½ lib. (By 2 lib. of their own makes 9½ at 2/6)	1	4	4

Oct. 4	To cash for an old still	10	0
1812	To cash for the ladd for nailles		6

Throughout the Still Books all entries have been heavily scored out, showing that payment was eventually effected, and in many cases this cancellation obscures much detail. The total value of work done, materials used,

and goods supplied by Armour between 1811-17 amounts to over £2,000, representing an average turnover of over £350 per annum. At times the copper-smith employed a code of letters to give details of income, and analysed cash receipts to keep a check on payments to account; for example from 16 May, 1816 to 1 August, 1817, he received £148 lls. 7d. in cash, according to his reckoning. The average transaction only involved £2 to £3, and about 400 stills were produced.

The 1799 Report advocated stopping the supply of equipment to unlicensed distillers by making it impossible to have a still made or mended. Still makers, such as copper-smiths, should have to purchase a licence; the system would then confine illegal manufacture to 'tinkers and people of no capital and desperate fortune', who could be consigned 'to the house of correction', if discovered.<sup>10</sup> In 1797, when small stills were confiscated in Islay, the illicit distillers induced tinkers to come over from Ireland to fit up cauldrons and boilers as stills.<sup>11</sup> Failing these utensils, Aberdeenshire country folk employed kettles or pots to which a head was annealed. They were reputed to make good whisky, the quality depending not so much on the type of apparatus as on the skill of the operator in separating the optimum portion of the distillate for collection as potable alcohol.<sup>12</sup> Indeed, illicit whisky was renowned for its superior quality vis a vis the product of the legal distilleries. The whisky from Arran was even described as the burgundy of the vintages.<sup>13</sup>

The equipment constructed by Armour was simple, the still consisting of four parts - the vessel, head, arm, and worm. The complete apparatus

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10. P.P., Report: Distilleries, 1799, p. 674.

11. P.P., Report: Distilleries, 1799, p. 752.

12. P.P., Report: Distilleries, 1799, p. 760.

13. MacCulloch, J., The Highlands and Western Isles of Scotland. IV, p. 372.

could be purchased for less than £5, and embodied about 30-40 lbs. of copper, giving the pot a cubic capacity of upwards of 10 gallons. The still, head, and worm were the most valuable utensils, and the illicit distiller would use everyday household goods, like casks, creels, and measures which he had to hand. Many of Armour's clients must have owned more than one still, to judge by Samuel Harvie's purchases on the first page of the Still Books; there is evidence that the coppersmith provided numerous utensils for the same group of persons at a common address, so that each person must have had a still of his own.

There seem to have been two main sizes of still, some having vessels of 12-14 lbs. of copper, and others of about 20 lbs. It is conceivable that the larger ones would be utilised for distilling wash, and the smaller for distilling low wines in the second, or even third, distillation to yield whisky. Armour was also prepared to construct a tin still at a lower price to oblige a widow. He fashioned the head and worm of copper, and sold the apparatus for £1 15s. 0d. Tin stills would corrode rapidly, whereas a copper still, if reasonable care was taken, could last for 20 years and more.

The investment in apparatus may seem modest, but it was believed that smuggling would have been more ubiquitous, but for the cost of the appliances. Resort was had to improvisation; A Loch Carron smith made the worm by filling a tube with shot, and plugging both ends. He then wound it round a piece of tree trunk, removed the plugs and the shot; the worm was <sup>then</sup> ready for use.<sup>14</sup>

Besides making new distilling utensils, the coppersmith handled second-hand equipment; he may have repurchased stills rendered unusable by Excisemen, who ran swords through them. The copper was reworked, or

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14. Wilson, op. cit., p. 63.

the still repaired. Armour valued old copper at 10d. per lb., while new apparatus cost 2s. 6d. per lb. He carried out repairs both on his own premises, and at the houses of his customers, repairing worms, bottoming stills, 'sothering' (soldering) lugs, and fitting feadans. 'Feadan' is Gaelic for a whistle, and is the spout or valve fitted at the end of the work, where the distillate emerges.

In addition, Armour made branders, flacks, fillers, cans, nails and other hardware, which if orders were frequent and to a large amount, he sometimes gave away for nothing. Entries show that he 'gave a filler 1s. 6d.' or 'gave them a pint can 1s.'. He even stocked copper tea kettles, both new and second-hand, but these may well have been much less numerous in Kintyre than private stills.

Armours' customers normally operated in groups of 3 to 7 forming a 'company', whose names are carefully recorded in the Still Books. Indeed, ownership by parties of tenants was common in Easter Ross, as well as in other parts of the Highlands.<sup>15</sup> The Still Books, however, give a better and more accurate account of the organisation of illicit distilling than has hitherto been available. It may be that the loss of capital equipment, due to detection, would be less disadvantageous if it were vested in a group operating together. Writing of Harris and Lewis, MacDonald noted that the people frequently joined together to pay the fines exacted by the Excise authorities.<sup>16</sup> When a J.P. court was held at Stornoway in July, 1808, the crofters paid 'pretty smart fines', before returning to their homes grumbling and discontented. The fines however were divisible in consequence of private compacts agreed among several families, and hence smuggling and distillation were soon resumed.<sup>17</sup>

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15. O.S.A., VII, Urray, p. 258.

16. MacDonald, J., General View of the Agriculture of the Hebrides and Western Isles of Scotland, pp. 809-10.

17. Ibid.

With a group organisation, the private distillers would be able to move their installation from one hiding place to another with considerable ease, and of course, they would spread the burden of the initial capital cost among themselves. This type of arrangement may have facilitated the raising of capital to enable individuals in a 'company' to purchase their own equipment. As distilling was a protracted process, perhaps taking three to four weeks from malting to the final distillation, there would be sufficient persons to take turns of carrying out the various operations.

An examination was made of 200 consecutive transactions relating to the acquisition of stills from Armour, with a view to establishing the nature of his clientele. One hundred of these transactions concerned men only, either as groups or individually. The illicit distillers in Argyll were generally small tenants. What is surprising about Armour's business, and hence about illicit distilling in Kintyre, and probably in other areas of the Highlands, is the large proportion of women engaged in making illicit whisky on their own account. Farmers seem to have delegated the task to maid servants and other 'inferior persons', who acted as covers in order that more substantial individuals would escape detection.<sup>18</sup> Perhaps illicit distilling was regarded as part of general domestic duties, or as a source of pin money, especially for widows or single women, for whom it may have been a ready source of income. (Women have an honourable place in the history of distilling in Scotland; Mrs. Elizabeth Harvie was a distiller in Paisley, whose descendants subsequently moved to Port Dundas, Glasgow, setting up Dundashill Distillery, and Mrs. Cumming was owner of Cardow Distillery on Speyside.) No fewer than 58 of the series of purchases involved women, either singly or more commonly in a company. Mixed groups, numbering 42 in all, made up the remainder in the sample. The

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18. P.P., Fifth Report of the Commissioners of Inquiry into the Revenue, (1823), App. 63, p. 166 et seq.



men may have been more occupied with fishing and agriculture. Only 20 per cent of these purchases of utensils revealed one individual operating on his or her own account; these illicit distillers were persons of substance to judge by the entries in Armour's Still Books, as he always indicated their occupation e.g. cooper, flesher, wright, farmer, miller, shoemaker, or innkeeper.

The financial standing of Armour's customers is disclosed by the manner in which they settled their accounts. The clients occasionally paid up when they collected the utensils, or else made a down payment, followed by several instalments, perhaps taking 2 or 3 years to clear off the debt. Credit was normally of 4 to 6 months duration. Payments in kind were remarkably rare, less than 1 per cent of all transactions recorded in the Still Books showing settlement in cart loads of peat, meal, potatoes, cheese, butter, and, of course, whisky.

An account for goods supplied to John Beith, and others at Dalinrowan, Campbeltown, amounting to £5 7s. 6d. was partly paid 'By 2 pints and 1 matching [matchkin] strong wiskey [sic] at 10/- per gallon'. The references to whisky show that its price fluctuated wildly, varying from 1s. 3d. to over 9s. 6d. per pint, which may reflect grain prices, the scale of operations, and the quality of the product. Smugglers would fill 20 pint casks at 2d. a gill. The whisky was then retailed at dram houses attached to much frequented places, like mills or smithies.<sup>19</sup> In the post 1815 depression, the price of grain fell by 50 per cent in seven years; this brought advantages to the smugglers, giving them a bigger profit margin on their whisky, because its price did not fall by a corresponding amount. In 1822, the price of illicit whisky in Kintyre was 10s. to 12s. per gallon at 20<sup>o</sup> over proof, and it was worthwhile conveying

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19. Smith, J., General View of the Agriculture of the County of Argyle. p. 91.



it to the Ayrshire coast, and even up the Clyde to Glasgow in fishing boats and coasting vessels.<sup>20</sup>

Before 1821, smuggling was a lucrative trade; a substantial number of cottagers and day-labourers in Kintyre supported large families by the profits of the business. A professional 'private' distiller could clear 10s. a week after all his expenses were paid.<sup>21</sup> Early marriages were frequent as a wife was an indispensable part of the enterprise; much of the work was assigned to women who were 'fit for, or employed in nothing else.'

There are notably few instances of bad debts in the Still Books. All transactions seem to have been settled to judge by Armour's crossing out of the appropriate entries. Notes regarding promises to pay are very rare - 'The above persons have granted their lines [liens] each for their own part to pay the above sum....' In places distant from the Burgh, securing payment could be awkward; one still was supplied to Whitestone, Saddell, for the use of four partners, two of whom had to promise to pay before they could take delivery:-

We the undersigned do acknowledge having received for the mentioned persons above copper work ... amounting to Three pounds Eighteen shillings Sterling & will pay the same on or before the 20th Novr. 1815.

Witness our hand: Edward Langwill

Jamy his X Stewart  
mark

There is much evidence of consumer loyalty, which must indicate satisfied customers. A company, who were regular clients, bought a second-hand still, and head with an old work, in September 1813, and were back for a new still of 17½ lbs. in December of the same year, and for

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20. P.P., Fifth Report, App. 63, p. 172

21. Bradley, E. (Cuthbert Bede), Glencreggan, p. 7.

another worm in the following January. Armour was obtaining orders from the same groups, or individuals, four to six, or more, times a year throughout the period 1811-17. This fact alone must disclose the profitability of illicit distilling, and the intensity with which the utensils were being used.

The area supplied with stills from Armour's workshop was a far-ranging one. He was not the only coppersmith in the Burgh, but the majority of the utensils - more than 40 per cent of those manufactured by him - were installed in and around Campbeltown itself: Lochend, Longrow, Dalinruan, Dalintober, Bolgam Street, Corbet's Close, and Parliament Close, figure repeatedly in the Still Books. Armour distilling apparatus was also sent to places as far north as Clachan in N.W. Kintyre, and as far south as Machrimore and Pennysearch in Southend. He exported equipment across Kilbrannan Sound to the south west coast of Arran; another island where Armour did business was Gigha. It has been possible to identify and plot the approximate sites of most of these illicit distilleries on an accompanying map, and practically all of them show common locational factors, such as the presence of burns, and proximity to coastal areas.

The coppersmith was willing to replace equipment seized by the Excise authorities while being transported from his shop; for instance, he recorded on 25 August, 1815, that a client had 'the first Body, head and worm seized nigh Smerby, and I allow myself to give something down of it'. This particular order was being conveyed to Arran. It is said that the assistance of women with cloaks over long and voluminous skirts was especially helpful when stills were being collected, whereas men had to carry the still in a sack.

Armour must have been typical of many coppersmiths and plumbers in distilling areas. Illicit distilling was a ubiquitous but typically

small-scale enterprise, hence the modest transactions recorded in the Still Books. In this peasant group activity, the place of women was of more significance than has perhaps been appreciated.

Smuggling utensils may be seen in the National Museum of Antiquities in Edinburgh, and in Am Fasgadh, the Highland Folk Museum, Kingussie. Regarding collecting, I.F. Grant points out that had she been allowed to acquire old stills and obsolete apparatus she would have done so.<sup>22</sup> The Excise authorities confiscate such equipment.

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22. Grant, I.F., Highland Folkways, p. 305.

### Methods

A complete outline of the methods of making poteen comes from Ireland, where Donovan provides the necessary information on which Sillett and others have drawn.<sup>1</sup>

Malting: About 1795 each still operating in or around Campbeltown was consuming on average 200 to 250 bolls of grain a year.<sup>2</sup> A disadvantage arising from an excessive concentration upon distilling, in addition to its ruinous effects on the community were recurrent scarcities of grain: Pennant remarked upon the dearth of grain, despite the quantity of bere that was grown. About 6,000 bolls were distilled each year.<sup>3</sup> When the harvest failed in 1782-3, the Commissioners of Supply forbade the making of whisky, ordering the confiscation of sma' stills in Argyll.<sup>4</sup> Distilling was again stopped in 1795-7, due to grain shortages. In 1812, there was another grain deficiency in Argyll, at a time when 20,000 bolls were estimated to go for whisky distilling, of which over 50 per cent was distilled illicitly in Kintyre, and over 30 per cent in Campbeltown alone.<sup>5</sup>

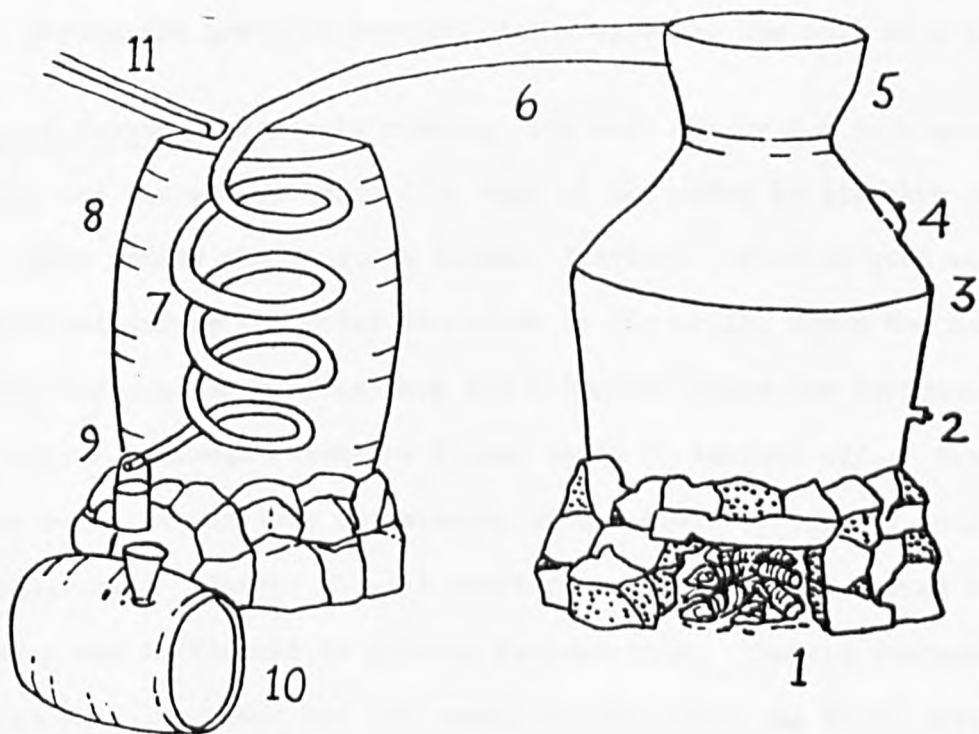
Bere was of course grown for the purpose of distilling at farms and crofts; in 1811 it was reported to form one half of the Hebridean crop acreage, requiring a growing season of only 10 to 13 weeks. Seaweed and shell sand were adequate manures. Bere was capable of maturing on poor soils in moist conditions.<sup>6</sup>

Farmers found a ready market for their harvest, and had quick sales among illicit distillers.<sup>7</sup> Such obvious gains were made in illicit dist-

1. Donovan's description of a poteen distillery is given in Barnard, op. cit. p. 9; it may come from 'Sketches in Carbery, County Cork', (1876).
2. O.S.A., X, Campbeltown, p. 556 et seq.
3. Pennant, op. cit., p. 194
4. Colville, op. cit.
5. Smith, op. cit., p. 91.
6. MacDonald, op. cit., p. 215.
7. P.P., Fifth Report, App. 63, p. 172.



Illicit distillers at work, Kintyre region, c. 1890  
 Royal Commission on the Ancient & Historical Monuments  
 of Scotland.



An illicit still: (Dwelly's Illustrated Gaelic to English Dictionary, p. 730.)

1. An leid: fireplace
2. Bod an leanna: discharge
3. An bragad: the shoulder
4. An lionadair: charger
5. An ceann: still head
6. Angearradan: the arm.
7. A'chliath: the worm
8. An stann cleith: worm tub
9. An feadan: spout
10. An glocadan: spirit receiver.
11. An spudan: cold water pipe.

illing that the exportation of spirits seems at least to have paid for the import of cereals for food. Whenever legal distilling was halted in Kintyre, the illegal variety increased; deficiencies of meal and flour had to be made good by importation. After a fine season, there were from time to time grain surpluses in Argyll, when bere and malt were available for export to the islands.<sup>8</sup>

Much of the crop was however wasted because of the primitive techniques of illegal malting, whereby the smugglers might soak the grain in a sack immersed in a burn, or in a peat hole,<sup>9</sup> such as Sillett examined. After steeping, the grain was allowed to germinate, in caves, in woods, on hillsides, in bothans, or even in dunghills. Once it had sprouted the green malt was dried in a kiln; it must not decompose, otherwise sour grain would yield bad whisky. Grain drying kilns, often part of the homestead served admirably, as did those at mills; the smuggler might improvise a kiln by laying a perforated metal plate across a low peat fire in his kitchen, drying the grain in batches, and processing one boll at a time.

Mashing and Brewing: Prior to mashing, the malt was ground in a quern or at a mill, and thereafter infused in kegs of hot water to dissolve out the sugars - this formed the sweetish liquor, 'worts'. Wood or peat was needed for boiling up the water sometimes in the still, minus the head.

The mashing (or masking) keg had a heather sieve for drainage or a false bottom, through which the liquor could be drained off. Once the worts was cool, it was left to ferment, with a cover of bran or chaff to keep the air out. Either natural yeast or sediment in the barrel kept for brewing was sufficient to promote fermentation. Robert Southey was astonished that Inverness had its yeast supplies from the Black Isle

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8. P.P. Report: Distilleries 1799, p. 751.

9. P.P., Fifth Report, p. 211.

smugglers,<sup>10</sup> and in the Gairloch district, chance meetings with private distillers ensured a fresh supply for breadmaking.<sup>11</sup>

Cleanliness at every stage was essential; dirty utensils would spoil the whisky. Sillett believes that most smuggled whisky must have been objectionable due to careless manufacture, caused by undue haste, and imperfect techniques, or defective equipment. The sma' stills had no stirring gear, and hence the wash, as the fermented liquor is termed, must have burned on to the base of the still.<sup>12</sup> Nevertheless, Highland whisky had an immense reputation, and men like Smith of Glenlivet, must have been capable of turning out a sound product. Possibly the Highlanders' view that 'some whisky is good, some is better, but there is none bad', would be a fair assessment of the quality.

A weak wash was favoured, and it was double or triple distilled. Speed was probably related to fear of discovery; where there was no risk, distilling could proceed slowly. Illiterate country folk in Aberdeenshire c. 1800 used ordinary pots and kettles, and a conventional still head and worm, distilled good whisky. A fastidious separation of the distillate into six portions was performed; the runnings were:-

ga or gall, foreshot, middle running, belling whisky, strong feints and weak feints.

The third, and especially the fourth runnings were the outstanding ones.<sup>13</sup>

The whisky was therefore a craft product, based on accumulated experience. Its strength might be assessed by its bead, but evidence from Strathspey<sup>14</sup> and Northumberland indicates the smugglers had and used

10. Southey R., Journal of a Tour in Scotland in 1819, p. 41.

11. Mackenzie, op. cit., p. 215.

12. Sillett, op. cit., pp. 85-7.

13. P.P., Report: Distilleries: 1799, p. 760.

14. Information from Mrs. C.M. Boyle, Nethermilncroft, West Kilbride, a former resident of Fochabers.

thermometers and hydrometers.<sup>15</sup> Hence their technical skill was reinforced by measurement.

The waste from the processes was firstly the draff, which might be fed to cattle as a winter supplement, and secondly, the pot ale or burnt ale left in the still, which when emptied into hill burns turned the water milky, a give-away sign. Smugglers were accused of throwing spent grain out, rather than keeping it for fodder, presumably to get rid of the evidence.

As to maturation, the longer the whisky was retained, the greater the risk of detection; immediate disposal seems to have been the practice, the spirit being fit to drink as it came from the still. It goes 'off colour' after it is put in wood. Smugglers were commonly persons of small capital who were obliged to sell as they made, to generate fresh variable capital.

Colonel Walter Campbell of Skipness described an illicit distillery in production. It may have been located within the grounds of his own estate in Kintyre, and may even have been provided with equipment from Armour's shop.

In a deep valley, at the foot of a small waterfall, there was a small wretched-looking hut, the roof of which consisted of branches of trees covered over with turf, ferns, rushes, and long grass, with a door at the lower end.

On the right hand of entering there was a tall cask, out of which flowed a frothy liquid with a sour yeasty smell into a low broad cask set at the side for the purpose. Opposite these were sundry tubs, barrels, creels and sacks. Beyond these was a copper kettle of substantial proportions, placed on a bed of stones, neatly built, with a space of considerable size, left in the centre for the fire. The kettle was wide below, and closed in at the top, with a large round copper 'helmet', from one side of which branched out a large pipe of the same metal. This pipe disappeared, in spiral curves like a corkscrew, into a cask, into which a small stream of cold water poured from a hollowed tree, which entered at the upper end of the hut, and was so placed as to convey a portion of the burn into the cask

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15. Philipson and Child, *op. cit.*, p. 106.



near the kettle or still.

A clear bright fire of birchwood, which was thought to give a peculiar and very superior taste to the whisky, was burning. Opposite the fire was a turf seat for two people. From the bottom of the cask containing the worm there spouted a small clear stream which fell into a dish.

The Laird was offered a dram:-

The smuggler took a small bag, soaked it in the burn, and wrapped it round the worm close to the still head, and then put a wooden quaich under the clear stream, which was reduced to a few drops, spurting out in quick succession. At the end of five minutes, the quaich was half full. "Now, Sir", he began, "you'll tell me what you think of this. I have pleased many a good judge before now, and I'm thinking you'll no' find fault with that drappy." 16

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16. Campbell of Skipness, W., in his Forest Sketches (1865).

### Transporting Illicit Whisky

Domestic smuggling reached its zenith in Scotland in the early years of the nineteenth century, but after the enactments of 1822-3 became law, the tide began to turn against the illicit distillers. Free or fair trading in foreign goods liable to duty was widespread in Scotland after the Union.<sup>1</sup> Bailie Steuart of Inverness sold Highland gentlemen and Hanoverian officers wines on which no duty had been paid; indeed, John Forbes of Culloden, the Lord Advocate's brother was a customer. The bailie also dealt in 'mountain wine', or whisky, sometimes terming it 'Isle of Skye Champagne'; in August, 1735, he had a request from Edinburgh for a hogshead of illicit whisky.<sup>2</sup> Hence long before the illicit distillation boom, the routes and transport techniques, as well as the distribution systems had been perfected - whether for contraband, or illicit whisky.

Bands of men heavily armed carried and guarded the product of the small stills through the glens in kegs or ankers, laden on the backs of ponies. First hand accounts of the smuggling convoys are rare. Joseph Mitchell, son of Telford's superintendent of Highland roads recorded his meeting with smugglers; he encountered a party one morning as he drove up Glenmoriston. They had:-

twenty five Highland ponies, tied to each other, carrying two kegs of whisky a-piece, and <sup>3</sup> were attended by ten or twelve men armed with bludgeons.

At first, Mitchell was treated with great suspicion, until his identity was disclosed, and he was given a sample of their wares.

A similar description comes from the Glenlivet district:

1. Graham, H.G., Social Life of Scotland, II, p. 261.
2. Mackay, W. (ed.), Letter-Book of John Steuart of Inverness, 1715-1752, S.H.S. (1915), p. 391.
3. Barron, op. cit., I, p. xxxiii: an anker is a cask of 10 gallons content.

We have often seen congregations of daring spirits in bands of from ten to twenty men, with as many horses, with two ankers of whisky on the back of each horse, wending their way, singing in joyous chorus, along the banks of the Aven.<sup>4</sup>

The rivers were frequently too broad and deep to be forded, and the Inverness Courier of 1811 noted that a rowing boat, along with its cargo of smuggled whisky had been lost opposite Ness Castle.<sup>5</sup>

Highland whisky was taken to the coastal towns or Lowland markets by groups too numerous and powerful for any attempt at seizure to be made by a single Exciseman. An astute officer at Braemar succeeded in disposing a large smuggling group of 'twenty Scots ankers of pure Glenlivet' by the ingenious expedient of locating the overnight hiding place for the whisky, which he removed while the smugglers were asleep, and redeposited elsewhere.<sup>6</sup> Consignments were sizeable; another confiscation in 1824 involved five horses laden with upwards of 100 gallons of illicit whisky in the Fort William district.<sup>7</sup> Sometimes, Excise officers could only standby and watch smuggling expeditions make off. As two Excisemen were searching for smuggled whisky in the neighbourhood of Crieff, they disturbed a group of twenty-eight 'Irish' smugglers (probably Highlanders as 'Irish' was commonly used for 'Gaelic speaking') loaded with bladders of illicit spirits, reckoned at five gallons per person, and amounting to 140 gallons or so, 'on their way from the Highlands to Glasgow.'<sup>8</sup> They could not be detained. Fifty 'Irish' emigres were said to organise whisky smuggling into Glasgow.<sup>9</sup>

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4. Glenlivet, The Annals of the Glenlivet Distillery, p. 17.

5. Barron, op. cit., I, p. 42.

6. Barron, op. cit., I, p. 234.

7. Barron, op. cit., I, p. 251.

8. The Glasgow Herald, 28Jan., 1816.

9. P.P., Fifth Report, p. 223.

A well known method of deceiving the gaugers was to convey the illicit whisky in a funeral cortege from Highland areas into adjacent Lowland towns, such as Aberdeen, or Stirling; the same technique was applied in removing whisky from Glenlivet to Dufftown, while local Excise officers viewed the dismal procession at a respectful distance with caps doffed.<sup>10</sup>

Illicit whisky was distributed in bladders as well as in kegs, but it was also transported in special containers. Women played a significant part in its distribution. In 1821, for example, the Supervisor of Excise and a clerk came upon five men and three women conveying small casks into ~~Inverness~~<sup>Inverness</sup> for sale.<sup>11</sup> Whisky was brought into Campbeltown in jars or bladders; women could spread their skirts round casks, or suspend the whisky bladders under their petticoats.<sup>12</sup> If caught, these were well adapted to squirting the raw whisky in the officers' faces.

If seizures of whisky had occurred, the consignments appear to have been broken down into smaller quantities, and more effectively concealed. It was reported in 1824 from Inverness that illicit whisky was 'brought in by women in tin vessels, made to fit their shape, and other small vessels; never by carts or horses.'<sup>13</sup> Furthermore, dumps were formed near the town where volumes were divided into small parcels for ease of handling. The ingenuity of the smugglers suggests a well organised distribution network, and a high profit margin. The activity could also be large scale and brazen, particularly in the years before 1823. A report from Glasgow stated:-

10. Sillett, *op. cit.*, p. 30.

11. Barron, *op. cit.*, I, 29 Nov. 1821, p. 202.

12. Bradley, *op. cit.*, p. 76.

13. Barron, *op. cit.*, I, 19 Feb. 1824, p. 237.

On Friday morning about 9 o'clock, a large band of smugglers, fully loaded, passed into a place called the Rae in Cowcaddens, the bagpipes playing before them.<sup>14</sup>

There was a proposal to link Cowcaddens with the military barracks at the Tolbooth, so that help might be summoned.

The tin containers for whisky may well have been constructed by itinerant 'ceards' or tinkers, who also supplied illegal poteen makers in Ireland. Evidence to the 1822-3 Commission of Inquiry revealed that Donegal women had 'pockets made of tin, exactly the shape of woman's pocket, and a breast; and a half-moon, that goes before them; and with a cloak round them they will walk with six gallons and it shall not be perceived.'<sup>15</sup> One Irish poteen maker had a tin vessel fashioned like a woman, which he could dress up and mount on the pillion of his horse.<sup>16</sup>

Not only did women convey whisky in ways which would be unlikely to be explored by the Excise authorities, but they also participated in affrays with the officials. At Abriachan on Loch Ness-side, women were adept at frightening the horses of Riding officers and in joining in battle as enthusiastically as their men folk.

The carriers of illicit whisky penetrated not only to the Lowlands, but to the Borders and Northern England. Highlanders had outlets for their wares at inns and farms; local people helped to secrete deposits of smuggled whisky, protecting the smugglers against informers.

Trade with England in sm<sup>a</sup> still whisky was mainly due to differences in duty. The people of Berwick-on-Tweed petitioned parliament on

14. The Glasgow Herald, 13 Oct. 1816.

15. P.P., Fifth Report, p. 80.

16. Connell, K.H., Illicit Distillation: An Irish Peasant Industry: Historical Studies, 3, Papers read before the 4th Irish Conference of Historians, (Cork, 1961), p. 68, quoting from Cesar Otway, A Tour in Connaught (Dublin, 1839), pp. 253-5.

the question of smuggling in 1823, complaining that 'ever since the distinction [was] made in the Scottish and English rates of duty upon whiskey, the offence of smuggling has arisen to a most alarming height on the Borders.'<sup>17</sup> The offenders consisted of 'persons in abject poverty, and among them children and very old people, chosen to convey the smuggled spirits in order to evade the levying of any pecuniary penalty', a fact that would endorse the opinion that the trade was carefully planned.

By the 1830s, the differential rates of duty caused prices to be four shillings a gallon dearer in England than in Scotland. There was still a little activity, 'though more cautiously and in a smaller way.' Anglers in unfrequented valleys, 'near the head of Cfoquet or Kail-water in the grey of morning, about a week before Stagshawbank fair, may sometimes observe a man driving a cart, or leading a horse, seemingly loaded with a sack of corn, who by suddenly halting or altering his course ... shows that he is anxious to avoid a meeting.'<sup>18</sup>

Not all the Border smugglers were Scots, and many were by no means frail. Philipson refers to letters of June 1830, recounting the injuries inflicted on three Excisemen by two heavily armed Irish whiskey smugglers near Little Hasle, Northumberland.<sup>19</sup> Meantime, the Supervisor of Excise at Newcastle was able to remark on the big decline in whisky smuggling in his area, but recalled consignments coming across the Border in cartloads, or in ~~four~~ <sup>four</sup> gallon lots on people's backs.<sup>20</sup>

Prior to 1835, the parish of Yetholm in Roxburgh was a focus for the activity, which gave 'employment and subsistence to one-fifth to one-sixth

17. Philipson, J., Whisky Smuggling on the Border in the Early 19th Century, A.A., 4th Series, xxxix, (1961), p. 160.
18. Philipson, op. cit., p. 154
19. Philipson, op. cit., p. 160.
20. P.P., Seventh Report, 1834, p. 315.

of the inhabitants.' From £10,000 to £20,000 worth of smuggled whisky was traded into England from the area, but after 1830, a stricter police force, and heavy fines on malefactors had almost ended the demoralising traffic.<sup>21</sup>

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21. N.S.A., III, Yetholm (1835) p. 172.

### Routes

Before the 1790s, whisky distilled in the Highlands was decanted into adjacent areas; such smuggling had two components, firstly, the output from illegal 'smn' stills, and secondly, the output from licensed pot stills debarred by law from marketing their product south of the Highland line.

A survey of 1799 reported that from Ross-shire to Ardnamurchan, whisky was either made locally or came from 'Ferintosh', possibly a generic term for whisky from the Eastern Highlands. North and South Uist were supplied from Islay, from 'Ferintosh', or from Lowland sources: the Uists were wrongly estimated to lack grain and water. Mull, which was 'not grain country', imported whisky from Tisee, which severely undercut the sole licensed distiller at Tobermory. More whisky was also brought from 'Ferintosh', Islay, and from Ireland. Irish imports caused serious problems of control for the N. and S. Argyll Collections.<sup>1</sup>

Jura received grain from Knapdale (Kintyre was reckoned good grain country and at times exported barley to the islands). The illicit whisky was exported back to Loch Crinan and Loch Gail. Islay was the setting for Campbell of Shawfield's home industry of distilling, it being noted that 'illicit distillation has here given rise to commerce;' whisky was shipped to Argyll, Inverness, Mull, Lewis, Galloway, and to Ireland.<sup>2</sup> There seems therefore to have been two foci for production - one in the N.E. Highlands, and the other in Kintyre and the Inner Hebrides, from both of which the whisky was distributed.

Whisky prepared in bothies in Glenshee was carried via the valley of the Glac Lochan on its way south, the smugglers taking the precaution in the 1820s of avoiding the public highway and travelling by night as

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1. P.P., Report: Distilleries, p. 753.

2. Ibid.



much as possible.<sup>3</sup> Similar groups took their wares over the 'Whisky Road' and Ladder Trail from Glenlivet, and Glenrinnes where over 200 private stills operated, eastwards to the Aberdeen area, or southwards to Perth and Dundee.<sup>4</sup> Several routes converged on Donside at Glenbuchat, which also had its share of distilling 'bothans' located in the headwaters of tributary glens, and across the watershed in Glenochty.

The distillers of Abriachan, Strathconon and Strathglass used Loch Ness-side tracks, while those of the Aird and Black Isle turned either to Inverness consumers, or to the coastal luggers which shipped whisky out of the Moray Firth. Trade was also brisk on its southern shore. Glenrinnes smugglers sold their product in the summer months for preference, when routes were passable, and rent payments not due until the autumn. Accounts speak of thirty horses and carts leaving the glen 'en route for Duckie, Banff and Garmouth, with mixed cargoes of barley, oats, cheese, butter, wood, honey and whisky, although the latter was always carefully concealed.'<sup>5</sup>

Trade in illicit whisky was also channelled towards the Firth of Clyde and the Glasgow region from the West and Central Highlands. MacFarlanes from Loch Lomondside, who had connections with the cattle trade, were linked with distilling and smuggling, being so conveniently close to the Highland Line. Nimmo mentions a 'M'Farlane at Aberfoil' who kept a regular working still, albeit an illicit one, as an adjunct to cattle dealing.<sup>6</sup> Hence 'MacFarlane's Lantern' must have lit both the droving

3. Sillett, op. cit., p. 59.

4. Bremner, op. cit., p. 446, quoting George Smith of Glenlivet in The London Scotsman.

5. Sillett, op. cit., p. 77.

6. Nimmo, W., History of Stirlingshire (3rd ed.), II, p. 165.

of cattle, and convoys of Highland whisky.<sup>7</sup> The MacFarlanes seem to have played a significant role in the relaying of the illicit product.

A MacFarlane is mentioned in the 1799 Report as being a thorn in the flesh of licensed Lowland distillers, because he was exporting on such an extensive scale, and cornering their markets. David Cassils, a distiller in Kippen parish, Stirlingshire, saw that the Highland distillers transgressed the Highland line, supplying outlets around him for miles. Most of their whisky went to Glasgow, and some to Edinburgh. Cassils' men met consignments from licensed distilleries in the Highlands being smuggled to Glasgow; two of his employees encountered two carts loaded with whisky on the Glasgow road; as usual the convoy was guarded by 8 to 10 men armed with pistols and bludgeons. The whisky fetched 1s. per gallon more in Glasgow, where purchasers had 'a prejudice in favour of Highland spirits, and particularly an article that is smuggled'.<sup>8</sup> Cassils did not agree that this partiality was based on superior quality. Meanwhile, to do him out of business, the north line distillers undercut him in his own immediate market, so that he could not make sales. As the illegal traffic grew, the resources of distillers like Cassils were overstrained; his firm became bankrupt in 1826.<sup>9</sup>

It is suggested that cattle dealing and whisky smuggling were complementary and compatible occupations. The drove roads would afford an admirable route system. Cattle dealers had existing contacts in towns like Falkirk, Perth, Stirling, Glasgow and Edinburgh, the major centres of consumption for illicit whisky. Furthermore, much of the finance of the Highlands depended upon the negotiation of bills which could only be met

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7. MacFarlane's Lantern is the moon.

8. P.P., Report: Distilleries, p. 493.

9. S.R.O., RH 15/139: John Cassils, Distiller at Kepp, Sed. Book: 1831-7.

out of the receipts from Falkirk Tryst, held in October.<sup>10</sup> Dealers would then have funds to invest in utensils, and raw materials for distillation during their winter period of inactivity.

Such were the operations of the MacFarlanes and their like in the early nineteenth century in ferrying whisky to Glasgow, that a government cutter was stationed on Loch Lomond with the twofold object of searching boats engaged in contraband traffic down the loch, and of assisting land officers as occasion required.<sup>11</sup>

From the Western Isles and Kintyre, 'Hebrideans crossed ... to Rhunahourine ... thence marching across the hills to Skipness in bands of thirty or forty armed men, whose rough shelties were laden with heavy creels, containing the moonlight produce which was then sent to Glasgow.'<sup>12</sup> There was a brisk traffic across the Kyles of Bute, the ferry house between Bute and the mainland being alleged to harbour a distillery.<sup>13</sup>

Arran had its share of private stills: 'Illicit distillation and smuggling were occupations more congenial to the minds of the natives than the unproductive drudgery of husbandry and labour; and they who, amid darkness and tempest, could successfully steer their skiff, and land their cargoes unchallenged in the little hidden creek on the Ayrshire coast were respected for their intrepidity and daring.'<sup>14</sup>

Around West Kilbride, Highlanders put their cargoes ashore, hiding the casks among the whins, whilst they lay at the backs of the dykes waiting for carts to take them inland.<sup>15</sup> Once on the mainland it was

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10. Mackay, op. cit., p. Lii.            11. Nimmo, op. cit., p. 165.  
 12. Cumming, C.F. Gordon, In the Hebrides (1883), p. 4.  
 13. Auchincloss, R., Ferry to Bute, Scottish Field, Dec. 1963.  
 14. McArthur, J., Antiquities of Arran, (1873), p. 175.  
 15. Lamb, J., Annals of an Ayrshire Parish, (1896), pp. 52-6.

relatively easy to dispose of such whisky, because no Excise permit for the removal of spirits from a distillery was required in the Lowlands.<sup>16</sup>

Greenock was a focus for a fleet of ferries on the Clyde, which 'were quite open for a consideration to embark in illegal as well as legal enterprises .... Malt was run to the haunts of smugglers on the various lochsides, and the liquid product thereof in due season was taken to Greenock, Helensburgh or Dumbarton, for disposal to parties who were in the confederacy.'<sup>17</sup>

The smuggling routes were especially busy when the price of spirits was high, and illicit distilling was much encouraged 'by Mountains, Glens and Caves ... and in the importation of that Article from Ireland.' Enterprising Irish smugglers brought poteen across to sell at 4s. to 6s. a gallon.<sup>18</sup> There were strong ties of common ancestry and language between the Ulster clans and those of the Inner Hebrides, and the traffic was a two-way one.

Excisemen, Revenue crews in their cutters, and Riding officers were employed to police the routes. In 1822, Sir George MacKenzie of Coul pointed out that time was wasted chasing about on hillsides, searching for stills. The practice should be to watch roads and passes leading to the Lowlands, apprehend the smugglers, and destroy the spirits on the spot.<sup>19</sup>

The Skipness men did battle with the Revenue crews, overpowering them on occasion, removing their oars and tackle, and setting them adrift in their own boats.<sup>20</sup> The smugglers were ultimately the losers: a report

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16. Colville, op. cit.: also 28 Geo III, c. 46.

17. MacLeod, D., Garelochsaid & Helensburgh (1883) p. 54.

18. P.P. Report: Distilleries, 1798, p. 41.

19. P.P., Fifth Report, App. 49, p. 133.

20. N.S.A., VII, Saddell, (1843), p. 450.

from 1827 announced:

Owing to the vigilance of Captain Oliver, of the Revenue cutter, "Prince of Wales", and the new Excise officers on shore, smuggling is now so completely put down on the Long Island that there is actually not a drop of illicit whisky to be got from the Butt of Lewis to Barra Head, and there is probably at this moment a large supply of legal whisky on its way from Greenock, for the supply of Stornoway alone, than was ever imported into the whole Hebrides alone. 21

Illicit distillation, as well as the movement of smuggled whisky was therefore curtailed when Revenue cutters were on patrol.<sup>22</sup> The development of road, rail, and steamer transport in the Highlands probably did as much lasting damage to the private distillers as changes in distillery legislation or Excise control. Easier routeways provided faster communications for everyone, ~~S&M~~ the smugglers who thrived in isolated and inaccessible districts. Excise officers, by contrast, benefitted from being able to penetrate swiftly and unexpectedly into remote areas.

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21. Barron, op. cit., II, 14 Nov. 1827, p. 37.

22. Excise Control, vide infra.

## Price and Profit

Wide fluctuations in both price and profit are typical of black market products, and illicit whisky was no exception. It has not been possible to chart the course of prices during the peak years of the activity, but the data available for 1822 has been plotted.

Apart from the scale of operations, the quality and strength of the smuggled whisky were variable; in Kintyre c. 1812, the price, according to Armour's Still Books, ranged from 3s. to 9s. per pint.<sup>1</sup> One may say with certainty that the whisky was cheaper at the stillmouth, than in towns like Glasgow or Edinburgh, where it carried a premium, not only for its distinctiveness, but also due to the costs and hazards of transporting it. Hence in 1822, it at times fetched as much as a guinea a gallon.

Regarding the varied level of operations, David Cassils exposed how substantial some illicit units were:-

In January last, our John Cassils having gone to ... Dochlivia [sic] with a party of 3 Excise officers, and a constable, to endeavour to make a seizure of some of these stills, they were deforced by a numerous mob, after having seized one Still of about one hundred gallons, besides the head and a large copper. In this distillery, there were no less than ten fermenting tuns at work ...' 2

This unit placed so close to the Highland line was obviously run as a commercial venture by persons of some capital; it may have been a licensed works which went 'illegal'. A reference occurs to the capture of an illicit still bigger than a Lowland distiller's spirit still c. 1822; it was declared to have cost less than £6.<sup>3</sup>

About the same time as Cassils was helping to root out illicit stills

1. The Still Books of Robert Armour, vide supra.
2. P.P., Report: Distilleries, 1799, p. 601.
3. P.P., Fifth Report, pp. 223-4.

in his area, Excisemen had been deformed trying to seize a 'smuggling still' from one, David Thomas, near Buchlivie, who, 'for the protection of his illegal work' had two charged muskets and a bulldog. It is significant that Cassils distinguishes between the large type of still, guarded by a mob, and the 'smuggling' type, with its lone, but well armed, distiller.<sup>4</sup> This impression is endorsed by Dr. Jaffrey when he differentiates between 'the poor men', and the Highland distillers who bought the new flatter stills in Glasgow, aping Lowland producers.<sup>5</sup> To the 'poor men' the attractions of going illicit would be strongest, they having least to lose, and most to gain; the small scale operators readily turned a domestic craft into a money spinner.

At least prior to 1821, in Kintyre, illicit distillation was lucrative; numbers of cottagers and day labourers supported large families by the profits of smuggled whisky. A professional but unlicensed distiller could clear 10s. a week after all his expenses were paid,<sup>6</sup> which enabled him to keep a horse and an additional cow. He may not however have costed his effort properly, overlooking his time and labour. His chief outlay would be for grain, commonly home-grown. In Ross-shire the price of barley was driven up by illicit distilling; about 1822-3, 30s. to 32s. per boll was paid by smugglers, whereas legal distilleries sought supplies from Montrose at 18s. to 20s. per boll.<sup>7</sup> Notwithstanding, the licence holders could not sell whisky at a profit for less than 10s. to 11s. per gallon, while smuggled whisky was being delivered to Inverness at 6s. per gallon 12<sup>o</sup> under proof.<sup>8</sup>

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4. P.P., Report: Distilleries, p. 601.

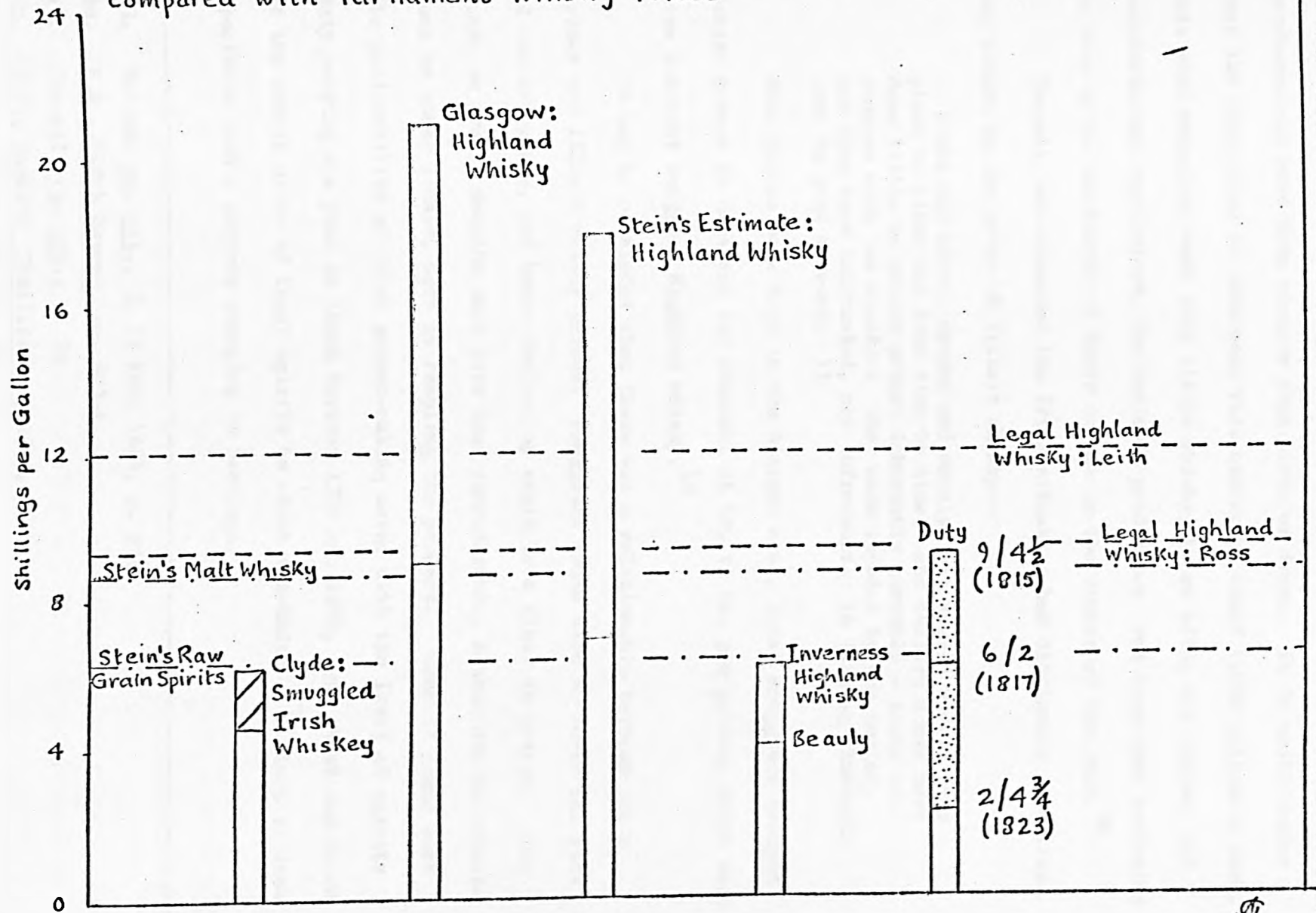
5. P.P., Report: Distilleries, p. 753.

6. N.S.A., VII, Killean and Kilchenzie, (1843), p. 385.

7. E.P., Fifth Report, p. 136

8. P.P., Fifth Report, pp. 15-16.

Prices of Illicit Whisky c. 1822 : Shillings per Gallon:  
 compared with Parliament Whisky Prices





Cut price 'mountain dew' was available at 4s. to 5s. per gallon. Bulk purchases may have been cheaper than pints or drams. It is small wonder that the population of Inverness were consuming about 1,000 gallons a week.<sup>9</sup> Even when smugglers made very little whisky, by evading all duties, and manufacturing regulations, the business paid them; yet they were estimated to lose up to two-thirds of their output in the course of the year.<sup>10</sup>

Connell, who examined the Irish situation had difficulty in following trends in the price of illicit whisky:-

Costs and risks, demand and supply, all varied widely from place to place and from time to time; and dealers could have done little to steady prices inherently unstable - their resources were too slender: they were impeded by the police, and they were interested, not infrequently in turning fluctuations to good account. 11

When prices were high in the Glasgow area, Irish smugglers brought poteen across to Scotland for disposal at 4s. to 6s. per gallon, which must have undercut smuggled Highland whisky.<sup>12</sup>

It may be concluded that there was a relationship between grain prices and illicit whisky prices; smugglers would wish to cover the cost of raw materials, and hence that outlay would be a floor to prices. Inroads on profit margins must have been considerable, either due to detections or other losses, such as sampling the product. Connell found that the profitability of Irish poteen-making moved with the level of spirits duty, varying one year in three between 1790 and 1860, from about one-third of the retail price of legal spirits to about two-thirds.<sup>13</sup> Lack of data precludes such a pattern emerging in Scotland.

9. Barron, op. cit., I, 19 Feb. 1824, p. 236.
10. P.P., Fifth Report, pp. 223-4.
11. Connell, op. cit., p. 70
12. P.P., Report: Distilleries, 1798, p. 41
13. Connell, op. cit., p. 87.

## Suppression

### Lairds versus Tenants:

Landed proprietors in Scotland for long held conflicting opinions about illicit distillation. Many were undoubtedly perplexed by the lawlessness of tenantry, and the demoralising effects of cheap and abundant liquor. They believed that a low duty would remove a raison d'être for illicit distilling, because the higher the duty, the more profitable it was to distil without a license.

Much depended on whether the proprietor of an estate was trying to establish legal distilleries - if they were doing so, then the illegal variety were destroyed wherever possible. On the other hand, some lairds especially those with Jacobite inclinations connived at the unlawful practice. Such men disapproved of oppressive legislation which prevented the Highland tenantry attempting to distil within the law. Regular rent receipts were tied to earnings from selling whisky; illicit distillation was indeed alleged to keep rents up, to absorb grain surpluses, as well as supplying the local demand for malt whisky, both for the gentry and their tenants.<sup>1</sup> At one time, Highland gentlemen had private distilleries of their own; Balmespick whose domestic arrangements are documented for 1769-82 not only malted his barley and brewed beer, but also distilled his own whisky.<sup>2</sup> Mackenzie relates how lairds never imagined smuggling was a crime; his father never drank anything but illicit whisky, and distilled every Sunday to meet the needs of the following week. The view was held that whisky must be available, grain must be consumed, or how were rents to be met?<sup>3</sup> Vested interests thus countenanced the industry. Control by lairds, Justices and the Excise became more erratic the further illicit distilling was transformed

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1. P.P., Fifth Report: Letters from Landed Proprietors and Examinations, pp. 128-224.
  2. Grant, I.F., Everyday Life on an Old Highland Farm, 1769-1782, p. 81.
  3. Mackenzie, op. cit., p. 214.

from a private to a commercial proposition.

For the tenants, distilling was a winter-time pursuit, a domestic industry, like cheese making; it was a craft with money-making possibilities, a means of paying rent, in Highland regions where sources of income for the small farmer or crofter were very restricted, and where both economy and society were in a state of flux. It was moreover the provider of a product which was accounted a better purchase than Parliament whisky.

#### The Argyll Estates:

Landed proprietors in Argyll were said in the 1798-9 Report to promote private distillation, because they wished to ensure the receipt of rents.<sup>4</sup> Accordingly, smugglers learned that they could count upon the protection of partial Justices, who were usually landowners, if they were unfortunate enough to come before the courts.<sup>5</sup> Duncan Stewart, factor to the Duke of Argyll saw how the Justices modified fines to suit the circumstances of people brought before them; otherwise the law would have been unworkable and the prisons over-populated.<sup>6</sup>

There was, however, a determination on the Argyll Estates to suppress illicit distilling. Prior to 1772, the Duke of Argyll had discouraged smuggling on his lands; he was reputed to oblige all his tenants to enter into articles to forfeit five pounds and their still if detected, but the trade was so profitable that the people preferred to take risks.<sup>7</sup>

Until the levying of heavy still licence fees in 1786, farms on the island of Tiree had commonly at least one still each, producing for both local consumption and for export. A volume of 200 to 300 gallons was

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4. P.P., Reports: Distilleries, 1799, p. 656 and p. 674.

5. Smith, op. cit., p. 88

6. P.P., Fifth Report, App. 68, p. 188.

7. Pennant, op. cit., p. 194.

shipped out each year. Rents were largely paid out of the proceeds of these whisky sales; in 1770-1, for instance, Tiree yielded rent to the value of £852 mainly from the sales of grain and whisky.<sup>8</sup> The crushing of the cottage industry of private distilling brought hardship to the islanders as well as embarrassment to the proprietor.<sup>9</sup>

In 1789-90, two legal distilleries were functioning in Tiree which used locally grown grain, plus supplies brought from Appin and the Clyde area, and imported coal. When grain was lacking in 1794, all distilling was stopped, but the tenants continued to make their barley into whisky, drinking the product and trusting in the price of kelp to meet their rents. They were willing to give undue attention to the bere crop; all they could spare of it was distilled, without a penny of Excise duty being raised.<sup>10</sup>

In 1795 the Duke of Argyll sent word to his Chamberlain on Tiree that rent from the island, and from Coll was to be paid in barley, to stop its being distilled; ships were sent to carry it away. Argyll stated, 'I am very anxious to accomplish this object which cannot be attended with much difficulty now that the Crinan Canal is about to be opened for the passage of vessels.'<sup>11</sup> He would then market the grain on the mainland, thus collecting his cash income.

During a grain scarcity on Islay c. 1797, Campbell of Shawfield confiscated the stills, of about 90 gallons content, which he previously induced 'the yeomanry' to work. The distillers found a solution, by summoning Irish tinkers to fabricate cauldrons and boilers as stills, some of which were as

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8. Cregeen, E.R., ed., Argyll Estate Instructions, SHS, 4th Series, I, p. XX.

9. Cregeen, op. cit., p. 16 et seq.

10. Cregeen, op. cit., p. 30.

11. Cregeen, op. cit., pp. 50-3.

big as 100 gallons capacity. Here is another indication that legal enterprises were being converted overnight into illegal ones.<sup>12</sup> Campbell had leased the Excise revenue of the island - an arrangement that was not renewed. As the people could no longer buy their licences for a trifling sum, they 'resolved not to take out licences, but they made no resolution not to distil.'<sup>13</sup> While distilling was in this state the Revenue benefitted not at all.

The Duke of Argyll tried various methods to defeat the Tisce smugglers. In 1800, he again announced his intention of accepting rent payments in kind - barley was to be surrendered to prevent its being made into whisky. This policy did not meet with much success as in the following year, no less than 157 persons were convicted before the Justices of the Peace on charges of illicit distilling.<sup>14</sup> The Duke therefore insisted that the malefactors pay up every farthing of rent which was owing, and determined to evict them if they did not comply. Furthermore, one out of every ten, 'the most idle and worthless', was to be deprived of his possessions, and of the Duke's protection. It was awkward for the Duke's Chamberlain to implement these orders, when a herd to supervise the souming was lacking, and compassion was aroused for motherless children, and war veterans who would thus have suffered; besides, some leases extended into the next year.<sup>15</sup>

In Islay, a meeting of tacksmen convened by Campbell of Shawfield's factor at Bowmore in 1801 agreed that distilling should be put down:

This meeting resolve collectively and Individually to use their utmost exertions for preventing any of the grain of the Island being destroyed by Illegal Distillers, and for that purpose pledge themselves to Inform agt. any person or persons that they may know or hear to be concerned in this Illegal and Distructive Traffick.'<sup>16</sup>

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12. P.P. Report: Distilleries, p. 752.

13. Ibid.

14. Cregeen, op. cit., pp. 50-3.

15. Cregeen, op. cit., p. 54.

16. The Stent Book of Islay, p. 158.

The Tiree distillers were slow to leave the island: Argyll let them secure their crops, and proposed an allowance of 40s. on their removal, but there was a further mitigation.<sup>17</sup> The initial offences had been committed c. 1800-1, but the whisky delinquents were in occupancy in 1803.<sup>18</sup> In the interval other instances of illicit distillation had been discovered, and grain had been secretly shipped to Ireland for processing. The interchange of grain and whisky was not infrequent.<sup>19</sup> There was mounting unrest and opposition to the reorganisation of runrig; the islanders had shown themselves ready to emigrate rather than conform. The Chamberlain reiterated an earlier request that a company of volunteers should be stationed on Tiree to maintain order. Even persons under summons of removal contrived to work off a few bolls before their stills and worms were confiscated.<sup>20</sup>

Some had intended taking ship for America, but the Passenger Vessels Act of 1803, laying down improved conditions for emigrants, had prevented their doing so. The impression is given that the Duke was considering the clearance of Tiree, and resettlement on the mainland. The formation of sheep runs was associated with suppressed areas - clearance for any purpose had the effect of curtailing, or wiping out illicit distilling. In Sutherland, the Loch policy, with its notorious clearances, removed people from the interior of the county, and struck a severe blow at private distilling there.<sup>21</sup> The island of Pabbay, a noted illicit distilling centre, was cleared in order to suppress the activity.<sup>22</sup>

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17. Cregeen, op. cit., p. 61.

18. Cregeen, op. cit., p. 63.

19. N.S.A., VII, Tiree & Coll., (1843), p. 209.

20. Cregeen, op. cit., p. 65.

21. Prebble, J., The Highland Clearances, p. 115.

22. Hoisley, H.A., The Deserted Hebrides, Scottish Studies 10, 1966, p. 55.

When improvements were attempted in Arran about 1814, there was opposition to letting in lots, and to road construction. Robert Brown, factor to the Duke of Hamilton, noted that tenants were more defiant in districts where smuggling was rife.<sup>23</sup> Illicit distilling was limited in the north of Arran, because fishing was of greater consequence there, but elsewhere it was common, and the tenantry like those in Tiree was said to be in touch with the Irish. When improvements were begun, unco-operative ones carried off the road tools, and broke down new houses in course of erection. The Duke of Hamilton threatened to drive smugglers from the island.<sup>24</sup> Wherever illicit distilling had spread, Brown believed it was because it had not been checked from the outset; in his opinion truculent and demoralised tenants damaged estates. They certainly did not pay rents either adequately or promptly in his experience.<sup>25</sup>

The Duke of Argyll had little success in setting up a licensed distillery on Tiree. By building small licensed units which they leased to tenants, lairds hoped to exercise some control over whisky production. No one on the island was willing however to undertake whisky manufacture in a legal way, duties being high, the regulations complex, and the venture reckoned unprofitable. There was always the risk of competition from smugglers.<sup>26</sup> The Chamberlain questioned the wisdom of establishing such a place, 'as it may produce too great facility of procuring spirits, to which the natives are much addicted.'<sup>27</sup>

Colonel MacDonald of Lynedale, Skye, commended the extension of small

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23. P.P., Fifth Report, App. 63, p. 166 et seq.

24. Ibid

25. P.P., Fifth Report, App. 63, p. 167.

26. Cregeen, op. cit., p. 26.

27. Cregeen, op. cit., p. 61.

legal distilleries; he opened one in Skye, but 'vexations and ill judged restrictions' caused him to abandon it in disgust.<sup>28</sup> Likewise, the Duke of Hamilton was 'in treaty with a gentleman in Glasgow' with the purpose of putting a legal distillery on Arran; his factor bought up here when stills had been seized, gave a rent rebate, and exported the grain to Greenock and Glasgow.<sup>29</sup> Aeneas Coffey, as an Excise Inspector, and a colleague, saw the dilemma for the tenantry and for the 'first adventurers.' The custom was for 'several poor persons to unite their little capitals' in the erection of a small works, in which each in turn brewed a back of wash, distilled his whisky, and disposed of the ~~product~~ on his own account, with or without a licence.<sup>30</sup>

Other measures advocated by the lairds included moderate duties, combined with a better standard for legally made spirits, or alternatively, the brewing of good ale. An 1811 review noted that much grain was transferred from Islay to Kintyre there to be distilled, because Campbell of Shawfield, determined to put paid to private distilling on Islay, had erected a brewery, the only one in the Western Isles.<sup>31</sup> Habits were not readily altered; the tenantry preferred strong spirits to ale.<sup>32</sup> Argyll's factor wrote:-

In spite of all that an enlightened landlord can do, illicit distillation will be practised in the Hebrides as long as the present absurd regulations concerning the Scotch distilleries remain in force. 33

The problem of extracting rent from illicit distillers has been touched upon. In Kintyre c. 1820, when intimation was given by factors that rent

28. P.P., Fifth Report, App. 55, p. 134.

29. P.P., Fifth Report, App. 63, p. 177.

30. P.P., Fifth Report, p. 105.

31. MacDonal, op. cit., p. 617

32. MacDonal, op. cit., p. 207.

33. P.P., Fifth Report, App. 68, 168.



would be collected on a specified day, it frequently happened that 'the poor tenants had not converted a particle of the produce of their farms into cash.' They then borrowed from Campbeltown maltsters who advanced money on the promise of receiving the bere which the tenant had to sell: no price was fixed, the tenant having to take what the maltsters agreed among themselves.<sup>34</sup> The situation reflected the changeover from rents in kind to rents in money.

This picture of areas of Argyll is probably typical of Hebridean and West Highland estates; it illustrates the predicament for lairds in suppressing illicit distilling, keeping up rent returns, and ensuring the co-operation of tenants. Argyll's Chamberlain had to maintain a delicate balance between conflicting parties.

#### The Northern Counties:

In the north-eastern counties, private distilling also flourished; there it was held that 'without the Gentlemen of the Counties taking an active part in the suppression of that illegal trade, it will never be prevented', especially as the ever-changing restrictions had put 'legal men out of action', besides stimulating foreign smuggling.<sup>35</sup> Perhaps the gentry had little incentive (other than fear of government disapprobation) to put up the price, and lower the quality of their own purchases.

By 1823, it could be asserted that compared with Ireland the exertions of Scottish proprietors were succeeding in checking illegal stills, 'by their not suffering persons known to be engaged in illicit distillation to continue in the occupation of the land under them.'<sup>36</sup> Religious and social pressure against the practice was growing; values were changing; attitudes

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34. N.S.A., VII, Killean & Kilchenzie (1843) pp. 390-1.

35. P.P., Report: Distilleries, 1798, p. 47.

36. P.P., Fifth Report, p. 18.

to smuggling and poaching were hardening. It was suggested that landowners be obliged to remove persons convicted of such offences, because a degree of responsibility could be attached to the proprietor if he harboured offenders on his property - he must either hope for better conduct in the future, or else be affording deliberate countenance of a breach of the law.<sup>37</sup>

The exactions of the landowners may have set stills to work in some districts. The new pattern of agriculture evolving in Highland Scotland tended to increase rent levels at the expense of the tenants' welfare. Country folk could thus be expected to be predisposed towards illicit distilling precisely because earnings therefrom were less easily assessed by proprietors. Mackenzie of Ardross declared that landowners had a positive interest in not executing the law:-

If a gentleman has an estate in the Highlands worth ... £400 per annum, he may set it to smugglers, if there are mosses on it to supply fire, for the purpose of carrying on illicit distillation at five, six, or seven hundred pounds, whereas if illicit distillation were suppressed, it would immediately fall back to its true value, and he would lose half his income. 38

This opinion was regarded as exaggerated; smugglers were generally 'small Highland farmers', with a sprinkling of 'desperate characters', without the wherewithal to pay grossly inflated rents. A poor tenant with a £5 a year rent might earn £40 to £50 by whisky making, but not hundreds of pounds.<sup>39</sup> Nevertheless, the illicit industry must on occasion have allowed the payment of rents out of proportion to the quality of the land occupied, and the marginal productivity of resources invested in unlawful distilling may have been greater than in sheep farming, or other enterprises. The Fifth Report comments on farms reduced by sublets to mere patches, the excessive population on the land being supported by income from smuggling.<sup>40</sup>

37. Barron, op. cit., I, 19 Feb. 1824, p. 236.

38. P.P., Fifth Report, p. 136

39. P.P., Fifth Report, App. 60, p. 151.

40. P.P., Fifth Report, p. 139.

Gradually, the farming revolution gave additional security to certain tenants; leases replaced annual rents, and enclosure, together with multiple improvements made the risk of forfeiting tenure, not worth incurring. In 1825, in the Inverness region, a laird framing lease conditions on a large estate included this clause:

That any tenant convicted of illegal distillation, or of any offence therewith connected, either by himself or by any person, or persons on his farm, shall thereby forfeit his lease, and subject himself to immediate removal from his farm.<sup>41</sup>

Such people as were evicted may have become the vagrant Highland smugglers who spread illicit distillation into Lanarkshire, Dumfries-shire,<sup>42</sup> the Borders, and even Northumberland.<sup>43</sup>

Stern measures were increasingly employed from 1825 onward; a circular from the Excise office in Inverness stated that to counter a determined group of smugglers who were at large in Glenochty and Donside, resisting Revenue authority the Earls of Aboyne and Fife, Sir Alexander Leith, and other proprietors, had issued orders to their agents, bailiffs and ground officers to give every assistance to <sup>Excise</sup> officers. Smuggling utensils were to be destroyed, distilling bothies burned, and any tenant concerned in illicit distilling was to be dismissed, while itinerant smugglers were to be prohibited from cutting stocks of peat. Such steps were commended by the Supervisor of Excise to other estate owners.<sup>44</sup>

Approval for such methods occurs in a letter to Mackenzie of Seaforth from the Supervisor at Dingwall. He informed the laird:-

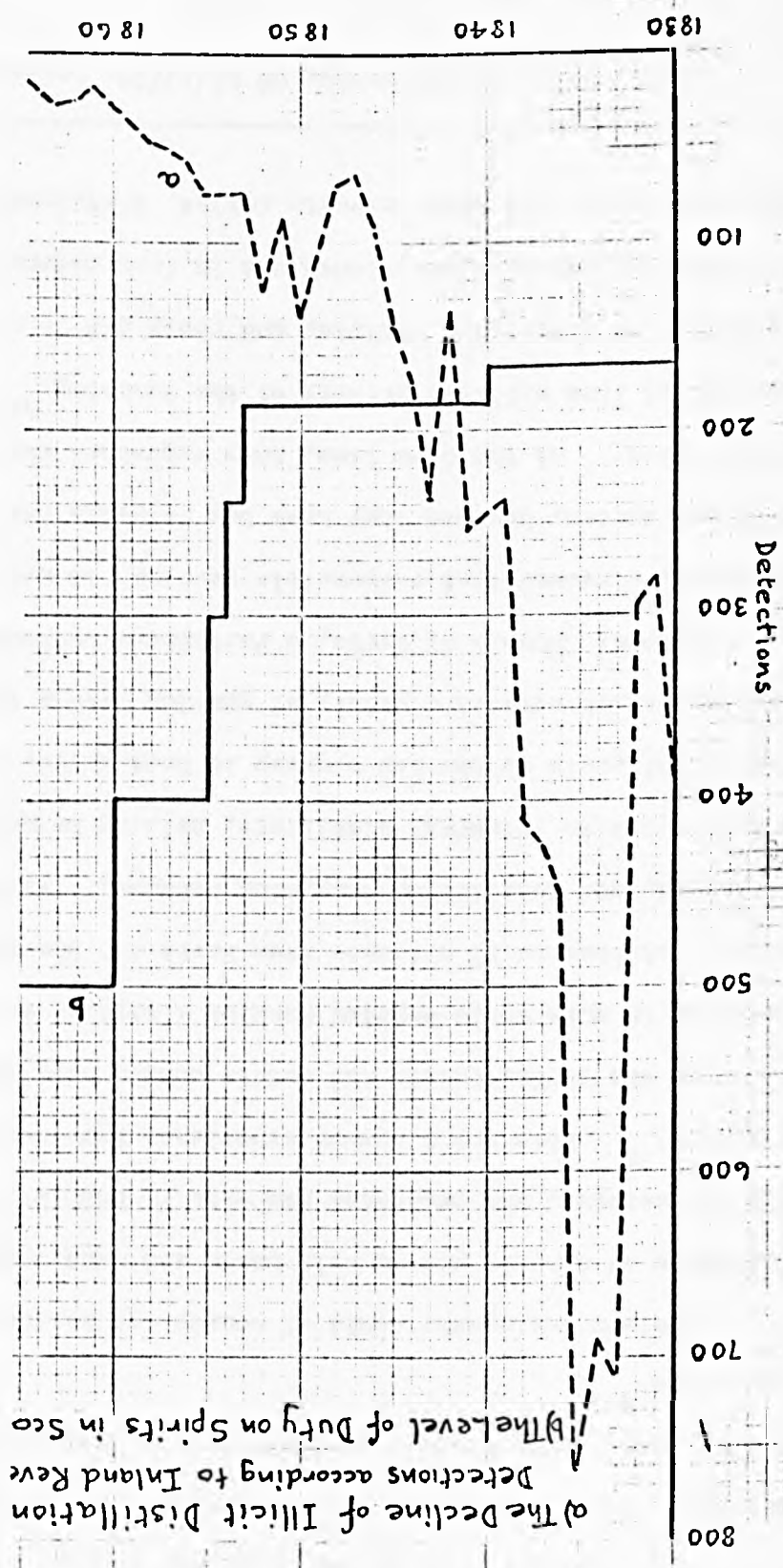
The same day in the wood at Brahan ... we destroyed another Distillery, with 2 tuns and 50 gallons wash, and altho' it was not discovered, I understand that the week before there were [sic]

41. Barron, *op. cit.*, II, 31 March 1825, p. 6.

42. P.P., *Fifth Report*, App. 63, p. 170.

43. Philipson and Child, *op. cit.*, p. 99.

44. Barron, *op. cit.*, II, 17 May, 1826, p. 19.



a) The Decline of Illicit Distillation  
 Detections according to Inland Revenue  
 b) The level of Duty on Spirits in Scotland

a Private Distillery in the immediate vicinity of Brahan Castle. There were also last year discovered two private distilleries, both in the woods of Brahan.

He added, 'we have not been able to discover any of the proprietors', hinting that if the laird's servants exerted themselves operations would soon cease.<sup>45</sup>

Factors and agents could of course let lairds down. Wilson in his inspection of schools met 'a well known and much respected factor on a Highland estate', who presented him with 'a bottle of smuggled whisky, clear as water.'<sup>46</sup> This was a common experience for trusted visitors.

By the 1830s, lairds and estate owners were supporting the Excise personnel in more whole-hearted fashion - calling out the volunteers, sending for detachments of soldiers from Perth and Braemar, turning smugglers off their land, and demolishing smuggling bothans. Farmers were known to sublet such premises to itinerant distillers, helping to secure barley for them. They bought grain in the low country in Ross-shire, taking it to their upland holdings, which consisted mainly of grazing with a little arable.<sup>47</sup>

General Stuart of Garth, a Perthshire landowner, in reviewing the situation, stressed that responsible persons did not want low duties or a lax legal system, because they knew how damaging the consequences of cheap alcohol were. At the same time, they regretted that duties pre-1823 had been out of line with the poverty of the tenantry,<sup>48</sup> but agricultural production had to have local outlets, and rents had to be safeguarded. Lairds like the Mackintosh of Mackintosh did in fact reduce rents in the post-1815 depression, and when harvests failed, distributed meal at cost price.<sup>49</sup>

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45. S.R.O., Seaforth Muniments, GD 46/17/79, Letter: D. McLaurin to J.A. Stewart Mackenzie, Feb. 1829.

46. Wilson, *op. cit.*, p. 63

47. P.P., *Fifth Report*, App. 60, p. 150.

48. Stuart of Garth, D., *op. cit.*, p. 469.

Rents were also cut on the Strathapey estates.

Lord Teignmouth, touring Scotland in 1836, was interested in the argument that illicit distilling had produced satisfactory rents - to him this was derived from 'an earlier state of things before roads were made, and when ... the landlords could not send produce of their lands, in a bulky shape, to market.' Improved transport and the erection of new licensed distilleries, had wrought benefits 'in an economical and far less pernicious way', than those imputed to the old illegal system.<sup>50</sup>

Thirty years later, the Revenue officials were lauding the example of the Scottish landowners to the Irish ones, because the Scots did not suffer persons known to be engaged in illicit distillation to remain in occupation of the land. Eviction, in addition to prosecutions, was the final sanction.<sup>51</sup> Lairds had also become enthusiastic in the cause of Temperance and Total Abstinence. The successor to Mackenzie of Seaforth at Stornoway, Sir James Matheson was a supporter of these movements,<sup>52</sup> while at Alligin in Wester Ross, during a school inspection, pupils who blushed scarlet when the topic of smuggling cropped up were sure to be noticed by the laird of Torridon, who never scrupled to evict a tenant found guilty of smuggling.<sup>53</sup>

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50. Teignmouth, Lord, Sketches of the Coasts and Islands of Scotland, (1836), p. 379.
51. P.P. Fourteenth Report of the Commissioners of Inland Revenue (1870), p. 28.
52. Case Studies, vide infra.
53. Wilson, op. cit., p. 67.

## Excise Control

The curtailment of private distilling in the Highlands turned smuggling into a rather commendable occupation; the illicit distillers interpreted the imposition of duties and restrictions as arbitrary interference. MacDonald, in his Smuggling in the Highlands points out what whisky was distilled from the produce of the people's own lands. Tenants were often ignorant of the necessity for a national exchequer, and the need for a tax on spirits. They drew a sharp distinction between 'offences created by English statute and violation of the laws of God'. They felt quite justified in converting barley or bere from their own holdings into a commodity which would pay the rent.<sup>1</sup>

Excise officials and Revenue personnel held a strategic position in the suppression of private distillation. Their occupation was uninteresting and ill paid. The Exciseman was usually a stranger, sometimes a Lowlander, quite helpless until he had gained a working knowledge of the countryside. He was closely watched; his movements were broadcast in good time and a whole community would unite to baffle him, or 'jink the gauger', concealing or obliterating the evidence he wanted.<sup>2</sup> Galt remarks that the Exciseman was accepted by the community <sup>on the basis</sup> that he could be dodged.<sup>3</sup> The outwitting of the gauger finds expression in Robert Burns's song, 'The Deil's awa' wi' the Exciseman.' Gaugers were exposed to blackmail and bribery; the office might fall into unreliable hands - a retired gauger was said to be rich enough to buy a street of houses in a southern town, having participated in a protection racket.<sup>4</sup> Officers were even described as 'drunken obsequious drones.'<sup>5</sup>

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1. MacDonald, Ian, Smuggling in the Highlands, p. 72
  2. Colville, op. cit.
  3. Galt, J., Annals of a Parish, (Everyman Library), pp. 72-5.
  4. Mackenzie, op. cit., p. 214. See also P.P., Report: Distilleries, p. 455.
  5. P.P., Fifth Report, p. 139.

The Supervisor at Stirling c. 1800, Samuel Milligan, stated that the Exciseman was:-

obnoxious to the old, and a terror to the young, none would satisfy his enquiries, and few were willing to render him service even for payment.<sup>6</sup>

The Board of Excise in Scotland was created in 1707, but during the eighteenth century, the officials made little attempt to control illegal distilling in the Highlands, perhaps because they were deficient in manpower and finance.<sup>7</sup> Detections are an inadequate guide to the extent of smuggling, and the efficacy of Excise surveys. In 1778, a single Revenue officer was thought adequate to cover an extensive region north of Dunkeld in the Grampians, but by 1825 preventive work kept eleven resident officers, riding officers and supernumeraries at full stretch.<sup>8</sup>

John Mackenzie of Inverewe observed that Excisemen tended to be based on 'central stations', and that they seemed to remain in the same locality; the rumour was that 'they and the regular smugglers of liquor were bosom friends', and that they turned a blind eye to illegal traffic for a black-mail pension from the smugglers.<sup>9</sup> Excise officers paraded seizures of whisky in the newspapers to impress the public with their vigilance - wags hinted that the anker was planted in the gauger's peat stack, thus saving him the trouble of searching for it.<sup>10</sup> Mackenzie shows that there was a tolerance of the Exciseman's duties, recalling that in his youth, few in the parish were more popular than the resident gauger.

Gradually, a change occurred: the 1798-9 report described how the

6. Rogers, C., Social Life in Scotland (1886), Vol. 3, Supplement, p. 380, quoted in Sillett, op. cit., p. 66.
7. Legislative Change and the Distilling industry in Scotland, vide supra.
8. Sillett, op. cit., p. 25.
9. Mackenzie, op. cit., p. 212.
10. Ibid.



country folk were 'disorderly, and tumultuous,' so that no Exciseman could perform his duties among them without being, 'obstructed, insulted and beat'.<sup>11</sup> Nevertheless, Logie and Coffey confessed that the Excise officers were applying very little exertion to check illicit distilling.<sup>12</sup> Much of their work was in controlling coastal traffic in contraband, but they became more involved in suppressing whisky smuggling - an equally hazardous task. To do this, personnel had to be augmented, and military support was demanded. In 1816, a party of Excisemen, with a detachment of the 42nd Highlanders was sent to investigate a smuggling convoy which had entered Cowcaddens, Glasgow; after a 'very strict search' they only found two gallons of whisky.

After the smugglers had safely deposited their contraband stores they began to dance on the success of their excursion and before the Excisemen arrived, they had left the place on another expedition, the bagpipes playing before them, the favourite air, "Highland Whisky O".<sup>13</sup>

The smugglers had arrived in Cowcaddens at 9 a.m., and the Excise did not trouble to appear until 1 p.m., which indicates latitude for the free trade. Hence the demand for expeditions intervention by opponents of smuggling. A specific order had to be signed before the military could be called out - the smugglers had ample time to disappear. The Army disliked the task, and also that of still hunting.

More illicit whisky is said to have passed at Castletown of Braemar in the 1820s than at any other place in Scotland. Excise officers were reluctant to go near such an area without additional support.<sup>14</sup> Subsequently, a party of the 74th Regiment from Perth was sent to Braemar, and another of the 25th Regiment from Aberdeen to Corgarff Castle on the Lecht Road to

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11. P.P., Reports: Distilleries. 1799, p. 788.

12. P.P., Fifth Report, p. 106.

13. The Glasgow Herald, 13 October, 1816.

14. Sillett, op. cit., p. 53.

assist in suppressing smuggling in the Tomintoul district.<sup>15</sup> The Collector of Excise at Elgin hinted to the Board of Excise that a troop of cavalry, rather than infantry was what was required in his area.<sup>16</sup>

In the interval the Illicit Distillation (Scotland) Act of 1822 had become law; it laid down severe penalties for every type of offence associated with illicit distilling. Fines of £200 were to be imposed whenever persons were found in possession of unmarked stills, whether they were being used or not. Working a still without a licence, or in unlicensed premises was liable to a fine of £100; the same penalty was enforceable where more than 20 gallons of wash, or any volume of low wines, or feints, were held by persons other than licensed distillers, brewers or vinegar makers. Whenever private distilling was practised in premises with the owner's knowledge fines ranging from £20 to £100 might be imposed, with the alternative of six to twelve months imprisonment. Aiding and abetting at an illicit distillery carried a £30 fine (or six months) for a first offence, and £60 (or twelve months) thereafter. What immensely strengthened the authority of the Excise officers was the fact that they could now search for, seize and destroy, private stills, materials and whisky, irrespective of whether they had a justice's warrant for the purpose. The Act of 1822 also provided for the payment of rewards for the detection or prevention of illicit distillation.<sup>17</sup>

The operations of the Excise authorities were stepped up. In 1793 there were fourteen collections in Scotland, but between 1799 and 1832, the staffs in certain of the collections were greatly enlarged (e.g. in Stirling, Elgin and Aberdeen) not only by appointing more collectors and supervisors,

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15. Barron, *op. cit.*, I, 25 July, 1827, p. 34.

16. Sillett, *op. cit.*, p. 65.

17. The Illicit Distillation (Scotland) Act, 1822.

Officers and other officials, Scottish Excise Collections  
1793 - 1832.

	Supervisors etc.					Officers				
	1793	1812	1818	1823	1832	1793	1812	1818	1823	1832
Edinburgh	12	8	5	-	9	39	-	40	-	37
Aberdeen	5	5	6	6	7	35	42	44	44	44
Ayr	6	4	4	6	6	40	34	32	48	38
Argyll N.	1			5	6	8			24	23
S.	1	7	7	5	7	7	43	40	22	38
Caithness	1	1	1	1	5	9	10	11	10	18
Dumfries	3	4	4	4	6	25	20	20	19	25
Elgin		5	5	5	7		33	33	30	36
Fife	5	5	5	4	5	40	41	35	30	27
Glasgow	6	7	7	7	11	43	63	66	60	94
Greenock		3	3	4	3		21	12	18	21
Haddington	5	5	6	5	6	31	33	50	40	49
Inverness	4	5	5	5	6	34	32	31	30	27
Leith		3	2	4	3		20	7	18	20
Linlithgow	4	4	4	4	6	38	29	24	24	29
Montrose		5	5	5	6		35	36	33	27
Orkney		1	1	1	1		7	7	7	7
Paisley		4	5	-	4		33	33	-	33
Perth	6	5	5	6	7	43	35	33	35	31
Stirling		5	5	5	7		38	30	30	51
Teviotdale	3	3	3	3	-	18	14	14	13	-
Zetland		1	1	1	1		3	4	4	3

Source: The Edinburgh Almanack: 1793 - 1832.

but also by adding 'supernumeraries, assistants, expectants and permit writers.'<sup>18</sup> Revenue men were brought in to help, and Riding officers deployed. Thereupon, 'all peace and comfort in smuggling was at an end;' the men were 'a squad of horrid coastguard sailors with long, iron-pointed walking sticks for poking about wherever earth seemed to have been lately disturbed ... rascals who ransacked every unenclosed bit of country within their limits each month; accordingly, the gauger soon began to be the most detested of men.'<sup>19</sup> Small children were nervous of seeing Excise parties on patrol with their cutlasses and pistols at their sides.<sup>20</sup>

As the level of penalties rose, smugglers had more to lose by being caught, and became more obdurate in resisting capture. Between 1823 and 1833 the climax of the contest was reached; for instance in 1830, during an intensive search for illegal maltings, Excisemen encountered robust opposition in the Dingwall district, being fired upon because they had destroyed a quantity of malt. One of the men had two slug shots fired through his hat. The Excise, being ignorant of the strength of the opposition, judged it best to pursue their journey without attempting to seize their assailants.<sup>21</sup> Even when Revenue men were present resistance was stubborn, as in Strathglass, where in 1827, parties had to retreat, being warned that if they did not withdraw, worse would happen to them. Nothing daunted the officer led his men forward next morning: 'About two miles beyond the public-house, a smart fire commenced from the upper grounds, and on arriving in a narrow pass of the road, further progress was opposed by about twenty men armed with muskets and arrayed with in gunshot.'

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18. The Edinburgh Almanack: 1793-1832.

19. Mackenzie, op. cit., p. 214.

20. Colville, op. cit.

21. Barron Op. cit., II, 17 Feb. 1830, p. 77.

As the Revenue men were armed only with pistols and cutlasses, they had no alternative but to retire before 'the determined purpose of slaughter shown by the smugglers.'<sup>22</sup> They could not make detections in such an area until powerfully reinforced and sufficiently armed. But the smugglers were sometimes the losers, as in March 1824 when the crews of two cutters captured 100 English gallons of whisky and five horses near Kessock on the Dornoch Firth. The whisky was put up for auction at Inverness, the ponies being sold at 6s. each.<sup>23</sup> One laird urged that commando raids by 40 to 50 men could root out illicit distilling.<sup>24</sup>

The Revenue vessels employed in Scottish waters from 1793 numbered four 'Excise Yachts', having a crew of 40 to 60 men, and an armament of 18 to 20 guns. There were also cutters and boats at various stations. The war-time growth in privateering resulted in additional vessels being introduced. By 1812, there were eight armed vessels, although some of the original ships had had a reduction in both crew and armament. Contraband began to decline and by 1829, it could be said that:-

A circumstance, happily now of rare occurrence took place on the 25th ult. A large smuggling lugger was captured in Loch Snizort, Isle of Skye, with eleven men, and a valuable cargo of gin, tea, tobacco, and snuff on board. The seizure was not made till after a long chase, and several guns were fired.<sup>25</sup>

About 1830, only two ships were so engaged - the Atlanta and the Chichester, supported by preventive boats.<sup>26</sup> The Atlanta was the larger, with a crew of 40, a captain, two mates, and 10 guns. The Chichester carried a crew of 31 and had six guns. There was a boat at Dornie on

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22. Barron, op. cit., II, 18 April, 1827, p. 30.  
 23. Barron, op. cit., I, 4 March, 1824, p. 237.  
 24. P.P., Fifth Report, App. 49, p. 133.  
 25. Barron, op. cit., II, 7 Oct, 1829, p. 71  
 26. The Edinburgh Almanack, (1830), pp. 273-5.

Loch Duich, Kintail, crewed by 11 men. For a period, there was one on Loch Lomond; illicit distillers on the islands had an unpleasant experience one Sunday in 1816, when the revenue cutter, Princess of Wales, plus the boat from Luss, put men ashore to destroy illegal distilleries.<sup>27</sup> Such vessels gave the authorities mobility, and brought an element of surprise to their forays. Whenever a revenue ship moved, whisky smugglers put its absence to good use. In 1833 for example, on the withdrawal of a cutter from the Inverness vicinity, illicit distilling revived; it was also stimulated by the low price of barley, the fiars' prices being some 20 per cent below those of the previous year.<sup>28</sup> The same happened in 1834; when the cutter returned, 'they made many seizures and detections of utensils, malt and distillery operations in the neighbourhood of Strathglass.'<sup>29</sup>

It was thus recommended that Revenue ships be permanently placed - one at Oban and one in the Beaully Firth to support Excise forays; the cutters could moreover be switched from one seaboard to the other via the Caledonian Canal.<sup>30</sup> Several smuggling districts opened off the Great Glen. Sillett recounts how the Revenue cutter Success after sailing through the canal, anchored near Kessock: no smugglers dared appear; the ships sailed to Fort George, sending off boats to put men ashore on the Black Isle, and they soon captured horses loaded with whisky.<sup>31</sup> The struggle continued: in 1835, four men and an officer from the Atlanta were attacked in Strathglass, by smugglers numbering about fourteen. The Revenue personnel were driven back so violently one of them being 'so severely cut and bruised about the head that it was found necessary to convey him to Inverness in a cart for surgical aid.'<sup>32</sup>

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27. The Glasgow Herald, 12 Nov. 1816.

28. Barron, op. cit., II, 20 March, 1833, p. 127.

29. P.P., Seventh Report, pp. 60-1.

30. Ibid.

31. Sillett, op. cit., p. 65.

32. Barron, op. cit., II, 16 Dec. 1835, p. 177.

The Strathglass distillers had a long history of terrorising Excise-men; their system of mutual protection covered an extensive illegal industry. Informers against the smugglers were beaten up; Sheriff's officers were reluctant to serve summonses upon illicit distillers. The approach of the Excise was heralded with bonfires, shots being fired, and other signals, and the officers had to move in pairs for protection.<sup>33</sup> Gaugers were misled by false information, and confounded by names and language difficulties. Sir George MacPherson Grant observed that the problem was becoming as serious as that in Ireland, with officers being deformed, and indictments of murder against smugglers.<sup>34</sup> Hence for first offences fines of £100 should be exacted, or at a lower level with hard labour; the offenders should be put on hulks to relieve the overcrowded prisons - 'terrify the Highlands by putting one at Cromarty'.<sup>35</sup>

Accounts tend to stress the vigour and resource of the smugglers, defying authority, in contrast to the apathy and incompetence of the Excise and Revenue men. Sillett believes that without the efforts of the Riding officers the situation would have been impossible. It was they who supplied a steady stream of wrongdoers for the attention of the Justices.<sup>36</sup> Yet for all their zeal, the Riding officers could not afford to bring illicit distilling to an end. The Excise men regarded the smugglers' 'presents' as part of their income: the Riding officers found earnings inadequate without regular rewards for seizures. Robert Brown, Hamilton's Factor averred that officers on Arran were so lax that he had to send his own men out to seize stills 'to a very great number' in the course of a day. The Factor's

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33. P.P., Fifth Report, p. 139.

34. P.P., Fifth Report, p. 128.

35. P.P., Fifth Report, p. 138.

36. Sillett, op. cit., p. 49.

party gathered in thirty stills or more, but the Excisemen only found six - indeed, they did not seem anxious to effect seizures.<sup>37</sup> The bonus system c. 1850 for the capture of a still, head, worm and vessels with pot ale or worts was £3 5s. 0d.; while any malted barley destroyed earned 7d. a bushel. The officer in charge received one-third, and the men two-thirds in equal shares.<sup>38</sup> After seizing utensils and collecting a reward, an officer's interest lay in allowing smugglers to make good their losses; they were alleged to damage equipment rather than destroy it.

Logie and Coffey, Inspectors of Excise spoke of the collusion between private distillers and inferior officers, who rotated their patrols among them, and then left well alone.<sup>39</sup> But such officers also complained of lack of support from their collectors. It was alleged that the Collector of Excise at Inverness had an interest in smuggling, and there was pressure for his replacement.<sup>40</sup> In Lewis, an agreement was reached whereby an Exciseman based on Stornoway allowed ten gallon ankers of whisky to pass through, on payment of 15s. by the smugglers - a rate of 1s. 6d. per gallon. His income was estimated to average £230 a year, which was more than double his salary.<sup>41</sup> The improved recruitment of personnel was demanded - energetic persons of 'a more respectable description' should be chose~~d~~. The Supervisor at Tain and his staff did not exert themselves to stop boatmen ferrying cargoes of barley and illicit whisky.<sup>42</sup>

The Excise and Revenue personnel were faced with a huge task, which can be judged from the 3,061 detections reported from the Elgin Collection

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37. P.P., Fifth Report, p. 166.

38. P.P., Seventh Report, App. 73, p. 239.

39. P.P., Fifth Report, p. 108.

40. P.P., Fifth Report, App. 57, p. 136.

41. Sillett, op. cit., p. 44.

42. P.P., Fifth Report, p. 151.



in 1823-4, which may be compared with the 1,217 detections in the period 1810-21 in the Clatt ride, an average of 110 a year.<sup>43</sup>

The report of the Trial of Malcolm Gillespie and George Skene Edward for Forgery in 1827 demonstrates the violence inherent in the occupation, and the temptations to which an Exciseman was exposed in N.E. Scotland at that time.

Gillespie entered the service in 1799 when he was twenty, being appointed an 'Expectant' at the salt works at Prestonpans, then transferring to Aberdeen in 1801.<sup>44</sup> He was engaged in suppressing contraband on the Buchan coast, then moving to Stonehaven, where he had conflicts with whisky smugglers. He remained there until 1812.

One of these episodes led to a case in the Court of Exchequer. Gillespie met with a horse and cart loaded with illicit whisky, being escorted by 'a notoriously desperate character by the name of Grant', with his two 'equally vicious' sons. Gillespie managed to make a seizure of the casks, which he transported to Stonehaven, despite Grants claim that they belonged to a local Justice of the Peace. It was this same Justice who appeared on the Bench when Grant was tried; he 'condemned the spirits, but restored the horse and cart to the accused, and found the Excise liable in expenses.' With only one Justice present the Court was not properly constituted, and Gillespie's protests resulted in the Board of Excise taking up the case, serving a citation on Grant.<sup>45</sup>

43. Sillett, op. cit., p. 65.

44. A Report of the Trial of Malcolm Gillespie: (Aberdeen, 1827), p. 6.

[A note on the flyleaf in the copy in Aberdeen Public Library states that Gillespie obtained his position through the Duke of Gordon, having been one of his mother's recruiting sergeants when she was raising the 92nd Highlanders. Gillespie is said to have written his autobiography, and it was very different from this work. The anonymous writer saw Gillespie about 1818, when the gauger visited a farm, whose tenant did not smuggle but may have sold or malted barley for the smugglers.]<sup>7</sup>

45. Report of Trial, op. cit., pp. 14-5.

Following a protracted hearing in the Court of Exchequer, where Gillespie conducted the case for the Revenue authorities in person, fines amounting to £150 were imposed on Grant, and the J.P. was severely reprimanded. The Lord Advocate was moved to circularise all J.P.s in Kincardine demanding that they should attend to their duty in future.

Gillespie next joined the Skene Ride, which comprised a wide region between the rivers Dee and Don, through which the bulk of the illicit whisky was smuggled to Aberdeen. By this time he had achieved some notoriety for his successes. On occasion, the Board of Excise supported his endeavours by offering a reward of 20 guineas for the arrest of offenders. Nearly always the smugglers were in parties of four to ten men, with horses transporting the whisky in carts or panniers. The loads impounded ranged from 80 to 200 gallons; the groups were generally well armed, with bludgeons, firearms and heavy stones. The type of sentences laid on the wrongdoers varied from 9 to 12 months imprisonment to transportation, or being outlawed; the contraband, horses and carts were sold.

The height of Gillespie's adventures was in the years 1814 to 1827. As well as detecting smuggling, he was also obliged to search for illicit stills in the Skene area, but he seldom met with any resistance when confiscating these. It was probably not worth while fighting to save apparatus - it was simply made, and was easily replaced. Only the finished product, particularly in transit under protection, seems to have been worth defending. On one occasion, military aid had to be called upon to effect the capture of a still of fifty gallons 'so constructed that a person even of no ordinary penetration could scarcely be able to find it out, although within a few yards'. The Kincardine Volunteers assisted the Excise, who destroyed 300 gallons of wash and low wines.<sup>46</sup>

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46. Report of Trial, op. cit., p. 20.

The account of Gillespie's struggles suggests that as the suppression of illicit distillation intensified from 1823 onwards so did the smuggling operations become bolder and more determined. Instead of handfuls of men with four or five horses, Gillespie and his assistants intercepted gangs of between 25 and 35 men with ten carts. Near Inverurie in January, 1824, the Excise forces caught all ten carts, fourteen horses and 410 gallons of whisky. Gillespie compared the fight to the battle of Waterloo. The Excisemen were severely wounded.<sup>47</sup>

It has been already stressed that the payment by results scheme in the Excise service led to abuse. General Stuart of Garth stated:

Thus the illegal traffic continued for many years with unabated activity and eagerness, to the great emolument of those concerned, and especially of the Excise officers, from their share of the fines; so that the more they suppressed smuggling, the less was their income - rather a trying situation for men to be placed in. 48

The expenses of making seizures were taken from the Exciseman's share; a moiety went to the Crown. Gillespie had assistants to pay, including their board and lodging, from his own pocket. Money had also to be paid for information. Officers might be left with insufficient funds to defray expenses.<sup>49</sup> Gillespie estimated that his work cost him £1 per anker of whisky captured, 'besides such more unavoidable expenses and outlay.' Through paying out money to get information, he was forced into debt, and the temptation to forge Treasury Bills overtook him - a sad commentary indeed upon the conditions under which Excisemen laboured. He was sentenced to death in November, 1827.

There seem to have been two roads open to Excise personnel - to enter agreements with smugglers on a live-and-let-live basis to the mutual

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47. Report of Trial, op. cit., p. 35.

48. Stuart of Garth, op. cit., p. 365.

49. Sillett, op. cit., p. 40.

enrichment of both, or like Malcolm Gillespie to pay dearly for determined service. The volume of his seizures is remarkable - 14,000 gallons of foreign spirits, 6,533 gallons of whisky, 407 stills, and 62,400 gallons of wash; 165 horses and 85 carts were apprehended during his twenty eight years of service.

Concerted efforts by landowners, the Excise, and the Courts were successful in time. The Collector for the Perth District reviewing his career remarked -

I had a great deal of practice in suppressing illicit distillation and private malting. I recollect perfectly well ... there were 150 or 160 detections to prosecute once a quarter in this Collection, and now they seldom exceed five or six. It is astonishing the difference that has taken place about Aberfeldie and Loch Tayside. 50

The falling trend in detections for illicit distilling throughout the Highlands confirms this observation: the figures for 1823 were about 14,000, and by 1834, only 692.<sup>51</sup>

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50. P.P., Seventh Report, App. 104, p. 52.

51. Barron, op. cit., I, p. XXXIV.

## The Role of the Justices of the Peace

Persons who held the office of Justice of the Peace played a significant role in the control of illicit distillation in Scotland. In the 1798 Report the immense extent of private distilling in the Inverness Collection was ascribed to the insufficient numbers of licences being granted by J.P.s for legal distilleries in the Northern Counties - the few licensed units were incapable of meeting the local demand for whisky, let alone adjacent regions which might have few licensed stills. Secondly the lenient treatment of offenders against the Excise laws was blamed on the inactivity of the Justices. They did not bring a disinterested and unprejudiced mind to bear on the situation, using their influence to protect their own and their neighbours' tenants.<sup>1</sup>

Robert Murray, a licensed distiller near Tain in writing to the Commissioner of Excise, recommended that the J.P. fines should be more realistic - fines of £20 instead of £400 as a maximum; thereby the J.P.s would have less reason to commute fines to 10s. Those that could not pay should either be imprisoned for 6 months, or sent to the Army or Navy. Each breach of the Excise laws should be tried 3 months after detection. Murray stated that J.P.s were accustomed to sell indifferent grain to the illicit distillers at 20s. to 24s. per boll, although it could be imported from the Lowlands for less. Perhaps he was suggesting that the J.P.s received a bonus for their protection.<sup>2</sup> One proposal advanced was the appointment of 'couraging officers', who would be rewarded with a small premium for every still they seized. In 1798 at the annual Excise Court at Dingwall, Ross-shire, 500 private distillers were charged with various offences.<sup>3</sup>

The Justices knew well that if tenants paid fines, they might have

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1. P.P., Report: Distilleries, p. 35.
  2. P.P., Report: Distilleries, p. 682.
  3. Ibid.

nothing left to pay rents. Some illicit distillers complained that they could not find funds, because their 'poit dubh' had been removed.<sup>4</sup> If fines were not paid, the illicit distiller went to prison, as they and smugglers who were caught were not criminals but debtors to the revenue - they could stay in prison in relative comfort being allowed 6d. a day maintenance.<sup>5</sup> Meanwhile his family might starve or be driven to more defiant conduct. A wife was an indispensable business partner, required to keep production going while the head of the firm was in jail.<sup>6</sup> From Inverness in 1828, it was reported that two men had been convicted for smuggling and imprisoned for non-payment of fines, but their wives had in the interval committed the same offence.<sup>7</sup> If discretionary powers were not to be allowed to operate, J.P.s felt inclined to stay at home, and take no part in ruining their tenantry, and thus themselves; hence they could not be 'hearty in the cause of the revenue.' Their sympathies were with the under-dogs, and as teasing regulations had to be countered in the legitimate trade by cheating if a profit was to be earned, 'no man but a rogue can be a distiller.'<sup>8</sup>

Who were the Justices of the Peace? According to Captain Munro of Teaninich, they were 'gentlemen, landed proprietors, farmers, lawyers, elder bailies, sheriffs and their substitutes, factors and stewards of lairds.' Munro was also a J.P., but he held the view that it was 'not quite correct' for him as a distiller to act at Excise Courts.<sup>9</sup> Others were less scrupulous. An example of a magistrate with vested interests was a bank agent,

4. MacDonalld, Ian, op. cit., p. 72.

5. MacLeod, D., Garelochside and Helensburgh, p. 72.

6. Bradley, E., op. cit., p. 76.

7. Barron, op. cit., II, 28 March, 1828, p. 49.

8. P.P. Fifth Report, App. 49, p. 131.

9. P.P., Fifth Report, App. 60, p. 150.

estate factor and merchant in Tain. He sent barley to Ardgay, which was distributed on credit to whisky smugglers at a high price; those buying from him had his protection. Pettifogging lawyers were bribed with whisky.<sup>10</sup>

Regarding the justices' own attitudes, Duncan Stewart, Argyll's factor was a J.P., and attended Excise Courts, but he confessed he was not at all acquainted with Excise laws. The bench made fines 'different' according to their feelings at the time, and modified penalties to suit the circumstances of people brought before them. Otherwise, the law would have been unworkable.<sup>11</sup> Robert Brown, Hamilton's factor used his influence with the Justices to have illicit distilling suppressed. He managed lands for 'very great landed proprietors', most of whom were absentee landlords, scarcely interfering in local affairs, or estate management, leaving matters like J.P. proceedings to lesser men.<sup>12</sup> Knowing the Justices' shortcomings, Brown advocated that the Excise Board should go on . circuit.

Sir George Mackenzie of Coull had much to say on the mismanagement of the Justices:

In this country scarcely one legal sentence has been passed for many years, as the books of collection will testify. This has happened from no other cause than the law being considered by the Justices too severe; in consequence of which they have been administering a law of their own. 13

The reluctance to convict was shown by the minimal fines, and the acquittals through loopholes, or flaws in the proceedings. He added that there was not a J.P. in the Highlands who could say that he did not, in his own family, consume illicit whisky: some even dealt in it.

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10. P.P., Fifth Report, p. 137.

11. P.P., Fifth Report, App. 68, p. 188.

12. P.P., Fifth Report, App. 63, p. 169.

13. P.P., Fifth Report, App. 50, p. 132.

John Mackenzie of Inverewe served as a Justice: he recalled that his father never tasted any but smuggled whisky, and did not consider private distilling a crime.

Ere I was twenty he had paid £1000 for the "superiority" of Platcock at Fortrose, to make me a Commissioner of Supply and consequently a Justice of the Peace and one of the about thirty or forty electors of the County of Ross, and before it had occurred to me that smuggling was really a breach of the law, I had from the bench fined many a poor smuggler as the law directs. Then I began to see that the receiver - myself, for instance, as I drank only 'mountain dew' then - was worse than the smuggler. <sup>14</sup>

He therefore ended his connection with the traffic except in his capacity as magistrate to the regret of his friend, the Dean of Ross and Argyle (Scots Episcopal Church), who scoffed at his resolution. The Dean's opinion was that the law was iniquitous and should be broken. Being factor at Gairloch, John Mackenzie warned crofters that anyone convicted of illicit distilling would be turned out: a person who worked a distilling bothy was not normally a well doing rent paying man. A tenant at Diabaigwas subsequently caught, resisted arrest, and was imprisoned at Dingwall; this man was however about the ablest crofter in the district - as he was going to be married, he could not ask his friends to drink Parliament whisky. He was fined £30 with the option of thirty days, but he chose the latter, although Mackenzie offered to pay the fine with money held on the tenant's behalf. <sup>15</sup> Sillett quotes the instance of a J.P. who issued a cheque in settlement of a number of heavy fines inflicted by a neighbouring magistrate on smugglers in his area. <sup>16</sup>

The Justices were involved in Excise proceedings on two counts - they not only heard cases relating to illicit distilling and spirit dealing, but

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14. Mackenzie, op. cit., p. 212.

15. Ibid.

16. Sillett, op. cit., p. 42.



also granted licences to distillers and retail merchants. Although they did vary their fines with circumstances, these were not always light. The Inverness Courier noted in 1813 that persons punished for private malting and distilling were being fined between £50 and £20.<sup>17</sup> In the post 1815 depression, the Justices were sensible to the hardships of the people, and were disposed to inflict slight fines: smuggling grew as farming became depressed, and gave farmers a chance to dispose of their barley. Illicit whisky was cheaper and more easily obtained; it was consumed in greater quantities, and no duty was paid for most of the spirits made in the Highlands.<sup>18</sup>

Public meetings in Ross-shire therefore approved the Act of 1816, which removed the right of the justices to mitigate penalties below £20 or 6 months. Notwithstanding, the J.P.s ignored this. McLeod of Geanies, who was a Sheriff of Ross for 50 years, was tackled on this point; he answered, 'How then do you suppose we are to sell our barley?'<sup>19</sup> The implication was that it was ridiculous to expect persons acting as justices to accept a voluntary curtailment of income. The new legislation was simply not enforced. Sir George Mackenzie asked for statutory penalties at a J.P. Court shortly after the enactment: two J.P.s supported him, four voted against him. The incident was reported to the Chairman of the Board of Excise.<sup>20</sup> Noting the desire of J.P.s to let smuggling persist, Captain Munro said that fines seldom exceeded £2 to £5: the offenders returned home 'exaltingly to recommence their illicit operations.' At times, the small fines were not worth the trouble of exacting, and the courts were 'a mere farce.'<sup>21</sup>

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17. Barron, op. cit., 1813, p. 62.

18. Barron, op. cit., I, 19 Jan. 1816, p. 101.

19. P.P., Fifth Report, p. 137.

20. P.P., Fifth Report, App. 50, p. 131.

21. P.P., Fifth Report, App. 58, p. 142.

A hardening of attitudes is however discernible. In 1818, at an Excise Court at Inverness, sixteen fines of £20, nine of £25 were levied; two men from Strathglass received penalties of £60: smaller sums were exacted for malting. On this occasion, the Justices expressed their determination to put a stop to 'a traffic dangerous to the interests of the country.'<sup>22</sup>

Excise officers accumulated substantial numbers of cases - the result was 'hurry, confusion, and very imperfect justice.' The jails were inadequate to hold the delinquents when hundreds were called to a sitting of the court. The obvious expedient was to reduce fines to £1 or £5. Sir George Mackenzie would have preferred a Revenue judge of superior intelligence and ability to local justices, and he would have put the malefactors into forced labour on Highland road construction,<sup>23</sup> whether they were 'small farmers or desperate characters.'

The years after 1823 brought the culmination of efforts not only to eradicate smuggling, but to bring the justices into line. The commentary of the Inverness Courier vividly traces the pattern of events: In June 1823 a J.P. court met at Inverness; it was entirely occupied with punishing infringements of the Excise laws. Nearly 400 persons from the infamous districts of the Aird, Strathglass and Urquhart were convicted and fined trivial sums - 20s. each for private distilling, and about £4 for selling spirits without a licence.<sup>24</sup> The following January, 293 persons appeared, and it was announced that in the Inverness area the fines and arrears of licences amounted to £400. A crisis was developing because the Board of Excise could not rely on the co-operation of the justices.

In May 1824, the conveners of the county of Inverness produced a

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22. Barron, op. cit., I, 14 May, 1818, p. 145.

23. P.P., Fifth Report, App. 50, p. 132.

24. Barron, op. cit., I, 5 June, 1823, p. 223

communication from the Lord Advocate, enclosing a letter from the Board of Excise insisting on more vigorous action. The Inverness Collector stated that Justices had no alternative but to impose minimum fines of £20 on whisky delinquents, and that in future he would demand this penalty. The convenors protested that the poverty of the people would not permit penalties of this order, warning that the jail accommodation in Inverness or anywhere else in the Highlands would be insufficient to contain the parties imprisoned at a single Excise Court.<sup>25</sup> The test came soon, when a court was called. The justices in the first case named a fine of £3, upon which the Collector withdrew all the cases to report to the Board of Excise.

The Justices were left in a dilemma: in August, they gathered in Inverness to determine whether they might mitigate penalties below £20 for offences against the distillery laws. At the next court, an offender stood his trial, and counsel appeared for the Crown. In the face of this show of legal strength, the court dared not levy less than £20, or 6 months imprisonment; as the object of the Crown was to establish a precedent in a test case, the Excise authorities did not insist on the penalty.<sup>26</sup> The episode had the desired effect of rapidly bringing the justices to heel; a few days later a correspondent from Skye reported:-

At a J.P. court held at Broadford for the purpose of discussing prosecutions at the instance of Mr. Burrell, Collector of Excise, Oban, the Justices present, anxious to put an effectual stop to smuggling, imposed a fine of £5 for each conviction in malting cases, and a fine of £100 for each conviction in cases of illicit distillation; and granted warrants for incarcerating every delinquent who fails to pay within a half year, in the jail of Inverness for the period of 6 Calendar months.<sup>27</sup>

The total amount of fines imposed on this occasion was the then enormous sum of £3,400.

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25. Barron, op. cit., I, 13 May, 1824, p. 241.

26. Barron, op. cit., I, 12 Aug. 1824, p. 245.

27. Barron, op. cit., I, 19 Aug, 1824, p. 245.

Some J.P.s seem to have been temporarily overawed, because although their obligations had been made clear, in September when an Excise Court was scheduled to be held at Dingwall no Justice of the Peace appeared, because they were piqued that they could no longer apply their discretionary powers in exercising their functions. In other Highland counties they had also determined not to come forward. Even when Courts were held, the Justices still hedged - for instance, at another Dingwall court, a number of cases were put off on the plea that inadequate notice had been served on the accused. Three persons were fined £20 each, and a warrant of arrest after much argument was granted for one other.<sup>28</sup>

In December 1824 the long awaited collision between the Board of Excise and the Justices took place. Certain persons from the County of Banff were brought before the Court of Exchequer in Edinburgh on charges of illicit distillation.<sup>29</sup> In one case, a verdict was found for the Crown to the extent of £500, in the second of £200, and in the others of £100 each. The Inverness Courier drily observed that these unfortunates might blame such punitive measures on the mistaken clemency of the Justices.<sup>30</sup> There were warnings that the proceedings might be repeated. The repercussions were widespread, and it probably marks the turn of the tide against the Highland whisky smugglers, and equally the more confident inception of licensed distilleries began.

By September 1825, the Commissioners of Revenue were able to state that illicit distillation had greatly diminished although it was a cause for regret that it was carrying on at all. This they attributed to the foolish notion of some magistrates in certain areas that they were at liberty to

28. Barron, op. cit., I, 2 Sept. 1824, p. 245.

29. Note: Attempts were made to trace this case in the Court of Exchequer papers without success.

30. Barron, op. cit., I, 23 Dec. 1824, p. 254

commute penalties as they thought fit.<sup>31</sup> Nevertheless Justices were becoming more aware of their responsibilities. When a court met at Tain, 130 persons were prosecuted, heavy fines were imposed compared with former years, in one instance as much as £100 for private distilling, and it was also reported from Dornoch that stiff fines were being levied.<sup>32</sup> As the fines rose, so did the jails fill with impecunious distillers; by 1828 however, the jail at Inverness contained only twenty offenders against the Excise laws, who had been fined from £6 to £20; four of the persons were women.<sup>33</sup>

Those who resisted capture were vigorously prosecuted; in 1827, when two men from the Cabrach were sent to the High Court of Justiciary, for being among a party which had opposed Revenue officers with firearms: fifteen or twenty men had fired volleys, wounding one officer. The accused, who pleaded guilty to deforcement were sentenced to transportation for life. Others had been charged, but one failing to appear was outlawed, while an objection was sustained to the citation of the other.<sup>34</sup>

As illicit distilling became too risky in some parishes, so did it temporarily intensify in others. By 1828 it was possible to state that the Black Isle which had formerly 'swarmed' with smugglers had scarcely one left, in the district of Strathglass they had increased 'prodigiously.' The private distillers appear to have migrated, a few of them becoming vagrants, and some emigrating like Rory to Northern England, or overseas.

The forces of law and order were gaining ground. The number of Excise offences began to fall, as at a J.P. court at Inverness in 1830. Fourteen cases were examined, a trivial number compared with the hundreds ten

31. Barron, op. cit., II, 24 Sept., 1825, p. 10.

32. Barron, op. cit., II, 17 Feb. 1825, p. 3.

33. Barron, op. cit. II, 12 March, 1828, p. 45.

34. Barron, op. cit., II, 25 July, 1826, p. 34.

years earlier; moreover, the majority were of a relatively unimportant nature, and there was not one case of illicit distillation, a satisfactory indication that smuggling had disappeared around Inverness.<sup>35</sup>

From Perthshire, General Stuart of Garth, who served as a J.P. noticed that as the number of Excisemen increased, the heavier and more frequent penalties became; and surprisingly, the more the illicit trade flourished. He quoted the example of John MacNiel [sic], one of many in his district, who appeared before the Excise Court at Weem, by Aberfeldy, on thirty-two occasions - all for illegal distillation. MacNiel paid 29 fines, to a high and even ruinous amount:

yet he realised a little fortune, improved his farm, and with commendable industry, brought barren heaths into cultivation, and conducted the usual rotation of greencrops and lining with as much regularity and system as in Midlothian.<sup>36</sup>

Stuart of Garth stressed that this was a measure of the profitability of smuggling; yet, in spite of repeated confiscations and fines, the private distillers hung on to the practice with determination. He recollected years when Excise courts were so common, and fines so severe that £3,000 had been imposed in the Court at Weem in a single day. Every shilling was paid without apparent difficulty from the profits of the trade, which after a seizure, was resumed with all possible haste. In Harris and Lewis, the tenantry who held their lands jointly, clubbed together to pay Excise penalties. Although 'uncouth figures' were summoned to the court they pleaded their cause with ingenuity, settled 'pretty smart fines', and went to their villages 'grumbling and discontented.'<sup>37</sup> Offenders were hailed before J.P. Courts on a regular basis and old hands were treated with tolerance.

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35. Parron, *op. cit.*, II, 29 Sept. 1830, p. 86.

36. Stuart of Garth, D., *op. cit.*, pp. 365-6.

37. MacDonald, J., pp. 809-10.

Conclusion:

After 1823, with a still licence of £10, and a duty on whisky of 2s. 4 $\frac{3}{4}$ d. per gallon, the illicit distiller quickly lost his economic advantage. As fines increased in incidence so did his potential costs. Only where enforced idleness and poverty persuaded him to overlook such costs as labour, fuel, and wear or tear on utensils, did the activity persist. It began to be less respectable as a means of earning money, and the community was therefore less inclined to combine effectively against the Excise. Perhaps the 'bothans' or drinking dens of parts of the Outer Hebrides are a lingering remnant of a once diffuse activity.

The suppression of illicit distillation in Scotland, like the collapse of kelp gathering, was a factor in the redistribution of the Highland population, and may have promoted emigration. Colville mentions letters from Campbeltown settlers in Ohio c. 1825, in which they were said to practise the distilling of the same whisky as they had formerly made in the Burgh.<sup>38</sup>

Licensed distillers in the Highlands struggled to save their credit until 1823, when with the improved framework for distilling 'an extraordinary change was perceived.'<sup>39</sup> The revenue from the hard-pressed legitimate industry which had fallen to less than £1 million after 1815, was by 1830 approaching £6 million. Private stills were abandoned, some without ever having been within the cognizance of the law.<sup>40</sup> By the mid-nineteenth century, the great staple commodity of Campbeltown was the distilling of malt whisky. Smuggling was almost completely suppressed. Likewise in Tiree and Coll, Islay and the Outer Hebrides, private distillation was rarely performed. In the Northern Counties, the licensed distillers were already secure.

38. Colville, op. cit.

39. P.P., Seventh Report, p. 52.

40. Clow and Clow, op. cit., p. 567.

Production of Spirits, Duty Levels, and Detections  
for Illicit Distillation, Scotland

Year	Production Proof gallons, millions	Duty	Detections
1827	c. 3.0	6s. 2d. — 2s. 4 $\frac{1}{4}$ d	c. 14,000
1834	9.1	3s. 4d.	692
1844	8.3	3s. 8d.	177
1854	9.8	4s. 8d.	73
1864	13.7	10s. 0d.	19
1884	20.1	10s. 0d.	22
1900	31.7	10s. 0d.	av. 3
1910	22.3	14s. 9d	

Sources: Inland Revenue Reports.

G.B. Wilson, Alcohol & the Nation, pp. 336-9.

Illicit distillation had been so much entrenched in the economic structure of the Highlands that its elimination was a tough proposition; there were powerful vested interests to be convinced, habits to be broken and attitudes to be transformed. Once the practice was interrupted however, whisky of the Highland malt type, a version of the smugglers' product, but manufactured in factory pot still units to sell by the bottle for a modest sum, soon became an acceptable alternative in Scotland. The long exposure of the social fabric to private distilling and smuggling may still be traced in Scottish drinking habits and patterns of consumption.



**Early Nineteenth Century Distilleries**

**Five Case Studies.**

The wholesale application of systems of agricultural improvement in the period between 1780 and 1820 contributed to the seeking of new and regular outlets for the increased barley production, which was substantially taken up by brewing and distilling. John Ramsay of Ochtertyre observed that both these activities had developed into significant Scottish industries by 1820.<sup>1</sup>

There was also a transference of capital in the 1815-40 phase from brewing to distilling, because of the improved legislative climate for distilleries, and the demand for whisky. Corn merchants, millers and maltsters took up distilling, while farmers were prepared to join as co-partners in distillery enterprises, with a view to disposing of their grain harvests, and receiving back the waste and spent grains for fodder. The Glendronach Distillery Company of Fergie, Aberdeenshire, was basically a farming consortium.

Country bankers were also willing to invest funds in distilling - indeed the association of banking and distilling was a close and long-standing one. The Glens of Mains distillery, Linlithgow were partners in the Falkirk Union Bank,<sup>5</sup> and the Steins were notable merchant bankers for a time.<sup>4</sup> Between 1815 and 1820, cash credits were granted by the Commercial Bank of Aberdeen to a variety of industrialists, including distillers,<sup>5</sup> while the Stonehaven Savings Bank lent £2,000 at 5 per cent to the local distillery at Glenury.<sup>6</sup> For their part, distillers were not slow to serve

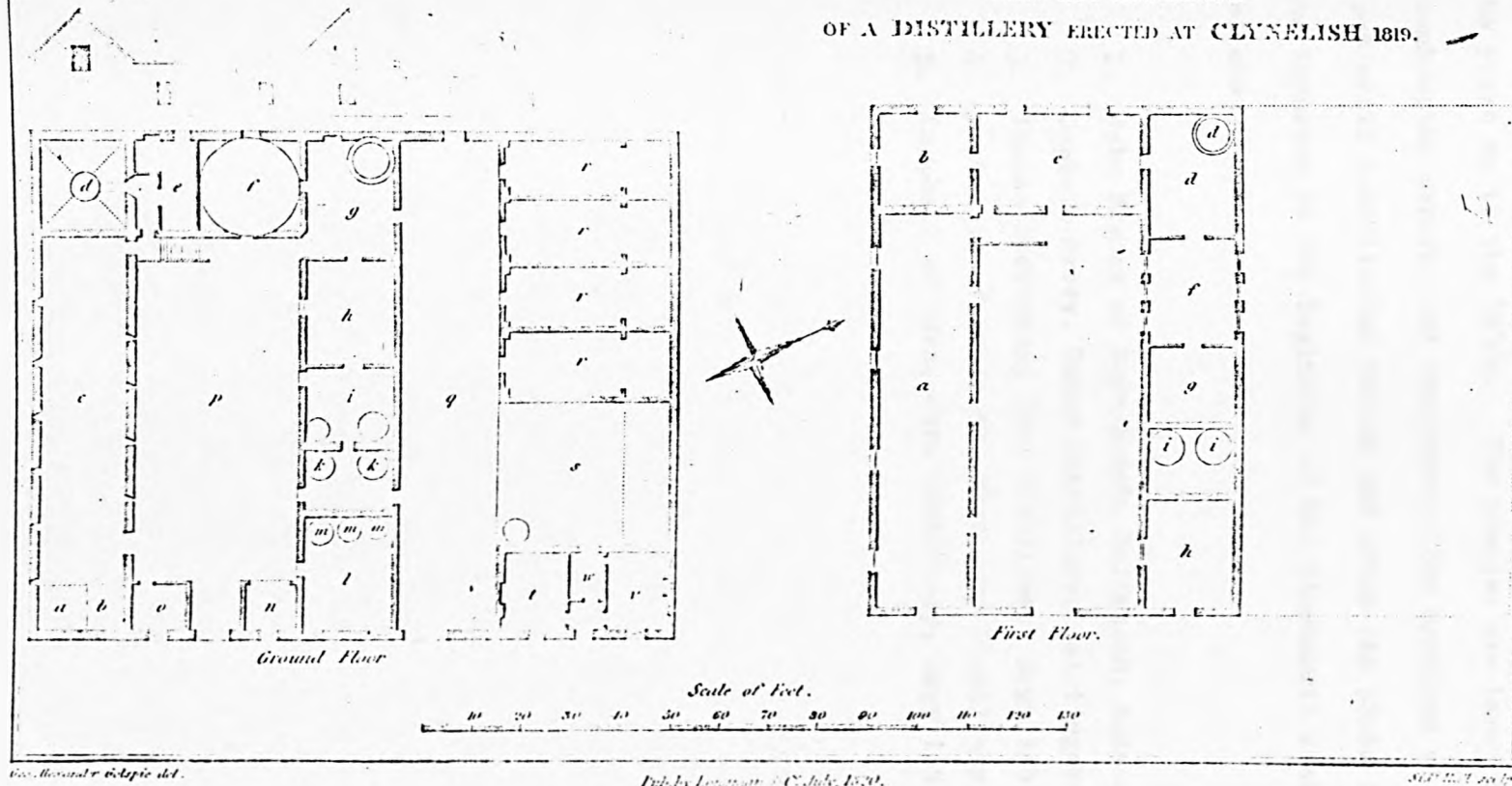
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1. Macmillan, D.S., Scotland and Australia. 1788-1850. (Oxford, 1967), p. 8
  2. S.R.O. U.P. 1 SR:G/31/11: Glendronach Distillery Coy. v. Neilson, 1833.
  3. Kerr, A.W., History of Banking in Scotland, p. 131.
  4. S.L. 333:7: (1813-1818): Stein v. Stirling.
  5. Cameron, R., Banking in the Early Stages of Industrialisation (1967), p. 77.
  6. Cameron, op. cit., p. 77, quotes H.O. Horne, History of Savings Banks (Oxford 1947), p. 54.

on the boards of banks, or in other capacities. John Haig of Lochrin distillery, Edinburgh, was an extraordinary director of the Royal Bank between 1831-4,<sup>7</sup> and John Smith of Glenlivet was on the board of the North of Scotland Bank in 1847, retiring from this position in 1851.<sup>8</sup> Nor was it unusual for commercial men to combine distilling with a bank agency; John Colville, junior, of Campbeltown was a partner in the firm of Lamb, Colville & Co., owners of the Kinloch distillery, and agent for the Clydesdale Bank between 1839 and 1851. He also had the distinction of being Provost of the Burgh from 1842 to 1848.<sup>9</sup>

There were thus raw materials available for distilling in the early nineteenth century; there were sources of finance, especially working capital from banks, to which distillers had access. Five case studies of distilling enterprises from this period have been composed. Two of the firms were begun by men active in many fields of commerce: John Fraser of Taynabinch of Ferintosh, Ross-shire, and Thomas Stevenson of Oban, Argyll, are representatives of this type. Two of the other distilleries were established by landed proprietors, Lairds like J.A. Stewart Mackenzie of Seaforth, and R.D. Campbell of Jura, who wished to supply their tenants with spirits in a legal way, by taking the production of whisky into their own control, and thereby removing the *raison d'être* for smuggling. At the same time, the grain harvest was converted into a profitable commodity, and their rent income was assured. The fifth study relates to a distillery set up by a retired Army officer, Captain Amory of Denny, Stirlingshire, who was one of those who went over from brewing to distilling.

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7. Munro, N., The History of the Royal Bank. (Edinburgh, 1928), p. 410.
  8. Keith, A., The North of Scotland Bank Limited 1836-1936. (Aberdeen 1936), p. 45 and p. 53.
  9. Colville, D., The Origin and Romance of the Distilling Industry. in Campbeltown. Paper: 23 Jan. 1923.

PLAN AND ELEVATION  
OF A DISTILLERY ERECTED AT CLYNELISH 1819.



PLAN and ELEVATION of a *Distillery*, erected in 1819, by the Marquess of STAFFORD, at *Clynelish*, in the parish of *Clyne*, and county of *Sutherland*.

REFERENCES.

*Ground Floor.*

- a Couch.
- b Steep.
- c Malt-barn.
- d Still-pit.
- e Bathy.
- f Horse-course.
- g Brew-house.
- h Tun-room.
- i Still-house.
- k Condensers.
- l Spirit-cellars.
- m Spirit-casks.
- n Shed for casks.
- o Office.
- p Court.
- q Pig area.
- r Pig styes.
- s Breeding pig-styes.
- t, u, v, w, Foreman's house.

*First Floor.*

- a Granary.
- b Kiln.
- c Dried-corn loft.
- d Boiler.
- f Cooler.
- g Still-house.
- h Coopers' shop.
- i Condensers.

From: **An Account of the Improvements on the Estates of the Marquess of Stafford, James Loch (1820), p. 23, plate 18.**

With the exception of Amory's distillery at Denny, the other units were located in the Highlands and islands, where they undoubtedly suffered serious competition at the outset from illicit distillers and smugglers in the years up to the 1830s. The studies are based on family muniments and bankruptcy papers, and demonstrate the problems of equipping and operating pot still distilleries during and after the phase of rapid development in the industry at the beginning of the nineteenth century. They appear as follows:-

1. John Fraser of Taynabinch, Ferintosh, Ross-shire
2. Captain Amory, Denny Distillery, Stirlingshire
3. Thomas Stevenson, Oban Distillery, Argyllshire
4. Mackenzie of Seaforth, Stornoway Distillery, Isle of Lewis
5. Campbell of Jura, Jura Distillery, Argyllshire.

John Fraser, Distiller, Taynabinch\* of Ferintosh,  
near Dingwall

The period of about 10 years from the end of the Napoleonic wars in 1815 to the great financial crises of 1825-6, saw the founding and the demise of many distilling concerns. During 1815, the consequences of the prolonged international struggle were severely felt not only in England but also in Scotland. In the Highlands, commercial enterprise seems to have been in confusion; goods were scarce, agricultural prices were falling, and it was not until after 1817 that signs of improvement were manifest.<sup>1</sup>

The Sederunt Books of the trustee for John Fraser of Taynabinch give a useful indication of the nature of his business. Fraser, described as a distiller in Inverness, had been the agent for the Bank of Scotland at Inverness, but had been dismissed from its service. In 1815, he was in practice as a distiller at Taynabinch of Ferintosh, which was on the northern shore of the Black Isle in Ross-shire. Along with his distilling and banking interests, John Fraser was associated with multifarious enterprises, either as owner or co-partner. Thus he was 'a tanner, shoemaker, brewer, and woollen manufacturer at Inverness, and one of the partners of the Caledonian Coach Company.'<sup>2</sup> That his affairs were in a bad state is apparent from an entry showing that his creditors were to meet 'in the house of Colin McLennan, Vintner in Dingwall.'<sup>3</sup> The trustee appointed was Alexander Shepherd.<sup>3</sup>

A principal creditor was the Bank of Scotland; its agent in Inverness, Alexander Anderson, produced a claim by the governors for £6,860 5s. 5d.

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\* This place name is shown on the O.S. 7th series 1 inch map sheet, Inverness as Teanahinch.

1. Barron, J. (ed.) The Northern Highlands in the 19th Century, p. XXXII, (Introduction).

2. S.R.O. KH15/142: John Fraser: Sed. Book W.16: 1815, p. 1.

3. S.R.O. KH 15/142: John Fraser: Sed. Book, W.16: 1815, p. 6.

for which the Bank held Bonds of Credit for sums due on cash accounts, and sums due on discounted bills. It also held missives of sale by Fraser of certain houses and property in Inverness. Alexander Anderson entered a personal claim as agent against John Fraser for the sum of £1,077 13s. 9d.

It is clear from the Sederunt Books that Fraser had been for many years prior to his dismissal a trusted servant of the Bank of Scotland, and while employed therein, being in charge of considerable funds, had embarked as a partner on a variety of speculations. Over and above his commercial ventures, he farmed at Taynabinch, and held shares in vessels and other joint concerns. His downfall was a consequence of 'so many speculations, which led to a failure of the whole'; once he had been dismissed from his office as bank agent, demands came so thick and fast on Fraser, that he found it necessary to make a retreat to Edinburgh for his personal safety, according to his trustee.

In August 1815, John Fraser tried to make arrangements with his creditors, but ultimate diligence was raised by the bank, and thereupon, the unfortunate Fraser 'took refuge in the Sanctuary.' The foreclosure by the Bank of Scotland would suggest that they had been providing the circulating capital for the enterprises. The amount of debt soared to over £54,000.

Fraser had taken up distilling late in his career. A note states that he 'commenced the distillery in the said farm (Taynabinch) in March, 1814,' leasing the land for an annual payment of £103 sterling from Forbes of Culloden.<sup>4</sup> At the time of the sequestration, Culloden had a claim of several hundred pounds against the estate for arrears of rent, so that a small sum (£28 5s. 6d.) stated as owing to him early in the proceedings was misleading. The family of Forbes of Culloden had enjoyed an Excise privilege at Ferintosh between 1690 and 1784, when the privilege was withdrawn by the government: hence Ferintosh could be regarded as one of the most celebrated

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4. S.R.O. R.H. 15/142: John Fraser: Sed. Book, W.16: 1815: p. 271.

distilling districts in Scotland.

Despite the size of Fraser's debt, it looks as if he did recover; although no evidence has been forthcoming from local directories or gazetteers, John Fraser is still listed in 1820-1 as being a distiller at Taynabinch in Morewood's List of Distillers in Scotland. Morewood states that the distillery produced 1,840 gallons of whisky in that year.<sup>5</sup>

Fraser also owed the Excise Collection £1,392 12s. 2d., and he may have been lured into distilling by the changing legislative climate of 1814-15. In this phase, the legal distiller was more liable to go to the wall than his unlicensed competitors to whom high duties and strict Excise regulations gave every encouragement. In order to realise some of Fraser's assets, the trustee had an inventory made of the distillery's contents, which were probably considerably undervalued.

Distillery at Taynabinch: Inventory: 1815.<sup>6</sup>

	£	s.	d.
Steeping Vat and Pumps	5	-	-
Five Copper Stills with worms and worm tubs	70	-	-
A Copper Boiler	15	-	-
A wash tun and underback with brass cock	10	-	-
Six wash backs with Cover and four brass cocks	40	-	-
Five small wash Backs	5	-	-
One spirit and four Revenue Receivers, Locks for the Stills and Receivers, eight in all, included in general valuation	5	-	-
	<hr/>		
	145	-	-

5. Morewood, Samuel, Inventions and Customs in the Use of Intoxicating Liquors, (1824) p. 326.

6. S.R.O. R.H. 15/142: John Fraser: Sed. Book: W.16: 1815: pp. 83-5.



	145	-	-
Four pumps and runners	5	-	-
A White iron pump	-	3	-
One hundred and eighty bushels or 45 bolls malt at £2. 2s.	94	10	-
Five hundred gallons of whisky in Cellar unreduced at 12/-	300	-	-
674 gallons of wash at 2s. pr. gallon	67	8	-
Six bolls, or thereby of Caithness Biggin tended for malt at 12/- pr. Boll.	3	12	-
A parcel of coals supposed about 5 tons	4	13	-
A Jack Back £3 A tub 5/-	3	5	-
A wooden Gallon measure	-	10	-
A Copper do. A white Iron Haggan 10/6	3	10	6
3 Funnels of Do. 15/3 Cast Iron Furnaces 30/-	2	5	-
A large White Iron Pump	-	10	-
A Servant's bed, Vessels Bound etc.	1	1	-
A white Iron Gallon measure	-	10	6
2 Half Hub Casks	-	15	-
6 White Casks and one puncheon do. at 15s.	5	5	-
	637	18	6

The inventory is most interesting in that it gives a picture of a distillery with work in progress, as compared with estimates and schedules of costs for distilleries in course of erection, such as the Stornoway Distillery in Lewis. One notes for example that coal was being used as a fuel for the distillery, the probability being that it was imported by coasting vessel from the Firth of Forth, a fact also supported in the papers of the Beaulieu Distillery Company. The latter obtained coal from Alloa and Bo'ness.<sup>7</sup>

7. S.R.O. RH 15/209, Beaulieu Distillery Company: Letterbook: 1825-8.

The proximity of the Brora coalfield does not seem to have been particularly advantageous, although Clynelish Distillery at Brora was located partly on account of the coalfield there. By the 1880s, local Brora coal was not used at Clynelish, because of its inferior quality.<sup>8</sup>

Secondly, the distillery at Taynabinch relied not only upon malted barley, but also on 'Caithness biggin', or inferior grain, which could be conveyed by coasting vessels from that county. The Beauly Distillery Company did business in Norfolk barley, and even purchased 300 bolls. of barley from Coleraine in Northern Ireland, although much grain was got locally in small quantities. Similarly, the Clynelish Distillery in Brora was founded in 1819 with the aim of providing a ready market for the grain grown on the productive coastal lowlands, and to supply local demand for whisky in a legitimate way.

At Taynabinch what is perhaps surprising is the number of small stills on the premises; there were five of these, and it is disappointing that no indication is given of their dimensions. From the inventory of the equipment, it is likely that Taynabinch was the original Ferintosh Distillery of the Forbes family.

Almost half the value of the contents was made up by the volume of whisky lying in a cellar at the distillery, and it was about this that the Excise authorities were concerned. Despite his precarious finances, Fraser had a 'milnwright' working at the distillery and farm erecting a threshing machine, but the latter had suspended work on the project, which was to cost £126, because he had only received £6 to account.<sup>9</sup>

Fraser appears to have employed three men at the distillery: one is entered in the Sederunt Book as a distiller. The trustee did not immediately

8. Barnard, A., The Whisky Distilleries of the United Kingdom. (London), 1887, p. 160.

9. S.R.O: MH 15/142: John Fraser, Sed. Book W.16, 1815, p. 85.

discharge them, paying them wages in the form of an allowance of meal and coal, but they awaited the payment of their money wages which were due in September, 1815.<sup>10</sup> Meanwhile, the Commissioners of the Board of Excise in Edinburgh, anxious to receive the duties owing to them, were being importuned by the trustee to delay pressing for settlement. In a letter dated 11th September, 1815, Shepherd states that he had advised the creditors not to throw away the distillery property at half its value, adding that 'were it to be sold by Public Roup at present, it could hardly be expected to fetch more.'<sup>11</sup>

The creditors also looked to Fraser's other enterprises and investments. He had a £500 share in the Inverness Brewery; the trustee, observed that 'the concern has turned out very ill.'<sup>12</sup> There had been eight partners; six were deceased, and of these only one had died in a state of solvency. Large debts had to be met in respect of this concern, and one at least amounted to over £3,000. It appeared that Fraser had so far sunk £2,000 in the firm.

The possibility of raising funds from the debts due to Fraser was also explored by the creditors. An Edinburgh firm, William Hall & Co. had had whisky consigned to them by Fraser to the value of £130; he had also sold spirits to a Thomas Harvie, George Pinkerton, and Charles Alexander & Co. among others, and bills drawn on these firms had been made payable to the order of his brother, Donald.<sup>13</sup> The draft on Harvie was for £160, on Pinkerton for £307, and on Alexander & Co. for £55; all these were in Glasgow. Fraser's trade was thus extensive, and reached beyond the

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10. S.R.O: RH 15/142: John Fraser, Sed. Book, W.16, 1815, p. 112.  
 11. S.R.O: DH 15/142: John Fraser, Sed. Book, W.16, 1815, p. 141.  
 12. S.R.O: RH 15/142: John Fraser, Sed. Book, W.16, 1815, pp. 150 and 175.  
 13. S.R.O: RH 15/142: John Fraser, Sed. Book, W.16, 1815, p. 176.

confines of the Inverness market.

The Board of Excise, it appears, did not answer the trustee's letter regarding the payment of Excise duty, or the sale of the distillery. Instead the Board gave instructions to the Collector to sell off the property at Ferintosh without delay, unless the whole duties outstanding were paid forthwith. More debts were being brought to the trustee's notice, among these was an account from Alexander McGregor, a coppersmith in Dingwall, who had supplied a new copper bottom for a still, and carried out other repairs, while a sum was also outstanding for mason work. McGregor was also owed money for other work at the distillery.<sup>14</sup>

It was proving difficult for Shepherd to obtain funds. Investigation of the whisky accounts showed that sales completed by James Bell & Co. of Leith, and William Hall & Co., Edinburgh, of the spirits consigned to them by Fraser, were not in agreement with the invoices in his book, 'it appearing that there was a great discrepancy between the Invoices sent to these houses and the said Account. Sales.'<sup>15</sup> The trustee was to try to obtain a satisfactory explanation from them, and was instructed to pay the duties as soon as possible. The creditors resolved to put him in funds by discounting bills with the different branches of the banks in Inverness, whereby Shepherd could accept bills at 3 months to the extent of £1,450.<sup>16</sup> The banks named were the Bank of Scotland, the Perth Union Bank, and the British Linen Bank. Furthermore, the trustee was to arrange for the sale of the stocks of whisky by 'private bargain', and for the public roup of Fraser's shares in the Inverness and Leith Shipping Company. His moveable property was to be disposed of both by private bargain, and by public roup as Shepherd

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14. S.R.O: RH 15/142: John Fraser, Sed. Book, D.19, 1816, p. 24.

15. S.R.O: RH 15/142: John Fraser, Sed. Book, W.16, 1815, p. 271.

16. S.R.O. . RH 15/152. John Fraser Sed. Book, W.16, 1815, p. 225.

saw fit, in order to maximize receipts.

Some of Fraser's debtors were paying their accounts, for example, a note for December, 1815, records that George Urquhart paid £80 for 409½ gallons of whisky and in February 1816, Collector Cochrane refunded £58 9s. 7d.<sup>17</sup> Another entry shows that the Supervisor of Excise for Ross-shire was paid for a malt seizure and distillery lock, and for advertising the sale of Fraser's possessions at Taynabinch.

In July, 1816, Shepherd wrote to inform the creditors of what was a-foot at the distillery:

I fear the Distillery Utensils are totally lost to the creditors. John Fraser, alias Miller at Drimanneich, having in the beginning of last spring broke [sic] into the Distillery in the night time, and commenced a Process of Distillation in which he used some of the Utensils, and having been detected, the whole were laid under seizure, & notwithstanding every effort I could make to recover the utensils, they have been condemned in the Court of Exchequer.<sup>18</sup>

The derelict distillery must have provided a great temptation, and an opportunity that was too good to miss. The sale of some farm and household furnishings raised over £425, but no distillery utensils are mentioned in the accounts. The Sederunt Books end in 1821.

There were several causes why Highland distilleries, like that of Fraser, found themselves in financial trouble. Prior to 1815, an Act (54 Geo.3.c. 172) was passed to prohibit the use of stills of less than 500 gallons in the Highland District, which was tantamount to a complete interdict on legal distilling in that region.<sup>19</sup> The second and more permanent cause was the post-war distress due to financial crises, falls in agricultural prices, and

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17. S.R.O. BH 15/142: John Fraser Sed. Book, W15, 1815, pp. 287-8.

18. S.R.O: BH 15/142: John Fraser, Sed. Book, W.17, 1816, p. 153.

19. P.P., Fifth Report of the Commissioners of Inquiry into the Revenue VII, (1823). App. 83, p. 258.

other problems of re-adjustment from a wartime to a peace time economy. As legal distilling became impossible, so did smuggling become so widespread that the County authorities in Inverness-shire and elsewhere petitioned the government to permit the use of sma' stills, a measure which was conceded in 1816. The stills of 40 gallons capacity were then able to enter production again, and Fraser may have been able to commence distilling. Nevertheless, the new Act was enmeshed and hedged about with so many restrictions that many of the distilleries which were set up failed to become viable. For instance, a legal distiller was obliged to make wash of a specific strength, and to pay duty on a specific volume of spirits, whether he was able to extract the required amount or not. He was compelled to produce one-quarter to one-fifth more than the illicit operators, whose output thus tended to be of a superior quality. Other irksome factors are shown in the following excerpt from the Inverness Courier.<sup>20</sup>

The County of Banff petitioned Parliament for the re-establishment of small distilleries, and for the equalisation of duties on spirits, Scotland being subject to a duty of 3d. per gallon more than England and Ireland.

In the same year, it was also noted that 'A decision of the Barons of Exchequer again prohibited the southern market to Highland distilled whisky.' The Inverness Farmer Society resolved to address Parliament on the subject. An Easter Ross farmer, writing in the Inverness Courier said, 'Many of our brethren have been ruined by the great depression of price for agricultural products, and almost all of us are struggling with difficulties to save our credit.'<sup>21</sup> Did he have Fraser of Taynabinch in mind? It was especially remarked that 'a distiller in the neighbourhood of Inverness was ruined by

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20. Barron, J., (ed.), The Northern Highlands in the 19th Century: Vol. I (26 Jan. 1816), p. 101.

21. Barron, op. cit., Vol. I (16 Feb. 1816), p. 102.

the decision of the Barons of Exchequer prohibiting the export of spirits to the Lowlands.<sup>22</sup>

Much agitation went on throughout 1816, when meetings were held on the subject of the distillery laws in the counties of Inverness, Ross, Sutherland and Banff, both by county gentlemen and by farming societies. At the Annual Meeting of the Commissioners of Supply, the member of Parliament for Inverness-shire (Mr Fraser-Tytler) reported that the deluge of protest and representations on the laws were likely to receive 'a fair and deliberate investigation', which could be anticipated to have beneficial results.<sup>23</sup>

It is notable that the name of 'Ferintosh' was kept alive in the Scotch Whisky industry. D.C.L. to-day own Ferintosh warehouses at Dingwall, Ross-shire. The Ferintosh Distillery out of which the warehouses were created was a relatively new establishment, being built in 1878 by D.G. Ross of Dingwall, and at first being called Ben Wyvis Distillery. On a change of ownership to Kirker, Greer & Co. Ltd., Ireland, in 1893, the name was altered to that of Ferintosh. The assumption is that the change was made to keep alive the famous name of the original Ferintosh Distillery, about two miles distant at Ferintosh in the Black Isle. About 1893, Nettleton refers to it as being operated by the Scotch Whisky Distillery Company.<sup>24</sup>

Kirker, Greer & Co. Ltd., were succeeded in 1912 by Mitchell Brothers Ltd., Glasgow, and during the period of management by these two interests the distillery was operated in the name of the Ferintosh Distillery Company Ltd., until it went into liquidation in 1924. The ownership of the modern Ferintosh Distillery then passed to John Begg, Ltd.; the premises were dismantled, and converted into a bonded warehouse, which was sold in 1930 to Scottish Malt Distillers Ltd.

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22. Barron, *op. cit.*, Vol. I (29 March, 1816), p. 103.

23. Barron, *op. cit.*, Vol. I (3 May, 1816), p. 104.

24. Nettleton, J.A., The Manufacture of Spirit, (1893), pp. 411-4.

Amory: Denny Distillery: 1820

Captain Amory commenced business as a brewer at Denny, Stirlingshire in 1815. He had had some previous commercial experience, but he did not persist with his brewery, and in 1818, began a new enterprise as a distiller. This move may have been stimulated by the new legislation of 1817, which encouraged Scots to take out licences as distillers. Captain Fraser of Brackla in the county of Nairn was another entrepreneur with military connections who also entered the distilling industry about this time. Perhaps Captain Amory's problems stemmed from making the transition from military to civil employment, giving a parallel with the postwar years after 1918 and 1945.

Amory's distilling business was abandoned in March 1820 when he stopped payment.<sup>1</sup> Action was raised against him at the instance of William Purves, a clothier, who was due debts amounting to over £138. By this time, Amory's affairs were stated to have gone by 'unavoidable losses in business' into confusion. When his activities began, Amory was reputed to have had a capital of £4,000. He had received between £1,000 and £2,000 on account of his father's estate in the West Indies - the island of St. Christopher is mentioned - and he also held a commission of Captaincy in the Stirlingshire Militia, which was a paid appointment. It is not clear from the distillery record whether he was a discharged or demobilised soldier, or simply a Captain of Volunteers.

Amory had no business partners, but his sources of capital were good, and it is interesting to find profits made in the colonies being invested in distilling.

Because payment of Excise duties had fallen far behind, in March 1820, the authorities made ready to sell the whole of Amory's distillery, together

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1. S.R.O: RH 15/455: Amory: Denny Distillery Record, p. 3.



with his household furniture and other effects in order to raise funds to meet the duty outstanding. The losses sustained by both the brewing and distilling businesses were as follows:<sup>2</sup>

Loss in Brewing per Ledger No. 1 & 2	£2051 : 1:11½
Loss in Distilling per Do. No. 2	£2647 : 2: 1½
	<u>£4698 : 4: 1½</u>

The list of claims against Amory totalled £2246 16s. 0d., and sums were mainly owing to persons in the Cumbernauld and Stirling areas. Apart from Purves, the clothier, Gilbert Sanders entered claims on behalf of the Stirling Banking Company for £21 2s. 0½d. The bank may have put up the working capital for Amory's firm. Other debts were due to spirit dealers and various Glasgow merchants, such as bottle makers and cork cutters, as well as to local farmers who had supplied grain.<sup>3</sup>

The debts owing to Amory himself were of varying amount and had been contracted by people living chiefly in the Denny area - in Carron, Falkirk, Bonnybridge and Airth. These were classified as 'good', 'doubtful', and 'bad' - the latter being described in most cases as 'totally desperate,' which was not a pleasing prospect for the creditors.

'Debts due 'good':	£ 15. 9s. 7d.
'Doubtful':	£268.13s. 5d.
'Bad':	£298.19s. 2d.
	<u>£583. 2s. 2d.</u>

The proportion of bad debts was remarkably high, amounting to over 51 per cent of the total. As against this, Amory's estate was valued at £920 3s., but after deductions had been made for payment of 'Heritable Bonds, Taxes,

2. S.R.O: RH 15/455, op. cit., p. 54.

3. S.R.O: RH 15/455: op. cit., pp. 8-20.

Servants, and the Wages and Expenses of Sequestration<sup>4</sup>, the remainder was only £670, which gave a composition of 2s. 3d. in the pound.

Inventories and valuations of the distillery and some of its equipment were prepared; little in the way of plenishings had been left to Amory after the Excise had held its sale of utensils in March 1820.

\*Inventory of Utensils sold at the Excise Sale  
on 16 March last and still remaining at the work.

- 1-5 Gallon Copper Measure
- 1 Fired measure
- 1 wash still     )
- 1 Doubling do.   ) with Scrapers.
- 1 Flake stand with 2 worms & 2 water cocks
- 1 Water Pump
- 1 Spirit Receiver with Copper Pump & Chain Fastening
- 1 Faint do.                     Do.                     Do.
- 1 Low wine do.                 Do.                     Do.
- 3 Tin Fillers for Do.
- 1 Jack Back with cast iron pump
- 1 Small cooler
- 2 Large Do.
- 1 Large Copper Boiler with furnace
- 1 Mash Tun with 2 oars.
- 1 Under back with wort pump
- 6 Fermenting Tuns with fastenings
- 16 Locks with Keys
- 1 Bub Cask
- Sundry rones belong to the Utensils:<sup>4</sup>

Denny distillery was therefore of the common pot still type, equipped with both a wash and a low wines still. The valuation of what is described as 'East Borland Distillery', as at 23 May, 1820, is given as £834 10s., but no statement is given of the sum realised by the Excise Sale. An

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4. S.R.O: RH 15/455: op. cit., p. 25.

account is given elsewhere of the original cost of the distillery.<sup>5</sup>

The Distillery with ground, improvements, utensils etc. cost at least	£1800
Present value per Mr. Kemp's valuation	£ 834.10s.
	£ 965.10s.

It should be noted that the drop in capital value of the distillery (£965 10s.), deducting debts due to Amory (£583 2s. 2d.) makes the deficit considerably less than would at first appear. In addition Amory had net estate of £670. The accounting and business methods must have been bad, because the distillery appears to have continued to produce at a loss.

After the Excise sale all that remained in the premises were sundry puncheons, casks, hogsheads, staves, and 9 dozen bottles. The presence of the latter and the fact that Amory was owing money to a cork cutter in Glasgow, (John Mitchell), must indicate that direct marketing to retailers was practiced.<sup>6</sup> There are also references to business with spirit merchants, who had retained casks belonging to Amory.<sup>7</sup> Along with malt shovels, a flaughter spade, marking irons, sign boards and measuring rods, the casks and bottles (2s. 6d. per dozen) were valued at £28 18s. A land surveyor reckoned that the house and grounds at the distillery were worth £863 8s. made up of the following subjects:-

'Dwelling house' & cellar:	£250
Distillery & house connected thereto	340
Servants' houses and Byres	100
Garden Wall	23
Ground including site of Buildings and Garden	110
Pig Styes	5
Trees	4 10s.
Old Materials	2
	£863 8s. <sup>8</sup>

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5. S.R.O: RH 15/455, op. cit., p. 54.  
 6. S.R.O: RH 15/455, op. cit., p. 10.  
 7. S.R.O: RH 15/455, op. cit., p. 24.  
 8. S.R.O: RH 15/455, op. cit., p. 25.

The distillery itself was put up for auction in the Lyceum Rooms in Glasgow on 21 February 1821, being described in the advertisement as

That newly erected distillery in the immediate neighbourhood of the town of Denny, containing Mash House, Tun Room, Still House, Cellars, Malt Barn, Granary and Kiln, with every utensil necessary for carrying on Distillation.... The whole premises are in excellent order, and being near the canal, and in a populous and plentiful grain district are well worthy the attention of Distillers and Brewers. The work at a small expense might easily be converted into an excellent Tannery, there being a sufficient supply of water for such an establishment. <sup>9</sup>

The reference to the canal, which was the Forth and Clyde Canal, is noteworthy, because canal sites have been, and still are, significant distillery locations, especially in Lowland Scotland. There is Port Dundas distillery on the Port Dundas branch of the Forth and Clyde Canal. It is adjacent to the former Dundashill distillery of Robert Harvie & Co. Ltd., which is also on the canal bank, but which now functions as a cooperage. Both establishments are owned by D.C.L. There were, and still are, many other distilleries in similar locations; Littlemill Distillery at Bowling, Dunbartonshire, Auchentoshan Distillery near Clydebank, and east of Glasgow, Bankier Distillery, to-day used as a maltings, were sited close to canals. On the Union Canal are based both St. Magdalene Distillery at Linlithgow, and Rosebank at Falkirk (owned by D.C.L.) There were others now defunct, such as Mains Distillery at Linlithgow (Union Canal) and Broomhill Distillery, South of Bonnybridge in Stirlingshire (Forth & Clyde Canal). Such was the pull of a canal site, with its outstanding bulk transport facilities for fuels and grain, as well as its possibilities for cooling water that it was not unknown for distilleries to be relocated to gain those advantages.

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9. S.R.O: RH 15/455: op. cit., p. 86.

It is recorded in the General View of the Agriculture of Renfrewshire (1812) that distilleries had been carried on in the town and neighbourhood of Paisley, with great success since before 1790, but that they had dwindled in number, 'some of the companies engaged in this business having removed their works to the banks of the Forth and Clyde Canal in the neighbourhood of Glasgow.'<sup>10</sup>

To revert to Amory's predicament, the Excise officials' abortive sale of the utensils in March 1820, led to a further attempt being made in July 1821, when the equipment was disposed of for £68 5s. 7d., the wash still fetching £10 15s., and the smaller spirit still only realising £5 5s. The upset price of the distillery was £640, and because of the lack of offers and the poor returns obtained from the sale of casks and the few remaining utensils in the premises, the creditors were left to face a situation in which there was an insufficiency of funds even to defray the expenses of managing and sequestrating the affairs of Amory.

The general circumstances of trade suggest that Amory's failure was due to under capitalisation, and lack of variable capital in a period of widespread depression in trade. Producers often continued to operate to recover fixed costs or to meet immediate bills, but sold their output at a loss - this was a conspicuous defect of inadequate working capital, and the hope of better times was too alluring.

Distilling did however continue in the Denny area. The 7th Report of the Commissioners of Inquiry into the Excise (1834) names the firm of William McPherson & Co. as functioning as distillers at Denny.<sup>11</sup> In 1841, the New Statistical Account showed that mills and manufactories were numerous, there being 'eleven of these on the banks of the river Carron, within

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10. Wilson, John, General View of the Agriculture of Renfrewshire. (Paisley) 1812, p. 264.
11. P.P., Seventh Report: Commissioners of Inquiry into the Excise (1834) Appendix 67: pp. 67-71.

a mile and a half of the town of Denny.<sup>12</sup> One prepared pot barley. It also reported that 'two distilleries have also been erected, one in Denny, and another at Bankier.' Another pot barley mill was functioning at Bonnyford, but water power was sometimes inadequate, so that a steam engine was installed and put to work when necessary. The distillery nearest Denny was under the firm of MacPherson and MacNaughton; it consumed 3,500 quarters of malt each year, which yielded 53,000 gallons of proof spirits.<sup>13</sup> Two stills were employed - a wash still of 500 gallons content, and a low wines still of 400 gallons. It is probable that this distillery was the one formerly owned by Amory. Poor quality grain was acceptable to the distillers - 'bear or big makes the finest spirits, but this is not so profitable to the distiller.' The best season for distilling was stated to be spring, and for fermentation, autumn. The Denny distillery afforded a ready market for the barley of the local farms, and such was the confidence of the farmers in the new company that it was common practice to forward the grain after harvest to the distillery, and, if it was received there as suitable for malting, the settlement of the price was left to the company, without a prior bargain being made. The other distillery at Bankier on the river Bonny, was said to be much the same in respect of consumption of barley, and of the quantity and kind of spirits produced.

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12. N.S.A., Stirlingshire, Vol. VIII, p. 123.

13. N.S.A., op. cit., p. 130.

Thomas Stevenson: The Oban Distillery

Barnard was a visitor to the Oban Distillery in 1887 when it was in the possession of a Mr Walter Higgin. In his account of that visit, he describes the premises as being, 'a quaint old fashioned work', dating back prior to the existence of the town, having been built about the year 1794 by the family of Stevenson. He ascribes the founding of the town of Oban to them, which prior to their investments in property, and other business activities, had been only a small fishing village.<sup>1</sup>

A much earlier visitor had been Dr. Jeffrey, during his survey of distilleries for the Committee of Enquiry of 1798-9. Dr. Jeffrey was probably James Jeffrey (1759-1848), Professor of Anatomy at Glasgow University. He reported that at Oban he found everything pertaining to the Stevensons' distillery in a much better situation than elsewhere in the Highlands. The distillery had once been fitted up as a brewery; the barns were large and the granary ample. The manager of the work had been trained as a distiller in the Lowlands, and the apparatus, especially the stills, was up-to-date. Nevertheless, the spirit still was not like the ones at Canyon Mills, Kilbagie or Lochrin (Stein and Haig distilleries), because it did not have a plate in it - a device which was believed to give a more rapid heating of wash, quicker evaporation, and thus speedier working. The still was more like the usual Lowland ones, for commercial operation, rather than a small still.<sup>2</sup> As far as Dr. Jeffrey could recollect, it was also fitted up 'with a bottom scraping engine'. He thought that had the furnace been as well proportioned, the Stevensons could have distilled as expeditiously as any

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1. Barnard, A., The Whisky Distilleries of the United Kingdom (1887), p. 125.
  2. P.P., 1798-9, Report from the Committee upon the Distilleries in Scotland, p. 752.

other distillers, even in the Lowlands, but 'as things were ..... he was by no means distilling slow'. Like other Highland distillers, the Stevensons were eager to learn, and were accustomed to order stills and other apparatus from Glasgow.

From his inspection, Dr. Jeffrey concluded that the Highland commercial distillers, as typified by the Stevensons, distilled as fast as they could, when the Excise were not watching. Meantime, the unlicensed fraternity were likewise operating as fast as possible, because of 'their dread of an unexpected visit from the Excise,' which resulted in their sma' stills being worked to the limit.

The owner and operator of the distillery at the time of Dr. Jeffrey's account was Hugh Stevenson, father of Thomas Stevenson, the subsequent owner whose affairs became embarrassed in 1829. Thomas Stevenson was then in debt to a variety of creditors, the most notable of which were the Ship Bank in Glasgow, the National Bank of Scotland, and the Commercial Banking Company of Scotland, his debts in March 1829 being put at over £8,000.<sup>3</sup> Among his assets were his farms, smithy, houses, and distillery, as well as his interest in slate quarries near Easdale, and a partly built hotel in Oban.

A survey of the distillery showed the following stocks and work in progress:<sup>4</sup>

<u>Distillery</u>	£	s	d
45 gallons whisky in stock @ 9/-	20	5	-
324 Do. 11 o.p. in Bond 5/4	86	8	-
640 Do. (this quantity supposed being under process of distillation 5/4)	153	12	-
Balance of draw back duty on Malt due by Excise, suppose	5	-	-
40 tons of Coals	24	-	-
Cellar utensils	15	15	-
Counting House furniture	10	-	-
	<u>315</u>	-	-

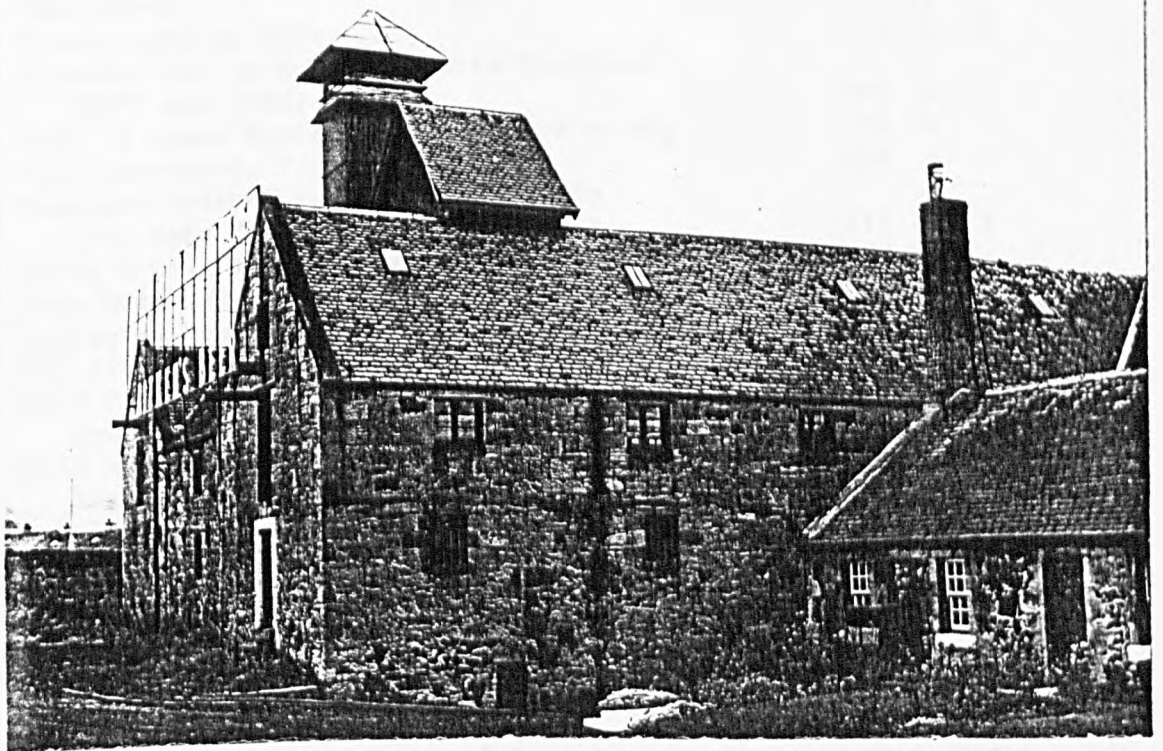
3. S.R.O. RH 15/423: Thomas Stevenson, Oban, Sed. Book (3), 1829.

4. S.R.O. RH 15/423: op. cit., Sed. Book (1), p. 22.





The Oban Distillery, c. 1965. The Distiller's Co. Ltd. Formerly owned by the Stevenson family, it is located on a restricted and difficult site. (From J.R. Hume).



Mains Maltings, Linlithgow, c. 1965: this old distillery of William Glen & Co. is now a maltings.

Other assets belonging to Mr Stevenson were a variety of insurance companies' stock - for example 20 shares in the Scottish Union, valued at £16, five in the Insurance Company of Scotland's stock worth £35. There was also £100 of stock in the Government Tontine in the name and on the life of Mrs Stevenson, which bore an interest rate of £5 10s. per annum. Cash on hand at the time of the bankruptcy amounted to only £30. 17s. 6d. which had been set aside for the purpose of paying Excise duty and the wages of the men employed at the distillery. A complete survey of Stevenson's affairs showed that the divisible fund would give a dividend of 3s. 8½d. in the pound, on claims of £8,708. 11s. 2d.

The debts due to Mr Stevenson were of amounts ranging from some shillings to over £350 and were incurred by persons in the vicinity of Oban, Mull and Campbeltown. Set against these, the statement of Stevenson's losses discloses the extent of his enterprises and his assorted interests. An extract gives the following details.<sup>5</sup>

'Highland Chieftain' : Steam Boat:	£200	-	-
'Ben Nevis', do.	71	17	6
Sloop, Earl of Fife	245	10	8
2 years loss on Belnahua Slate Quarries (1827 and 1828)	283	4	11
Hobt. & James Watson, Glasgow, for whisky	150	-	-
Boy, Liverpool, for whisky	410	-	-
Business Account for law proceedings (the late Hugh Stevenson's Trust)	111	19	3
Hooly & Co., Nottingham <sup>[sic]</sup>	270	-	-
Hugh Humphrey, Liverpool	150	-	-
Improving property at Oban	370	-	-
Building new store at Belnahua	300	-	-
Paid Captain Hugh Stevenson as part of his Patrimony in 1823 and 1824	1,050	-	-
Paid Hugh Stevenson's Trustees difference between my patrimony and value of property disposed to me	545	-	-

The total statement amounts to £6,725. 8s. 5d., and an analysis is given of the cost of heritable property acquired by Mrs Stevenson. This

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5. S.R.O. RH 15/423: op. cit., Sed. Book (1), p. 24.

property included the distillery.

	£	s	d
Dwelling house etc.	1,500	-	-
Distillery, Malt Barn, Granary, Kiln, Bonded Warehouse etc.	2,700	-	-
Expended in improving the Heritable Subjects in Oban	370	-	-
Hotels and offices in part erected Island of Belnahua & c, situated about 18 miles from Oban	450	-	-
Building new store at Belnahua	3,000	-	-
	<u>£8,320</u>	-	-

The debts amassed and the losses incurred were therefore by no means attributable to whisky distilling, but arose, as has been exemplified in the study of the papers of other bankrupt distillers, from a combination of circumstances. Captain Hugh Stevenson, son of Mr Thomas Stevenson, writing to his mother in Oban from Africa, told her of his arrangement to ship 47,000 dollars to Liverpool to help clear the debts on his grandfather's estate. He emphasised that the money must not be sent to his father - the latter was 'not to be angry' on that score, because 'he, you, and myself know that money flies through his fingers, God knows how, without doing any good to himself.'<sup>6</sup> The son seems to have regarded his father as something of a speculator, if not a spendthrift.

Particulars are given of the equipment installed at the slate quarries, and an inventory of the distillery utensils is also included.<sup>7</sup> The Mash House at Oban contained coppers for preparing and brewing worts and another for making 'Subs', a fermenting compound, pipes for supplying water both to the coppers and to a steam engine which was kept in a special Engine room, and used for the purpose of grinding malt. It is clear that Highland distillers were not far behind their Lowland rivals in technical innovations.

6. S.R.O. III 15/423: op. cit., Sed. Book, (1), pp. 45-7.

7. S.R.O. III 15/423: op. cit., Sed. Book (1), p. 48.

In addition there were also in the Mash House, wash tuns (for 'masking' the malt), an underback, a wort receiver, a cooler for reducing the temperature of the worts, as well as sundry pumps and roans (pipes). The term 'masking' is still used in Scotland for the proper infusion of tea in a teapot, and takes its origin from brewing. In the Tun Room (also described as 'Fermenting House'), there were eight wash backs for fermenting and keeping wash, and a range of casks, while the still house had 'one still for distilling wash into Low Wines', and a second 'for distilling Low Wines into Spirits.' There was a 'Fleck Stand containing two worms', and a spirit safe 'at the worm-end, with three fixed pipes, marked spirits, Feints and Low Wines.'

To contain the liquors produced during processing, a Spirits receiver, a Low Wines receiver, and a Feints receiver had been installed each with fixed pumps, and chargers were provided for Wash and Low Wines. Stocks and goods in process were stored in a spirit cellar or in the courtyard and in the former were four spirit casks, and a vat, while the court had tubs for receiving and keeping spirits and wash. All these utensils were numbered in the inventory according to the Excise conventions that are in use at the present time, e.g. 'one copper for preparing and brewing worts, marked no. 1', 'One pipe for conveying sparge from water receiver to Copper No. 1.', etc.<sup>8</sup>

A supplementary inventory refers to a hydrometer and saccharometer which must have been in common use in Highland distilleries by the early nineteenth century; two brewers' thermometers are also mentioned.<sup>9</sup> These aids indicate that distilling in the Highlands was not necessarily the rule of thumb activity which it has been made out to be; on the contrary, it was fast becoming a technical process, dependent upon the instruments of technology. An assortment of measuring vessels, funnels, a cooper's adze

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8. S.R.O. EH 15/423: op. cit., Sed. Book (1), p. 49.

9. S.R.O., EH 15/423: op. cit., Sed. Book (1), p. 114.

and bung knife, barrows, malt shovels, pokers and rakes for furnaces and other equipment was enumerated. The valuator noted that the articles had been in use for several years, and were consequently not in first rate order. Yet no reference to Stevenson's distillery is made in Morewood's List of Distillers in Scotland in 1821. It may thus not have functioned until after the Excise Act of 1823.

The stocks in Warehouse were stored duty free, and consisted of 5 casks, with a total volume of 515 gallons of whisky at 11 o.p., with a further 135 gallons duty paid whisky at the same strength. An offer was subsequently made by Mr John Stevenson of Edinburgh to the lawyer of Mr Thomas Stevenson (a Mr John Patten, W.S., at Inveraray) for this whisky - 8s. per gallon being offered for the duty paid whisky and 4s. 9d. for the bonded whiskies. Mr John Stevenson also suggested purchasing the store of fuel (coal at 12s. per ton and peat at 1s. 6d. per cart). His intention may have been to assist the Oban family in its difficulties because an enquiry was made in May, 1829 about the lease of the distillery. Mr John Stevenson suggested that he take over the operation of the distillery at a rent of £100 per annum, for the period from Whitsun 1829 to October, 1830, 'being the period at which Distillers obtain their licences.'<sup>10</sup>

Some information may be gleaned about the extent of Mr Stevenson's trade in his prosperous days by studying the location of casks and puncheons which had not been returned to him, being 'in the possession of former Customers.' Most of these persons were in the Oban district or in Glasgow, but there were others - in Irvine, Bowling (Mr Robert Bell), Paisley, Edinburgh, Erskine Ferry, Inchinnan, Dumbarton, Ardrossan, Saltcoats, and a Mr Falconer at Muirkirk.<sup>11</sup> Nearer Oban, his customers were found in Inveraray,

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10. S.H.O. RH 15/423: op. cit., Sed. Book (1), p. 52.

11. Ibid.

at Bonawe, in Appin, and on Mull. Mr Stevenson also supplied ships; entries refer to Captain Baillie of the Sloop Elizabeth.<sup>12</sup> His market thus seems to have been an extensive one on the Western seaboard of Scotland and his interests in shipping doubtless tied in with his distillery, as well as with his slate quarries. The slates were also used in the speculative building in Oban with which the Stevensons were associated.

The Old Statistical Account reports that the brothers John and Hugh Stevenson (the latter was the father of Thomas) contributed much to the industry and activity of Oban.<sup>13</sup> It states that the town should regard the Stevensons as its founders. The elder brother 'kept up shipbuilding' and the younger house construction. Likewise the New Statistical Account records that 'Oban is the property of the Most Noble the Marquis of Breadalbane, and of Robert Campbell, Esq., of Sonachan.'<sup>14</sup> It is indebted for its present appearance to the encouragement afforded by its present and late proprietors to housebuilding, by giving stances (feus) on payment of a small feuduty; also to the enterprising spirit of two brothers named Stevenson, who settled there about the year 1778 and engaged in shipbuilding and various branches of trade. At that time, there were few slated houses in the village; now there are streets of good and commodious houses (1843).<sup>15</sup> The Third Statistical Account also praises the Stevensons for their contribution to the development of the town, listing their major activities as shipbuilding, housebuilding and farming. After their time, shipbuilding seems to have declined in Oban although there was a revival in 1867, which had some measure of success.<sup>15</sup>

One can deduce that the Stevensons had Lowland origins - their family

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12. S.R.O. BH 15/423 Sed. Book (1), pp. 115-8.

13. O.S.A., Vol. XI, p. 135 (c. 1795).

14. N.S.A., Vol. VII, p. 532, (1843).

15. MacDonald, Colin M., (ed.) County of Argyll, Third Statistical Account (Glasgow, 1961), p. 196.

name alone would substantiate this, and that they had capital to start a range of enterprises. Whether they began the distillery in Oban is open to question. The Distillers' Company whose subsidiary, Scottish Malt Distillers, now owns Oban Distillery, claim that it was established in 1794, the original proprietors being the MacLeans of Lochbuie in Mull. D.C.L. then goes on to state that the MacLeans were succeeded by a Mr Gillies and thereafter by James W. Higgin, who was the owner when Barnard visited the premises on his tour in 1887. No reference is made in D.C.L. literature to the Stevensons, but Barnard upholds the view that the Stevensons were responsible for the erection of the distillery. He gives the date 1794 for the commencement, adding that the premises were set up before the existence of the town, and that the distillery was 'built by the family of Stevenson.' It seems unlikely that the MacLeans had anything to do with Oban Distillery and that the D.C.L. version should be disregarded. If the Marquis of Breadalbane and Campbell of Sonachan were the superiors, it seems strange that they should allow the MacLeans to put up a distillery in Oban. Mull itself was not noted for distilling, nor was it good grain-growing country. Only one licensed distillery came into being there - in Tobermory about 1821. It was operated by a John Sinclair, and produced 6,086 gallons of whisky in that year.<sup>16</sup>

To return to the Oban distillery as it was in 1829, John Stevenson (who offered to lease the premises) seems to have been accepted as tenant.<sup>17</sup> He is listed as the distiller at Oban in 1833. Details of this arrangement are disclosed in a proposal that the distillery should be sold - proposals which were first made in August 1829, and which included the disposal of the

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16. Morewood, S., An Essay on the Inventions and Customs ... Inebriating Liquors (1824), List of Distillers in Scotland, 1821, p. 324.

17. P.P., Seventh Report of the Commission of Inquiry into the Excise, (1834), Appendix 67, p. 229.

heritable property and the islands and slate quarries near Oban. The latter were desirable because they were 'in the immediate vicinity of Easdale, and in the direct tract of vessels passing to or from the North either by the Crinan Canal or Mull of Kintyre.' The superior quality of the slate was commended - there were seven quarries open, and in full working order. The advertisement for the distillery describes it as 'that neat and compact distillery situated at Oban, presently occupied by Mr John Stevenson, capable of distilling between 600 and 700 gallons spirits each period in the course of 10 days. The distillery is in complete repair and working order and contains a steam engine for grinding malt, with ample malting premises, Bonding Warehouse, Feeding House for 50 head of cattle & c., entry at 10th October, 1830.' The upset price for the distillery alone was £2,000. Arrangements were set in hand for the sale of the unfinished hotel and offices in George Street, Oban, which were advertised with some foresight as being a sound venture 'from the increasing resort of Travellers in the Summer Season ... and the scarcity of accommodation in that place (i.e. Oban) any person possessed of a small capital would find the completion of this building a profitable speculation' Some argument centred on the issue of upset prices - the distillery offers were to be £2,500 but subsequently prices were reduced until in February, 1831, John Stevenson offered £1,500 for it. The documents do not show whether this offer was in fact accepted.

Another inducement held out to intending purchasers - in addition to the compact premises and the proximity to canal and coastal shipping routes - was the abundance of peat in the Oban district. Thomas Stevenson had indeed the rights to peat cutting on the lands of Kilmory and Scarba described as 'the two mark land of old extent of Kilmory and twenty shilling land of Lunga.' He also had the privilege of grazing the lands of Glencruiten and of 'carrying away 825 loads of peats annually gratis in and from the Moss of Corheilish,' besides 'the liberty of drawing water from springs on the



adjoining lands for the uses and purposes of the Brewery or other works erected or to be erected on the premises.<sup>18</sup>

If the Stevensons were of Lowland origin, they may have formed part of the group described by John Stein as 'adventurers' who entered the Highland District to carry on distilleries in order to take advantage of the special duty arrangements therein. Like John Fraser of Inverness, who operated the distillery of Taynabinch of Ferintosh, the Stevensons had multifarious business interests. It does not appear to have been distilling per se which caused the failure of Thomas Stevenson. His son was of the opinion that his parent could not manage money; he may have overshot the mark in speculative building, and like other distillers, he may have had an inadequacy of circulating capital. The small sum of cash on hand at the time of the sequestration (about £50) provides some evidence for this, but the records do not tell what proportion of fixed to circulating capital was employed in the Stevenson enterprise.

Despite the failure, the distillery survived as a going concern. Barnard found the Oban distillery a 'quaint old fashioned work' when he visited it in 1887.<sup>19</sup> It then covered 2 acres of ground, forming an oblong group of buildings entered from the main street. The proprietor was James Walter Higgin. The Distillers Company believe that an intervening owner came between the Stevensons and Higgin, namely a Mr Gillies, but Barnard does not refer to him. Higgin made several additions to the premises - notably, two warehouses and improvements to machinery and utensils. Barnard was interested in the offices, which had formerly been the Stevensons' residence. A part of the sitting room had been made 'to project over into the Still-house.'

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18. S.R.O. MH 15/425: Sed. Book (1), p. 121.

19. Barnard A., The Whisky Distilleries of the United Kingdom, (1887), p. 125.

and there was a 'peep-hole' door through which the proprietor could watch the progress of whisky making. This arrangement was not uncommon in the works of first generation entrepreneurs in other businesses besides distilling. It was also found in banking, drapery, and brewing, among other activities.

A particular observation was made by Barnard about the origins of ~~the~~ his guide, James Gordon; he was a nephew of Mr Smith of Cragganmore Distillery - this was John Smith who founded Cragganmore in 1869, but who had formerly been an employee at Minmore distillery in Glenlivet. He was regarded as a 'pioneer of distilling in the North and had served at one time as brewer and distiller in as many as seven distilleries in the Glenlivet district, 'taking each in turn.' This comment may indicate that technical skill was at a premium in the period of change over from illicit to legal distillery on a commercial scale.

Barnard also remarked upon the amount of peat in store ('sufficient for two years' consumption') and the nature of the water supply from two lochs in Ardconnel, which although 'peaty' was said to be of splendid quality. This conclusion is somewhat surprising because distillers generally dislike excessively peaty water, preferring water 'off granite through peat, not peat through granite.'

In the 1880s, two stills were functioning at Oban. They were old pot stills, one for wash (holding 1,000 gallons) and the other for spirits (holding 500 gallons), both heated by fire. The rummagers were driven by water from the worm tub, but the mill had steam driven machinery and the stirring gear for the mash tun was also steam powered. Note was taken of a 10 H.P. engine and a steam boiler which had been at work for over 40 years. At that time, the output of Oban distillery was 35,000 gallons each year. The whisky was described as a pure Highland malt and also a good self whisky - that is it was suited to being drunk as a single whisky, on its own, without

being blended.

J.W. Higgin operated Oban Distillery until 1899 when it was sold to the Oban and Aultmore Distilleries Ltd., a company formed to take over these distilleries. This company suffered a serious blow by the Pattison failure of 1899. Pattisons Ltd. of Leith, were one of the chief users of the firm's production. In 1923 the company sold their malt whisky distilleries - Aultmore to John Dewar & Sons Ltd., and Oban to a new concern, Oban Distillery Company Ltd., whose directors were Alexander Edward, Sanquhar, Forres, and others. In 1930 the whole share capital of the Oban Distillery was purchased by Scottish Malt Distillers Ltd., a subsidiary formed to operate malt whisky distilleries on behalf of D.C.L.

In 1968, Scottish Malt Distillers announced that Oban distillery would be closed down, as would Glengarioch in Aberdeenshire, and Glenlochy at Fort William. Oban was not only too small, but was incapable of enlargement to make it economic because of its restricted site. It was also said to be an outlying unit in terms of D.C.L. organisation, costly to operate, and producing whisky which was not particularly popular with the blending trade.<sup>20</sup>

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20. The Scotsman, Three Scots Distilleries to Close, 6 June 1968.

Mackenzie of Seaforth: The Stornoway DistilleryIsle of Lewis

Entrepreneurs like John Fraser of Taynabinch were not the only persons interested in distilleries as commercial propositions. The fact that some stills could once again be operated in 1816 encouraged landed proprietors to turn their attention to the profitability of distilling. The Inverness Courier was able to give information to its readers about the new legal distilleries:

In Ross-shire we are glad to observe, they are making considerable progress there alone; we believe there are at present in that shire alone, one of 400 gallons, one of 200, one of 80, and one of 40, and there is also one establishing at Fortrose of 200, and another at Teaninich (Alness) of the same content; there are two of 40 gallons in Caithness, and one establishing of 80 gallons in Nairn-shire. There are none in Inverness-shire.<sup>1</sup>

That landowners were interested in distillery investment is clear from an advertisement in the Inverness Courier in the summer of 1818, in which it is stated that the Marquis of Stafford (later the Duke of Sutherland) had agreed to erect a distillery on the river Brora for the accommodation of the Sutherland tenants; this was the Clynelish distillery, and its object was ostensibly to provide a convenient market for the grain produced on his estate. The Marquis desired to engage 'with some person of skill and capital inclined to embark on such an undertaking.'<sup>2</sup> This venture had a troubled history, because it was tenanted by James Harper, a distiller until 1827, when his business failed. He was then in debt to the extent of over

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1. Barron, J., (Ed.) The Northern Highlands in the 19th Century, Vol. I, (12 Dec. 1817), p. 151.

2. Barron, op. cit., Vol. I (18 June 1818), p. 148.

£6,000, against which he had assets of £2,212. 15s. 1d.<sup>3</sup>

Earlier in 1818, it was announced in the Inverness Courier that 'Mr Mackinnon of Corry, and Colonel Macdonald of Lynedale had erected two distilleries in Skye.' The size of each still was about 100 gallons.<sup>4</sup> Talisker, the only surviving distillery on the island, was not erected until about 1830.

Like other lairds and county gentlemen, Mr J.A. Stewart Mackenzie of Seaforth, the proprietor of Brahan Castle, near Dingwall, also made enquiries about the operation of distilleries. A reply from W. Munro, of Tenninich Distillery showed that:

The distillery has not been at work for two months, and it will be a few weeks before it commences; indeed the state of the Country, as to Illicit Distillation, and the unaccountable supineness of the Excise to put a stop to it, makes it doubtful, if at the present moment, from the limited sale of Spirits, whether it is advisable to go on; to any extent, certainly it is not.<sup>5</sup>

Unlike the Marquis of Stafford, Mackenzie of Seaforth did not proceed further at this stage - the prospects appear to have been too dismal.

The Excise had many problems on their hands, a fact shown by a petition to Mackenzie of Seaforth from John Mathison, an Exciseman who had been dismissed the service.<sup>6</sup> It is dated February, 1824. A report had been made about his conduct to the Board of Excise for Scotland. The Exciseman had had a distillery and malt survey under his charge, and had been taking samples from the wash and spirits. It is noted that 15 gallons of spirits

3. S.R.O. NH 15/150: James Harper, Distillers, Clynelish, Sed. Books: 1827.
4. Barron, op. cit., Vol. I, (1 Jan. 1818), p. 135.
5. S.R.O. Seaforth Muniments, GD 46/13/117: letter, W. Munro to J.A. Stewart Mackenzie, Sept. 1818.
6. S.R.O. S.M. GD 46/17/63: Petition by John Mathison: Feb. 1824.

had been sold by him with a permit out of the distiller's stock. When it came to examining malt, a couch of malt showed a disparity of 21 bushels between his estimate of 45 and the surveyor's one of 66 bushels. It is disclosed that he had once supervised Polls Distillery and Malting in Tain District, as well as Milntown Distillery and Malting in Inverness.

According to the petition, it was the practice for  $\frac{1}{2}$  pint samples of spirit to be drawn, under the existing statute (Geo. 4 cap. 74) relating to the distilleries in Scotland. Mathison submitted that it was not his intention to short charge the duty to the traders in measuring the couch of malt, and that in all subsequent gauges his measurements tallied with those of the acting supervisor, adding, in words that seem Gilbertian, that he was 'honest, sober, and of industrious habits, and attentive to his duty.' Seaforth does not record what the result of the petition was, but the episode does indicate that the Excise had difficulty enough in checking the work of its own personnel.

In 1825, Mackenzie of Seaforth bought the island of Lewis (excepting the town of Stornoway) for £160,000.<sup>7</sup> and in the same year, he set about having a distillery erected on the island. He contacted Henry Armstrong, a coppersmith in Leith, with regard to his proposal, asking him to state:

At what price per lib. you will engage to make me two copper stills, containing nearly 600 and 400 gallons complete for putting on board deliverable at Leith by 15th Feb, next, payable at 3 months after delivery. The stills are to be of the same size, quality, and dimensions as those made by you for Prestonpans Distillery, of which you this day showed me the plans and measurements. Also at what price you will make me two copper boilers for these stills, each to contain 100 Barrels complete .... at what price you will furnish the cocks and copper pipes required in the plan of the distillery erecting by me .... as also all the

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7. Barron, op. cit., Vol. II, (17 Feb. 1825), p. 3.

requisite grates & furnaces to suit these stills and boilers.<sup>8</sup>

Armstrong's reply shows that he undertook to execute the work as specified at one shilling and sevenpence per lb., requiring 3 months for erection of the plant, which was to be delivered at Leith by 25 February, 1826; cocks and other pipes were to be charged at the rate of 3d. per lb. extra, and the grates and furnaces were to be provided 'at the rate of best iron goods.' The coppersmith also engaged to make at 1s. 7d. per lb., a boiler and what is described as 'a small still' for heating the tuns. The copper boilers were to be 11ft. in diameter, and 10ft. in height.

The reason why Mackenzie of Seaforth was anxious to enter the distilling business was shared with many other landowners and entrepreneurs. The profound legislative change which had been made in the laws relating to distilling in Scotland in 1823, when an Excise Act was passed reducing duties, had reinforced the Illicit Distillation (Scotland) Act of 1822. These Acts brought a new era of progress to the legal industry.

In 1822, Captain Fraser of Brackla Distillery, Nairn, had asserted that he had 'not sold 100 gallons for consumption within 120 miles of his residence during the past year, though people drank nothing but whisky', while Mr Munro of Teaninich Distillery stated that 4,000 gallons of whisky lay in bond on his premises, for which customers could not be found.<sup>9</sup>

It was in this atmosphere of improving prospects that Mackenzie of Seaforth embarked on his distilling venture. Among the Seaforth Muni-ments are estimates, accounts and memoranda on the building of the Storn-oway distillery; these are dated November, 1826. They include lists of

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8. S.R.O. S.M. GD 46/13/118: Missive between J.A. Stewart Mackenzie and H. Armstrong, Leith, 1825.

9. Sillett, S.W., Illicit Scotch, (1965), p. 54.

utensils, 'cases with clacks', brass cocks, keys for still cocks, and materials such as '10 lbs. Borax; a Tin worm for a small Still, and pipes' are also mentioned.<sup>10</sup> The estimate of wood, carpentry and mill wright work at the distillery amounts to £793. 15s. 6d., the water wheel alone being reckoned to cost £157. 6s. 6d., and to measure 16' in diameter. A revised estimate shows £735. 12s. for the malt barn, in which much pine and birch was to be used, the timber being drawn from the Seaforth estates on the mainland.

These matters were in the hands of Messrs Latta and Loban, the main contractors for the distillery; Mr Bulloch was Seaforth's representative on the site, and it was with him that the laird took up the question of instruments. Would the distillery require a saccharometer, a hydrometer, a thermometer and dipping rods? How much soap, yeast and hops would be needed? Soap was used to keep down the head of wash in the wash still, and thus prevent it boiling over into the worm. It was said to help a lazy or careless stillman. The need for hops is questionable and so far as is known, they are never used in making whisky, but are essential in brewing. The problems of construction are also examined: do kiln-heads need wire cloth? Seaforth was anxious to discover whether Lewis grain, which would probably be here, was suitable for distilling, and how much fuel would be consumed. He preferred that peats only should be used in the processing. Finally he wanted to know how much first quality spirit could be expected to be yielded from each still.<sup>11</sup>

That satisfactory answers were obtained is clear from the memoranda.

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10. S.R.O. S.M. GD 46/13/120: Estimates for Stornoway Distillery, Nov. 1826.

11. S.R.O. S.M. GD 46/13/120: Memoranda: Nov. 1826.



With regard to fuel supply, Bulloch stated '400 carts of peat, and 27 tons of coals, may serve till Spring. The grain in the mill will not answer for malt whisky, & I would not advise to make grain whisky for some time at least.' By this he would mean, raw grain whisky, prepared from unmalted materials. Secondly, he replied that the malt barn would be capable of malting about 150 bolls, which might be worked off weekly, adding cautiously, 'not being accustomed to peats only, I cannot say the quantity necessary.' Bulloch reckoned that 150 bolls of good quality malt ought to yield 18,000 gallons of worts, with a specific gravity of 50, which in turn should give about 1,800 gallons of proof spirit.<sup>12</sup>

The number of employees required to run the distillery was also carefully investigated. Seaforth wished to know how many would be wanted each year, and how many would be temporary personnel; in what capacities would the men be employed, and at what wages? This was Bulloch's assessment:-

- |    |                             |        |    |      |           |
|----|-----------------------------|--------|----|------|-----------|
| 1. | A principal malt man at     | 20/-   | or | 21/- | per week. |
| 2. | 2 assistants                | " 9/-  | "  | 10/- | " "       |
| 3. | A bollman                   | " 18/- | "  | 20/- | " "       |
| 4. | 1 assistant                 | " 10/- |    |      | " "       |
| 5. | A man for tun & cooler room | " 16/- |    |      | " "       |
| 6. | An assistant to do.         | " 9/-  |    |      | " "       |
| 7. | A cooper about              | 15/-   |    |      | " "       |
| 8. | A clerk about               | £30-35 |    |      | yearly    |

The artisans to be engaged by the year.

A further note shows that Mr Bulloch was to manage the distillery and that it would be expected to be in use for 10 months of the year, but if

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12. S.R.O. S.M. GD 46/13/120: ibid.

demand was good, 'it may be wrought all year.'

Seaforth then worked out a computation of expenses and anticipated receipts, on the basis of these estimates:

		<u>Expenses</u>		
1.	Servants	£500		
2.	10 p.c. on £6000	600		
3.	Coals	900		
4.	Grain	8,750		
5.	Incidents & 10 p.c. on £10,000	1,000		£9,800
6.	Malt duty at 6d. per gallon (54,000 gallons)			1,550
				£11,150
Per <u>Contra Receipts</u> 1800 galls for 30 weeks £14,200				
	or 54,000 at 6/- per gall			
	deduct 1/9th galls.	1,800		
		£14,400		

Taxes and duties fall on consumer & would be added on both sides of the account £3,250. 15

Another calculation of expenses gives a total of £11,63. 7s. 0d. (exclusive of duties payable) while receipts are put at £24,000.

Such an estimate shows that Seaforth was looking for a return in the order of 25 per cent on his outlay. An analysis of the unit costs discloses that duty constituted 9 per cent of total costs, labour 5 per cent and fuel 7 per cent. Grain was the biggest item in his budget, taking 72 per cent of the total costs. The '10 p.c. on £6000' may have been interest on money borrowed, and it may represent the cost of the distillery, whereas 'Incidents & 10 p.c. on £10,000' may be the cost of the distillery plus the cost of running it for a year, possibly including managerial expenses and commission.

There follow some details of the cost of stone building and slating at the distillery; John Loban's costing for the malt barn, mills, and kiln, along with the inside divisions of the distillery comes to £489.15s.2d; he also specifies the expenses of obtaining materials for the roof of the building and the kiln (e.g. drawing stones, and furnishing labour) which amounts to £17. 8s.

Further to Seaforth's memoranda of November, 1826, one finds an account rendered to his Chamberlain, Mr James Allan, by Henry Armstrong of Leith, in March 1827.<sup>14</sup> It reads:-

To 2 stills with Heads and two worms	£595	6	8
" Materials for 3 boilers and pipes	719	12	6
" 44 trap cocks	206	1	5
" a small still with head & worm	22	16	0
" 3 pumps with wells	51	6	8
" tinned safe for worm ends	12	14	10
" 2 cases with Clacks	8	17	10
" a Stuffing Box	1	7	3
" 18 pipes with flanges	18	14	0
" 120 Screwed bolts	9	0	0
" 104 Bars solder	138	4	0
" Iron Machinery for boilers & stills	48	4	0
" Stops for boilers 2 17 inch	1	16	0
1 1 inch	1	1	0
5 1 inch nosed	1	11	6
3 $\frac{1}{8}$ inch	1	8	6
	<u>£1,838</u>	<u>5</u>	<u>10</u>

An additional list mentions more supplies of solder, rosin, leather pipes, a cask for a worm, kettles, ladles, soldering irons, nails, packing cases, cast iron furnace and doors, giving a total of £1,934. 3s. 6d.

14. S.R.O. S.M. GD 45/13/119: letter, H. Armstrong to James Allan, April 1826, and March 1827.

All these goods were to be shipped from Leith, and 2 workmen were to be sent by Armstrong to fit up the equipment and utensils. They were to travel by steam boat from Greenock.

There is also some information regarding equipment and materials required for the distillery, together with an estimate and some letters, from Messrs. Baird, of the Canal Foundry, Glasgow.<sup>15</sup> An assortment of bricks, clay, piping, cast iron pipes and a round boiler is listed, which amounts to £88. 17s. 5d. For example, the purchase of 2,500 fire bricks (best quality) to be shipped from Greenock is recorded: the cost was £13 2s. 6d. while that of 1,500 common bricks was only £3 7s. 6d. and 22 cwts of fine ground clay, including charges for casting amounts to 8s.

Bairds' papers also include a note on casting for the distillery: a water wheel was to be supplied, for which 16 shrouding plates, 2 flanges, 2 gudgeons, two plumber blocks, for the lying shaft, eight segment plates and various gear wheels (one spur wheel  $2\frac{1}{2}$  in. diameter, two bevel wheels, one upright shaft 4' long, and one step for it) would be needed. The patterns for this equipment were to be sent by the Star, and were thereafter to be marked by Mr Latta, the millwright. Other details relating to the water wheel show that its main shaft was to be  $4\frac{1}{2}$ " square and it was to turn 22 times a minute. Special spindles for driving a mill stone are also mentioned in the specification.

A note appended by Seaforth shows that Mr Baird of the Canal Foundry was to take a copy of certain memoranda and make out his estimates: the memoranda show that Seaforth was anxious to know how soon the work could be executed, that he was keen to have the lowest prices, and 'at what date of payment, the half being at 3 mos. after the delivery of the whole order, the other half at —'. The pipes must be of iron, and he requested Mr

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15. S.R.O. S.M. GD 46/17/73: List of Utensils from Messrs. Baird, Port Dundas, July 1827.

Baird to send him advice as to the conditions which ought to be made binding upon the tenant of the distillery with regard to the wear and tear of the utensils.

There is appended to these memoranda a further 'List of Utensils.'<sup>16</sup> Here a wooden mash tun 17½ feet in diameter with 'a cast iron false bottom and side sluices' is specified, along with a 'copper' to be connected by 30 feet of cast iron pipe 3 inches wide to the mash tun (to supply hot water) and a wort underback or wort receiver of from 18ft. to 14ft. by 4ft. deep. Precise details are given of a horizontal cast iron double force pump for worts, to lead to a cooler and of a 3 inch-bore wash pump for charging the stills. Only passing mention is made of steepers (steeping vessels for grain), but the dimensions of the kiln are given, viz--'12' x 10' strong milled blank sheet iron to hang above the grate for the kiln and 12 x 9 yds. of hair cloth for the kiln, along with 12 'wood shovels for malt.'

Baird's estimate for the utensils to be supplied by them is dated 13 July, 1827 and in it the 17½ feet mash tun, with mashing machine (stirring gear) amounts to £207; the wort and wash, pumps were to be got from 'Mr. Stewart of Paisley' for £85, while the underback was £116.<sup>17</sup> Bairds stated that connecting the machinery from the water wheel to the 'Mashing Engine' could<sup>not</sup> be estimated as they were ignorant of the situation and the measurements but they added that they would 'cost them on as low terms as possible.' The prices charged were for articles shipped at Glasgow, and the terms ¼ per cent for cash or a bill at 3 and 4 months from that date of shipment.

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16. S.R.O. S.M. GD 46/17/73: Ibid.

17. S.R.O., S.M. GD 46/17/73: Estimate from Messrs. Baird, Port Dundas, July, 1827.

Thereafter on 15 July, 1827 Bairds were instructed to proceed; some modifications were requested - the mash tun was to be increased to 18ft. 'at the same price, or even something less', but first they were to find out from John Dalloch or William Latta whether the distillery would in fact accommodate a mash tun of this size. For Seaforth it was pointed out that Baird's former estimate (which does not survive) gave a quotation for the mash tun of only £194 and other objections were made:

'Your former estimate for two pumps was £69 the new one is £24, I observe .....'. Despite the price increases, the terms of payment were accepted at 3 months payable at the Bank of Scotland Office at Inverness. (A payment to account of £100 was made in order to discharge part of the debt already incurred, and to leave a balance). The equipment was to be shipped not later than 20 September or the first week in October and Baird's workmen were to be sent to put the installation together. Seaforth wrote to them, 'I will send my Vessel south on purpose for the whole and for the workmen.'<sup>18</sup> Baird's opinion was also sought on the contents of an advertisement presumably seeking a tenant for the Stornoway Distillery, which was to be corrected and amended if anything essential was omitted. Likewise a ground plan of the distillery was forwarded to Baird, but no copy of this exists in the Seaforth Muniments.

Distance seems to have been a major obstacle in carrying out the contract. Hugh Baird was still in doubt about some measurements, and wrote to Lady Seaforth in August, 1827 seeking further accurate dimensions before making the wheels and shafts to connect up the water wheel to the mashing machinery.<sup>19</sup> By October, Baird was awaiting the arrival of

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18. S.R.O. S.M. GD 46/17/73: Letter J.A. Stewart Mackenzie to Messrs. Baird, Port Dundas, July, 1827.

19. S.R.O. S.M. GD 46/17/73: Letter Hugh Baird to Lady Seaforth, Aug. 1827.

the Star or Keith to ship the machinery to Stornoway (it had been ready for some time) and had mechanics standing by to send with it. It appears that the mash tuns had already been despatched, because Baird wrote that Messrs. Mwing of Greenock were to hold a bill of lading for Mackenzie of Seaforth.

Two bolls of oats and oil were also to be sent by the vessel taking the machinery but by mid-November the equipment had not yet been loaded. The Star was under repair at Greenock; four mechanics were waiting to sail and meanwhile Baird's forwarded an account for £330. 16s. 6d. for the equipment supplied earlier in the year.

During this time Seaforth had become involved in a dispute, which is hinted at in a memorandum of March, 1827 and again in December 1827. Letters from Messrs. McLeod of Stornoway relating to the purchase of casks for Stornoway Distillery show that pressure was being put on Seaforth for payment. Indeed the fact that he tried to beat down Baird's estimate for utensils would also indicate that his finances were unsound and in particular that he was short of liquid funds. An account was rendered by Messrs. McLeod enumerating the purchase of '4 Brewing dishes for Seaforth Lodge' (£5. 10s.), 100 Punchions [sic], 50 hogsheads and 274 other casks' of various sizes; the total comes to £391. 10s. 9d. Messrs. McLeod demanded payment, if need be by a bill for £300 at 3 or 4 months payable in Edinburgh, the balance to remain until Seaforth corresponded about differences over prices. They added that 'the want of this bill will subject us to serious expenses and many disadvantages. Your reply before past time with the needful will much oblige.'<sup>20</sup>

Seaforth did answer them in October, 1827 saying that he would have

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20. S.R.O. S.M. G9 46/13/191; Letter Messrs. McLeod, Stornoway, to J.A. Stewart Mackenzie, 1827

been glad to have accommodated them with a payment to account, leaving a final settlement until the price of similar articles at Glasgow could be ascertained, but that he had been 'interpelled' from making any payments to them by an arrestment served by John Mackenzie, senior, a merchant in Stornoway against Messrs. McLeod and James Marr also of Stornoway to the extent of £300. Accordingly, until that business was settled Seaforth stated that he could not with safety pay anything to their account.

Another letter from Messrs. McLeod announced that the casks would stay in their hands, that they deplored the time wasted in corresponding over prices which Seaforth could have confirmed 'long ere now', that they had found 'the undertaking from first a poor one', and that when they absolutely depended on receiving immediate payment, the non-appearance of the settlement had occasioned serious loss and disappointment. There is no reference to the exact nature of the dispute - it is only hinted at in a memorandum of December, 1827 to Mr Patrick Cockburn (Seaforth's legal adviser) when questions were asked about the price of casks in relation to the cost of freight and one deduces from this, and from Seaforth's inquiry about costs of casks in Glasgow, that he strongly objected to the high prices of the McLeods, and the high charges for transporting them to Stornoway.

Regarding Mackenzie of Seaforth's debts, a document gives 'Proposed Arrangements for the Payment of Interest' until sales of the Seaforth Estates be effected, and dates from January, 1829. Under the 4th heading, 'Personal Debts which have no security' are listed.<sup>21</sup> These include the bills of both Armstrong and Baird for distillery utensils at £2,000. The debts include Muirkirk (£165,000) where an iron works was set up. Personal

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21. S.R.O. S.N. GD 46/17/79: Proposed Arrangement ... Payment of Interest: Jan. 1829.



debts amount to £23,000 while the assets are Lewis (valued at £137,000) and Muirkirk (£83,000). Thus Seaforth was certainly short of funds.

In answer to the advertisements seeking tenants for the new distillery came a letter from six gentlemen. It is addressed to Lady Seaforth and is dated September, 1828.<sup>22</sup>

Honourable Madam,

We the subscribers and others who may become partners with us offer to take a lease of the distillery at Stornoway for five years on the following conditions:-

1. The first two years to pay £200 stg. rent per annum, with permission to give up the lease at expiry if we feel we cannot continue the lease.
2. Rent to commence when the premises, utensils and accommodation are complete and fit for operation, according to law and to the satisfaction of the distiller we may employ.
3. Whole work and apparatus to be ready as above specified by the 1st day of January, 1829.
4. To be accommodated with a sufficient [sic] quantity of neat moss contiguous to the road leading from Bayhead to the old Market Hill.
5. To be accommodated with one of the two parks nearest to the distillery Northward, at a rent not exceeding rate of 2gns. per acre p.a. [For 'park' read field; park is a common Scottish expression for an enclosed pasture and is derived from the Gaelic 'paire']<sup>7</sup>.
6. To make a proper and sufficient lead to convey water to the distillery and to keep the dam under repair and that from a source calculated to be a proper supply.
7. The rent to cease in the event of a stop being put to distillation from grain during the period of such a stop.
8. Full meliorations to be allowed according to comprisement for erecting [sic] a byre if found necessary.
9. Not to be held accountable for decay, fair tear and wear, or accidents to your premises and utensils excepting casks, wooden vats & tuns which we engage to return in good order and condition.

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22. S.R.O. S.M. GD 46/17/74: Offer of Lease: Sept. 1828.

10. That no other distillery be allowed to be carried on or sanctioned in the Island of Lewis during our lease.

11. That the road from Bayhead to the Distillery shall be put and kept in good repair as a cart road; part of distillery road to be shut in at both ends & considered an exclusive road.

After reminding Lady Seaforth to intimate her reply 'previous to the sailing of the first packet,' the letter is signed by Lewis MacIver (for Daniel L. Mackenzie), John Mackenzie, W. & A. Morrison, William Dynie and Roderick Nicolson. No details are given of their addresses or occupations, but from the names it seems that they were Lewismen, and possibly merchants in Stornoway, but the papers do not disclose how their offer was received.

Firstly, there is no indication as to whether these gentlemen secured the lease of the distillery or whether any other competing offers of a worthwhile kind were attracted by the advertisement. Only one other letter enquiring about the distillery is extant. It is from William Alexander of Greenock.<sup>23</sup> He writes

'You have at Stornoway a fine Distillery' and goes on to say that he has heard the Laird wishes to engage with a person qualified to manage this work and to conduct 'the Malting and Distilling business there.' Alexander states that he conducts a distillery in Greenock and thinks himself suited to undertake the charge, offering to serve for a small salary, with a certain percentage of the profits to be arrived at by mutual agreement.

Secondly, the clause regarding stoppages due to grain shortages relates to recurring periods of grain scarcity in the eighteenth century and to the restrictions on the use of grain for malting which were introduced during the Napoleonic Wars and which caused distillation to cease

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23. S.R.O. S.M. GD 46/17/79: Letter, William Alexander to Lady Seaforth: Jan. 1829.

in licensed distilleries from time to time. The cessation could be imposed by the Commissioners of Supply for the counties. Restrictions on the use of grain were also found necessary during the First and Second World Wars; for example, no Scotch whisky was distilled between 1942 and 1944, a fact which led to the serious stock imbalance of the post war period.

The offer from the gentlemen shows considerable commercial sense - their insistence on having a monopoly of distilling in Lewis was economically sound. Thus the offer contains a stricture asking that competition from any other distillery that might be built by the proprietor, or with his approval, be prohibited. At a time when many other distilleries were being constructed, and distilling concerns launched, the six entrepreneurs were taking no chances.

'Meliorations' refer to improvements to the distillery for which compensation was to be sought by the tenants. It is worth noting the conditions they lay down with respect to transport to the coast, water supply, and fuel. The parks would probably be required for grazing horses to haul supplies from the coast and possibly for pasturing cattle, which might be fed from the spent grain and other waste.

For the Stornoway distillery, which was unproven, and indifferently endowed with raw materials (e.g. barley and coal), as well as distant from markets, perhaps an unduly high rent was offered. The lairds may have had a strong interest in asking for a high rent from legal distillers, because the landowners would be under some obligation to suppress illicit distilling to give the licence holders free rein. With illicit distillation stamped out, there would be little hope of taking large rents from crofters and farmers, who had depended upon the turning of their grain into whisky to meet their rents in past years. Thus what the proprietors lost on the swings, they could hope to make up on the roundabouts.

In subsequent revisions of the leases of the Stornoway distillery, when applications were made by other prospective occupants, lower sums were quoted and a different type of financial arrangement was envisaged.

The question of settling the debts incurred in the building of the distillery, dominates the later section of the papers; that the financial situation of Mackenzie of Seaforth was very insecure is clear from a copy letter of Mr. Patrick Cockburn, his agent, to Messrs. Baird at their Canal Foundry.<sup>24</sup> He writes 'I regret to find that a Bill drawn by Mr Stewart Mackenzie in your favour on the Agent for the Bank of Scotland at Inverness for £373. 12s. to retire his Bill to you now past due has been refused acceptance.'

Cockburn explained that a bill for £1,500 had been lying at the bank, and had exhausted the credit, so that he is forced to ask for a renewal of the bill past due.

While the financial crisis was in progress, the distillery at Stornoway appears to have gone into operation. There occurs a memorandum regarding the reinstatement of an Exciseman named Ross during 1829, but it refers to complaints 'upon which he was discharged last year' (i.e. 1828) and these did not presumably arise out of employment at the distillery but somewhere else in Mr Mackenzie of Seaforth's constituency or estates. The investigation of the Exciseman's case showed that circumstances had transpired which gave reason to suspect that he had taken up and not duly accounted for some 'Fines and Forfeitures', and that the Commissioners to the Board of Excise awaited the result of an investigation.<sup>25</sup>

While Bairds were pressing for payment, Henry Armstrong had also

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24. S.R.O. S.M. GD 46/17/79: Letter, Patrick Cockburn to Messrs. Baird: Feb. 1829.

25. S.R.O. S.M. GD 46/17/79: Memorandum, Reinstatement of Exciseman, 1829.

been seeking a settlement of his account. Affairs deteriorated to the point where Armstrong was being earnestly requested not to use personal ultimate diligence against Mackenzie of Seaforth until such time as a proposed trust was executed and his financial position clarified.<sup>26</sup> As has been shown, the debt to Armstrong and Baird was classified as a personal one which had no security.

Further proposals regarding the working of Stornoway Distillery are contained in a document of 1829.<sup>27</sup> These outline that the distiller appointed would be expected to commence working on 5 April, 1829 and to continue on trial for three years, at the expiry of which the buildings and utensils must be left in complete repair.

An advance of capital amounting to £3,000 in shares of £1,000 per investor was to be placed in the concern. Mr Mackenzie of Seaforth was to be held as having advanced 'in like manner three other shares of £1,000 each, by his furnishing the buildings and utensils for the work without charging interest thereon.' The ground rent or feu duty for the premises was fixed at £5 per annum. The profits arising from the distillery business were to be divided into six equal shares, of which those persons putting up £3,000 were to have three parts, while Mackenzie of Seaforth as his return for his outlay on buildings and utensils was to have the remainder. The company was to be known as the Stornoway Distillery Company and a half yearly state of account was to be made up and a yearly balance was to be struck at which the profits were to be divided. The next reference to the distillery occurs in October, 1830 in a further memorandum, describing it as the Ness distillery.<sup>28</sup> It is unlikely that

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26. S.R.O. S.M. GD 46/17/74: Proposals for working Stornoway Distillery, Dec. 1829.

27. S.R.O. S.M. GD 46/17/74: *ibid.*

28. S.R.O. S.M. GD 46/13/122: Memorandum, J.A. Stewart Mackenzie and Alex. Stewart, Oct. 1830.

the Ness distillery was any other than the Stornoway distillery at Allt na Broig (Burn of the Shoe). The building occupied the site later taken up by the stables of Stornoway Castle, adjoining the Shoe Burn.<sup>29</sup> An agreement appears to have been reached by the laird and Alexander Stewart on behalf of partners. Mention is made of a lease which was to run from Whitsun 1831 for seven or nine years, and the rent was to be only £42 - a sizeable reduction from the £200 and £300 quoted in the 1828 offer. The improveable land was to be brought into cultivation in terms of an Act of Sett, and a plan was to be laid down for managing it. Doubtless the distillery waste, together with manure from the livestock supported by it, would be a significant factor in the new husbandry.

Further improvements were outlined; for instance additional buildings were to be erected, the roofing timber coming from the Brahan estate. A water course was to be cut and plans submitted for this. The new partnership was to pay interest at 5 per cent on the value of the timber used in the repair of the buildings and on the sum which Donald Morrison was entitled to for improvements effected to the premises during his lease.

Cash and credit to the extent of £300 was to be sought by Alexander Stewart and 'Wm. M.G.' (the other partner) and their application was to be strongly recommended to the Directors of the National Bank, because these men could offer 'respectable securities'. The utensils at the distillery 'as per inventory to the value of £140' were to be installed at joint expense by the partners. The business was to be allocated in the following shares, viz. three-eighths to Alexander Stewart, three-eighths to 'Wm. M.G.' and two-eighths to Seaforth. It further appeared that the partners proposed to seek a tenant to operate the distillery for them, and Stewart undertook to 'write to the Revd. Mr. McTavish of Islay

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29. Information per A.J. MacAskill, Stornoway, May, 1956.

to engage a proper maltster whom he recommends.' The Minister would be expected to act as a referee, Islay being renowned for its whisky production. Perhaps the failure to have properly trained and skilled staff had been contributory to the distillery's lack of success.

Another memorandum about an offer for the lease of the distillery dates from March, 1832.<sup>30</sup> It relates to proposals from a Mr Morrison and its inclusion would suggest that Alexander Stewart and his partners did not keep the distillery going for long.

Seaforth drew up the memorandum of March 1832 while in London and he noted that no objection would be offered to Morrison's propositions provided buildings were left in equally good condition and of equal value ('to be ascertained on or before 1st day of August and a full inventory of all materials, utensils & machinery to be made out and signed'). It is further stipulated, probably in the light of the distillery's chequered career, that should no spirits be distilled over a period of 2 or 3 years the lease was to be discontinued and in these circumstances, the premises were to be used for no other purpose. Once again the casks supplied by Messrs. McLeod of Stornoway are mentioned, because reference is made to casks which 'must be paid for at the price which they cost ... in December, 1827, £165. 9s. 0d. by a bill payable at 12 months after 1st August (to Seaforth) at the Bank at Stornoway.' Meanwhile tenants were to be set to work by the proprietor on the building of a dam above the Lodge offices. Every facility was to be given Morrison for peat cutting, but Seaforth refused to be tied down to allowing him the use of the mosses nearest the distillery. Nor was he anxious to defray the cost of building a jetty for the distillery, adding that if it was 'really deemed advisable [it] must be paid for by Mr. Morrison (repayable in 2 years, if

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30. S.R.O. S.M. GD 46/13/123: Memorandum, J.A. Stewart Mackenzie, March, 1832.

renewal of the lease does not take place)<sup>0</sup>. The original builders, Latta and Loban, were to be called in, the one to value existing wood-work and machinery, and the other to give help where necessary. The park was to be made available for the horses, but no cattle were to be permitted to graze there. The rent was to be fixed by Morrison and Seaforth in consultation.

The distillery does not appear to have fully entered the market until about 1833. In the N.S.A. for Barvas parish in Lewis, which is dated 1833, a distillery is said to be in operation in the neighbouring parish, which would be Stornoway.<sup>31</sup> The quantity of spirits brought into Stornoway from this distillery is stated to be considerable, being 328 gallons in one quarter, to 802 gallons imported. Because of the great demand for the local product only 'very inconsiderable stocks' were reported to be on hand. The yield of duty was put at £735 each year, and the quantity exported was only 300 gallons whereas about 4,520 imperial gallons had to be brought in to supply the 14 licensed houses and four inns in the town.

Further evidence on the operations at the distillery occurs in three letters to and from Thomas Mansfield in 1833-34.<sup>32</sup> Mansfield reports that he has engaged a distiller for 'the Ness Work', whom he highly recommends, 'I think he will be admirably cut out for a large distillery when the lease of the present company is at an end.' Furthermore, this distiller was to give advice about the erection of any further distilleries to be started by Mackenzie of Seaforth. There follows a letter from W. & R. Morrison to Mansfield who was an Edinburgh accountant. They

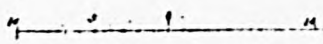
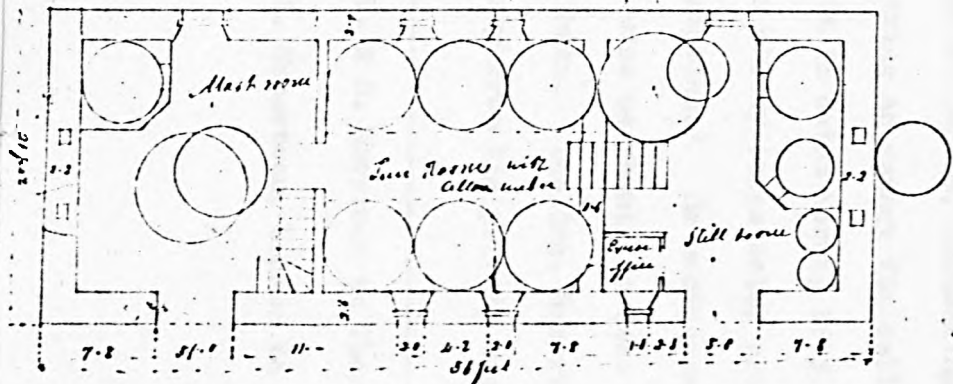
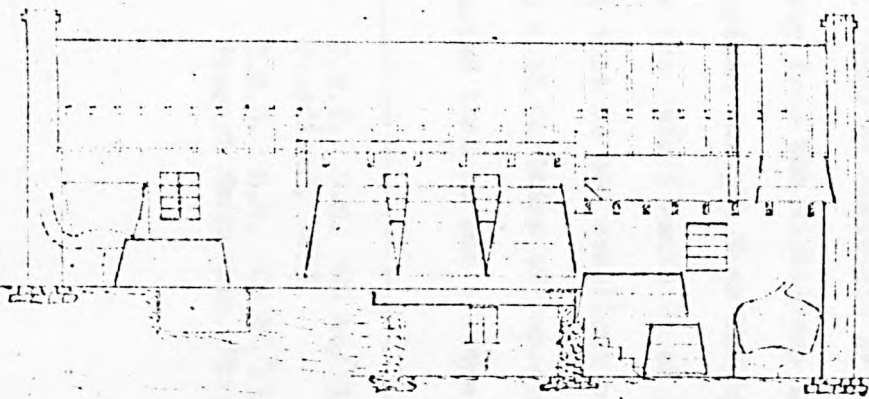
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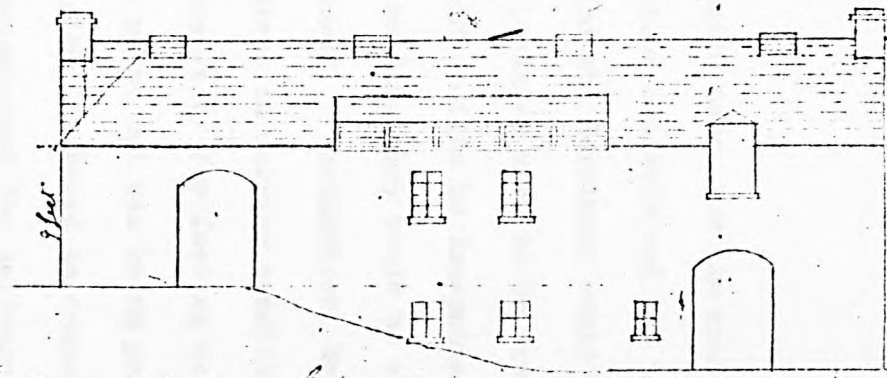
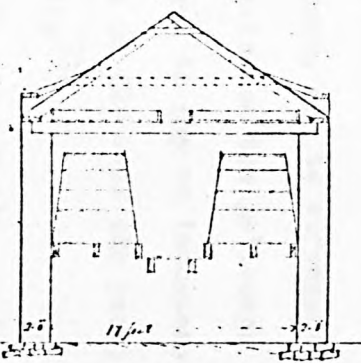
31. N.S.A., Vol. XIV (1833), p. 140.

32. S.R.O. S.M. GD 46/13/124: Letter, Thomas Mansfield to J.A. Stewart Mackenzie, 1833-4.



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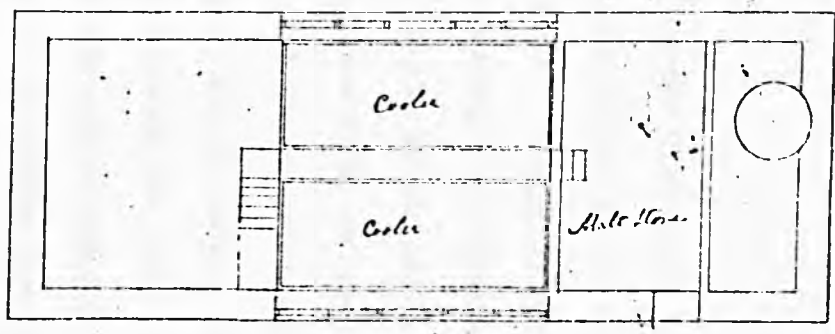




Center of arch 2.3 below roof  
 Roof of main  
 Arch 8 feet above washhouse  
 2.5 feet 11 feet

**Scantlines**

Roosting over tubes 9 in by 2 in  
 Do under do 7 in x 2 in  
 Flooring 1.5 in thick green & tanned  
 Rafters 7 in x 5 in by 2 in thick  
 Batts 6 in by 8 inches  
 Wall plate 7 in by 2 in  
 Sill boarding 2 in thick  
 Rafters over ventilators 6 in by 2 in  
 Ridge battens 2 in rounded  
 Frames of ventilators 2 in by 6  
 Boarding of do 2 in thick, smooth  
 Rafters to be placed 21 inches from center to center



**S.R.O. IMP: 971/3**  
**Plan and elevation for an early 19th century**  
**Argyllshire distillery: possibly a prototype**  
**those in Campbeltown.**

agreed to take over the management of the Stornoway Distillery for 3 years provided Seaforth and his trustees advanced two-thirds of the money needed and the Morrisons would then supply the rest. The profits arising in the business were to be divided in like proportion, on condition that should profits be incapable of giving a reasonable remuneration for trouble and outlay, they would be allowed 'the usual commission on any sales made at home'. Furthermore, Morrisons would expect the proprietor to keep the premises in working condition and would require him to build, 'Byres and shades [sic] for feeding cattle and pigs (to consume the offal)', which they point out was being put to no use under current management. Stock would be purchased to consume waste material. In return Morrisons offered to superintend the delivery and shipment of 'Ness Whiskey' from the bonded warehouse, and to correspond with the purchasers, subject to the usual commission on the gallonage sold in the home market. Finally, they were prepared to pay an insurance premium on the distillery and utensils to the extent of £20 - if the profits could stand it, and if Mansfield insisted upon it.<sup>33</sup>

The last letter is from an A. Robertson of London, requesting the assistance of Mackenzie of Seaforth in obtaining an agency for selling whisky from the distillery in Stornoway. It is dated March, 1835.<sup>34</sup> Robertson thought Ness Whisky would 'command a very large sale, presuming that the spirit would be of first rate description.' He emphasised the fact that he had excellent connections with wine merchants 'in Town (and) also with Captains of vessels trading with India.' Besides, Robertson stressed that he had a large demand for whisky from his private connection,

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33. S.R.O. S.M. GD 46/13/124: Letter, W. & R. Morrison to Thomas Mansfield, 1833.

34. S.R.O. S.M. GD 46/13/125: Letter, A. Robertson, London to J.A. Stewart Mackenzie, March, 1835.

which 'only required to be pushed to become very extensive.' He estimated that he could dispose of 1,000 to 2,000 gallons of whisky in the first year and would be happy to accept the same terms as other agents of the distillery; if 'zeal, activity and perseverance are in anyway conducive to the prosperity of a rising Establishment" then the London agency should be his.

This application indicates a number of interesting trends in the emergent commercial Scotch Whisky industry. It is generally supposed that there was little or no demand for Scottish malt whisky in the London market, in England, or even abroad until the late nineteenth century. Much Irish whiskey was consumed in the English market. Robertson's statements, even if highly coloured in order to impress Seaforth, would suggest that there was a substantial demand for Scotch whisky, possibly coming from Scots in London, in the forces in India and in shipping. His confidence in being able to dispose of sizeable gallonages is useful evidence in this respect.

No precise information has come to hand regarding the date when the Stornoway distillery ceased production. No further references to it occur in the Seaforth Muniments. The Seaforth Estate in Lewis was taken over by Sir James Matheson in 1844. It is believed that the distillery may have ceased operations about 1840, while in Mackenzie of Seaforth's control, or else Sir James may have closed it. The reason may well have been the Temperance Movement, which was in full force in the latter half of last century. Sir James was a complete abstainer and prohibitionist.

As in the case of John Fraser's distillery at Taynabinch of Ferintosh, the viability of the Stornoway enterprise does not seem to have depended on the general prosperity (or lack of it) in distilling, but rather upon Seaforth's financial position and the interplay of his other business interests. The distillery appears to have had a gestation

period of about ten years and it is probable that distance from markets as well as transport problems on the island (witness the insistence upon better roads, and jetties in the offers of tenancy) added to its difficulties. It is even doubtful if it made much use of local grain. Obtaining a pure water supply for mashing may have been problematical, as Lewis water tends to be excessively peaty.

The name of the distiller latterly in charge was MacNee. There was a Gaelic saying current in Lewis 'Tomhais Mhicnee' (MacNee's measure) as a compliment to the liberal drams he gave when dispensing the product of the Stornoway distillery.<sup>35</sup>

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35. Information per A.J. MacAskill, Stornoway, May, 1956.

NOTE: During a visit to Scotland in 1849, Robert Southey sampled some of the whisky from Lewis. He was entertained by 'Stewart Mackenzie, who by marrying Sir Samuel Hood's widow, the daughter and heiress of the last Lord Seaforth, had become the head of the Mackenzies.' His companion, Thomas Telford, the civil engineer, made fun of Southey's partiality for whisky, and 'this ended in Lady M's producing two bottles of the very best made in Lewis at the birth of her son (now 16 months old) to be drunk when this young hope of the Mackenzies shall come of age.' The whisky was probably the product of the Stornoway distillery.

See Southey R, Journal of a Tour in Scotland in 1819, pp. 165-6.

Campbell of Jura  
The Isle of Jura Distillery

The Campbells of Jura were lairds of part of the isle of Jura, and they were accustomed to keep herds of Jura cattle, which formed the island's main source of wealth. Over the years, they did their utmost to develop such natural resources as the island possessed. Budge stresses that they encouraged the production of barley on the island and arranged the collection and supply of it to the Islay distilleries.<sup>1</sup> This factor would help to support grain prices, and according to Dr. Jeffrey, on Jura grain was sometimes imported from Knapdale, which the people then distilled, and they exported the whisky to Loch Crinan and Loch Gail. The Jura people were quite undeterred by the one Excise Officer on the island, 'he may scare them, but he dare do nothing more.'<sup>2</sup>

The first mention of the existence of a commercial distillery on Jura occurs in the papers of the Campbell family in 1852. A letter enquiring about the possibility of taking a lease of the concern came from an interested entrepreneur, Norman Buchanan of Brury Street, Glasgow, who is also cited in the papers as 'a distiller of Whiskybank, Govan.' He offered an annual rent of £20 for the distillery, and the officer's house, and showed himself willing to negotiate an insurance policy of £500 upon which Campbell of Jura insisted as a condition of a 19 years' lease.<sup>3</sup> Buchanan sought a break in the lease at the expiry of five years, should the quality of the spirit not enable him to work the distillery without

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1. Budge, Donald, Jura (1960), p. 120.

2. P.P., (1799) Report from the Committee upon the Distilleries in Scotland, p. 752.

3. S.R.O., Campbell of Jura, GD 64/1/122: Letter, Norman Buchanan to G.D. Campbell of Jura, July, 1852.

loss. This escape clause is of interest, because instances of distilleries foundering because of a poor quality product have rarely been encountered, although they have been known to close down due to inadequate water supply. The reasons for an inability to be viable have been financial, often originating outside the whisky trade altogether; one feels 'quality' was but a scapegoat, should economic circumstances prove unfavourable and Buchanan wish to abandon the enterprise.

Dudge believes that the distillery was erected about 1850, and that it was operated by several persons, and between times, by the Cauphells of Jura themselves. Before 1854, Dugald MacVean managed it for the proprietor, and the distillery was also rented to Patrick Fletcher, of the family of Fletcher of Tarbert, Argyll. In 1874, the sole distiller in Jura is named as Archibald Fletcher.<sup>4</sup>

To return to Buchanan's proposals, before negotiations were concluded an inventory had to be made of the contents of the establishment. The utensils were to be fit for full use, on condition that the tenant left them in the same state. That the utensils were by no means satisfactory is indicated by the fact that Campbell of Jura was asked to advance up to £100 to put the place in working order, while should Buchanan desire further improvements 'meliorations to the extent of £100' would be made at the expiry of the lease, and this would be the limit of the proprietor's compensation. The distiller would be given 'free and uncontrolled use' of as much water as would be sufficient to wash, or to work the stills, provided plenty was left to work the island's mill. Meantime, the lessee was to repair the sluices and the water course, and thereafter, Campbell and the miller would be prepared to pay half the costs of maintenance.<sup>5</sup>

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4. P.P., Seventh Report: Commissioners of Inquiry into the Excise (1874), Appendix 67, p. 229 et. seq.
  5. S.P.O., C. of J.: GD 64/1/122, op. cit.

Campbell's reply shows that he was not impressed by Duchanan's offer and conditions. In December 1851, the laird had received a report on his distillery from his factor on Jura, Neil MacLeod. Some of the laird's objections make amusing reading in the light of MacLeod's report. The latter held out little prospect of the distillery entering production, adding that it would be 'very difficult to say what a person could make of the utensils if turned out and sold as old copper.' He reckoned that the copper goods would only fetch £263; the tuns and receivers might be converted to some other purpose, but the steam boiler and mashing apparatus might bring next to nothing, unless bought by a distiller. MacLeod believed that it might be reasonably advantageous for such a person to give £400 for the whole, but if the equipment was sold for scrap only £300 would be raised.<sup>6</sup>

An interesting observation is also made on the subject of the quality of 'Jura Whisky'. MacLeod writes 'On leaving the Small Isles, Orr gave me a sample of his best aged whisky which I have seen compared at Port Askaig (Islay) with Caol Ila by the manager, Mr. Bain.'

Mr Bain was reputed to have been the manager of the Jura distillery at one time, and was alleged by MacLeod to make the best whisky, but the distiller would not be drawn into expressing himself as to whether the Jura product could be improved or not, 'he merely said old or new, it maintained its former taste.' MacLeod thereby concluded that the whisky was as good if not rather better than Caol Ila; indeed demand had been so brisk that there were only 1,200 gallons of whisky on Jura, and no Jura whisky could be obtained on Islay at any price.

Was it on the strength of MacLeod's assessment of the situation

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6. S.R.O. C. of J: GD 64/1/122: Letter, Neil MacLeod, factor, to R.D. Campbell of Jura, Dec. 1851.



that Campbell of Jura decided to seek a new tenant for his distillery, in spite of the worn condition of the utensils? The main hope of gain seems to have depended upon inducing someone to take up the tenancy, keeping the premises as a distillery, otherwise the furnishings would only have scrap value. Accordingly, negotiations seem to have been opened with Buchanan.

Initially, the laird claimed that the rent suggested was too low, and that the manner in which the distiller intended to take possession of the utensils 'objectionable.' Campbell added, 'Unless the work is worth to you all I ask, you are better without it.'<sup>7</sup> New terms were then proposed, namely a lease for five years of the distillery and the Excise Officer's house at £100 per annum, or if payment of poor rates were made, for £60. The premium on the insurance policy for £500 on behalf of the proprietor was to be paid, and the utensils taken over at valuation. Furthermore, the difference in value therein was to be assessed at the conclusion of the lease, before any compensation was paid. The laird believed that £80 advanced for immediate repairs would be 'amply sufficient' for renewing essentials, such as the woodwork of the water wheel, and repairing the dams and water courses, always provided he was given evidence that money had in fact been expended for the purpose. Meantime, the tenant had to bind himself to paint the external woodwork every 3 years, and to tar the water wheel, as well as all felt or canvas roofs every year. To avoid disputes about water, the corn mill on the island was to be supplied with water 2 days in the week, 'the days to be named by the distiller.'

With regard to a lease of 19 years, the laird was only prepared to offer a 5 year lease in the first instance, with a possible continuation

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7. S.R.O. C. of J. GD 64/1/122: copy letter, R.D. Campbell of Jura to Norman Buchanan, Glasgow.

for an additional 14 years after a probationary phase. The rent was then to become £120 each year. Compensation for improvement was then discussed, Campbell being agreeable to repay the cost of any buildings erected during Buchanan's tenancy, on condition that they had been put up with the laird's sanction and consent. The maximum amount was fixed at £100, if the structures were 'of that value at the end of the lease'.

Little encouragement was given to Buchanan regarding the upkeep of water courses; the miller was not to be asked for his assistance, because he already maintained certain channels. Further assurance was given about the water supply which was firmly stated to be abundant even in the driest seasons. Reference is also made to the spent grain, or draff; the factor had been consulted and estimated that the Jura farmers would purchase the waste products for at least six months in the year, provided it was disposed of at the same rates as applied in the neighbouring island of Islay. The laird bound himself to give as much peat as was needed for the distillery from the island's peat banks.<sup>8</sup>

There follows an inventory and valuation of the copper and brass utensils at the distillery, made in August, 1852. The valuation seems to have been carried out by the firm of James Wylie & Co., of 9 Ann Street, Port Dundas, and it amounts to £402. 17s. 0d. The most substantial items are a wash still with head and worms, put at £129. 7s. 0d., and a low wines still, with its fixtures, estimated to be worth £100. 4s. 0d.

Among the other valuable goods are an iron steam boiler, with accessories, quoted at £25, a mash tun and water heater at £15. 2s. 0d. and £18 respectively. It is clear that the mash tun was supplied with steam from the boiler, so that the grist could be rinsed in a succession of warm

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8. S.R.O. C. of J. GD 64/1/23: Inventory of Equipment at the Jura Distillery: 1852.

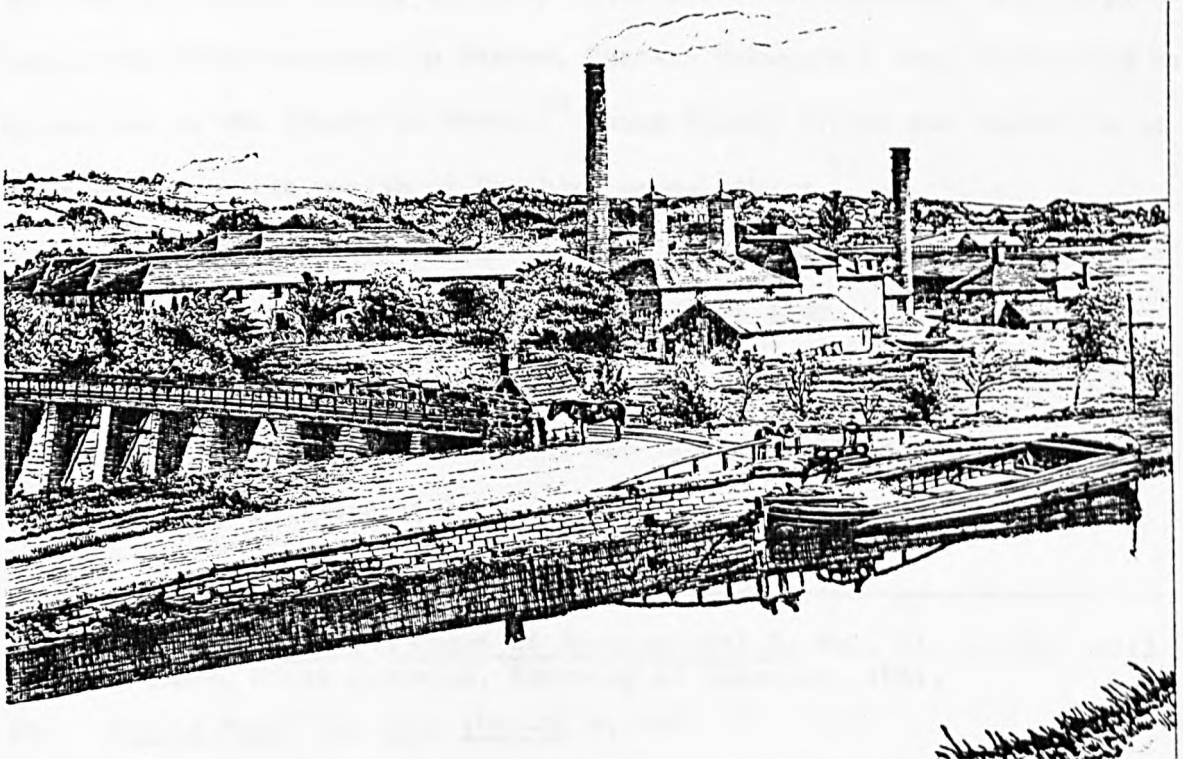
waters to give the sugary solution, worts. The inventory is principally composed of estimates for piping, cocks, crown locks, and other installations of that kind. The full document is as follows:-

	£	s	d.
Wash still, with head, worm etc.	129	7	0
Low wine still, with head, worm etc.	100	4	0
Furnace frames etc. fire irons for stills	10	0	0
Pipes from safe to receivers	6	5	0
Pipes & cocks .. with receivers to spirit cellar	3	13	0
Copper fillers & pipes of safe		7	0
Spentwash pipe	2	0	0
Measures	4	16	0
Spirit pump & Sampler jugs	2	5	0
Tun room pipes & Cocks	21	10	0
Wash tun	15	2	0
Waterheater	18	0	0
Pipes, cocks, flanges for above	19	8	0
Waterpipe, flanges, cocks	3	3	0
Cooling pipes	15	0	0
Steam pipe from boiler to waterheater	4	18	0
3 x 1" cocks & pipe for dampening fires	1	10	0
Pipe for discharging work tub	1	0	0
62 yds. 1" lead pipe	4	15	0
16 " 1" " do.	1	0	0
23 Excise Locks & fastenings	13	16	0
Iron steam boiler & Mountings etc. frame, fire irons etc.	25	0	0
	<u>£ 402</u>	<u>17</u>	<u>0d.</u>

A further inventory prepared at the same time, includes additional equipment, and amounts to £200. 19s. 6d. It gives quotations for the worm tub (£16.10s.), the four wash backs in the tun room (£18), and the mash tun (at no less than £50.15s., with its underback at £10.10s.). This second estimate was prepared by a Hugh Stirrat, Junior, who charged 10 guineas for his services. Both valuations seem to have been prepared



Jura distillery, c. 1886. James Ferguson & Sons. Erected by the laird, Campbell of Jura, and tenanted by several entrepreneurs, it was dismantled c. 1910-20, and has been reconstructed.



Dankier distillery, Denny, c. 1886. James Risk. Amory's distillery was located in this area. Note the tramway leading from the canal. The premises are now maltings owned by D.C.L. (From Barnard).

at Buchanan's request, but the inventories do not show whether Campbell of Jura had been dissatisfied with Wylie's estimate, and wished another, or whether the two estimates were sought in the first instance to give a standard of comparison in the negotiations. The mash tun is quoted at only £15. 2s. 0d. in Wylie's valuation, but Stirrat rated it at over £50; it is most unlikely that a distillery on the small scale of that of Jura would have more than one mash tun.

The capital cost of such an establishment seems relatively low, according to these valuations - even allowing for the fact that the equipment was not in mint condition. This may explain the ease of entry into the distilling industry in Scotland as far as pot still distillation was concerned. Difficulties arose when there was a lack of circulating capital, and many small scale distillers went to the wall whenever trade was poorly. The years 1841-42 were marked by several distillery failures, as the Minute Book of the Court of Session shows; it records acts sequestrating the estates of Andrew Philip, formerly distiller at Kirkliston,<sup>9</sup> and later brewer and corn merchant in Dundee, Charles McLaggan & Son, distillers at Kilmorick in the County of Perth,<sup>10</sup> James Black, farmer and distiller at Barrelwell, in the parish of Brechin, among others.<sup>11</sup>

A volley of letters about the rent and lease of Jura distillery continued to be exchanged during the summer of 1852. Buchanan revised his offer, suggesting an annual rent of £90 per annum for the first five years for the use of the works, and the Excise man's house. Only if the lease were firmly fixed at 19 years in the first instance, would he be

9. Minute Book of the Court of Session 1841-2, Vol. 61, p. 38; Bill Chamber, First Division, Thursday 18 November, 1841.
10. Minute Book, op. cit. 1841-2, p. 582.
11. Minute Book, op. cit. 1841-2, p. 320.

prepared to raise his offer to £110. These amendments did not suit the laird. After further argument, the rent appears to have been fixed at £70 per annum for 12 years, with a break in Buchanan's favour after 5 years, or six months notice being given. Should the distiller then require an extension to the lease for seven years the rent was to be £80 yearly. Buchanan wished to take possession of the premises at Martins in 1852; although he was agreeable to paying something for the utensils, he felt in no way obliged to insure them. Negotiations were concluded, when Campbell of Jura accepted Buchanan's latest offer of rent, on the understanding that the conditions of maintenance of the premises would be observed, and that 'a small room' was kept 'for the yacht things'.<sup>12</sup> Evidence for this agreement is found in a receipt dated April, 1853, which relates to the Tack of Jura Distillery and records that 'a Duplicate Contract of Tack between R.D. Campbell, Esq., of Jura, & Mr. Norman Buchanan, Distiller', had been made, but it gives no details of the precise nature of the treaty.<sup>13</sup>

With the Contract of Tack, there is included a further inventory of fixtures which were not part of the utensils or other articles sold to Buchanan. It lists a cistern for steeping grain, a water wheel with wooden rones, a wort pump, with the machinery connecting it to the water wheel, a mash tun, with a lying shaft, beams supporting two wooden tanks, and supports and bearers for tuns. The malt mill and cast iron coolers above the tun room are also specified. The document bears the signature of the factor, Neil MacLeod, on behalf of Campbell of Jura, and of John Bayne, Manager, on behalf of Norman Buchanan. It is intriguing to speculate whether this is

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12. S.R.O. C. of J. GD 64/1/23: Letter, R.D. Campbell of Jura to Norman Buchanan, July, 1852.

13. S.R.O. C. of J. GD 64/1/124, Aug. 1852.

the same 'Mr. Bain' who had been asked to pronounce on the merits of Jura whisky. Budge mentions that a 'Mr. Bayne' paid rent for the distillery on the island in 1854.<sup>14</sup>

The Jura Distillery had clearly been a marginal one in economic terms. During the 1850s, increasing numbers of Patent Stills were being supplied for use in Scotland, but the pot still distillers were also prospering in the improving commercial climate post 1840. Already Glasgow merchants were assuming an important role in the marketing of Scotch whisky. To-day, the city is the outstanding centre in the Scotch Whisky industry in respect of blending, bottling and exporting the product. Buchanan was only one of many entrepreneurs who were anxious to secure sound sources of supply of new whisky.

At the same time as wine and spirit merchants like the Nutters were investing in Bowmore distillery, Islay, distillers like the Smiths of Glenlivet were ensuring adequate grain supplies for their plant by purchasing or leasing land. - George Smith is said to have 'resolved to acquire more land, and thus provide a reliable nucleus supply of barley on the quality of which he could depend', and accordingly he both owned and rented several farms in Glenlivet.<sup>15</sup> Thus vertical integration, both in a forwards and a backwards direction, was a common feature of the distilling industry in the mid-nineteenth century.

A new Tack appears to have been drawn up in 1855, taking account of Buchanan's wish to have a 10 years' lease of the premises. It notes that the parties consent to the registration of the agreement in the Books of Council and Session to ensure its preservation. No further mention of the distillery thereafter occurs until 1876, and one concludes that Buchanan's

14. Budge, *op. cit.*, p. 120.

15. Glenlivet. The Annals of the Glenlivet Distillery (Glenlivet), 1904, p. 120.

firm remained tenants for the duration of the lease relinquishing control in the early 1870s.

That there was then a change of occupancy is clear from the copy of a new Contract of Tack between R.D. Campbell of Jura, and George and James Ferguson, of Glasgow, dated December 1876. The Fergusons were to have entry at Whitsun of that year, and their 21 years' lease was to run until Whitsun 1897. The Tack states that the name 'James Campbell' of Jura was to be substituted for that of 'R.D. Campbell' in the document. The Fergusons are described as being wine and spirit merchants of 7 and 9 Cadogan Street, Glasgow.

The document sets out that 'assignments' in favour of the Fergusons had been granted by John W. Orr, and Daniel Orr, Commission Agents in Glasgow, and also by the late John Kerr Orr, distiller and Commission Agent. The Orrs had Campbeltown connections, and probably derived their distilling interests from that area.

The second Tack shows that the new tenants were to have unrestricted rights 'to carry spirits, coal, grain, etc., ... to or from the sea by cart way, already formed or to be formed', and an abundant supply of water for processing from the Craighouse Burn on the island, always provided that they left sufficient water to allow the corn mill to function on 2 days every week.<sup>16</sup> For these rights and the use of the distillery itself, the rent was fixed at £70 -- an amount which may indicate a decline in the profitability of distilling, or the deterioration in the premises during the previous tenant's lease. Not only the buildings at Craighouse, but also the dams and reservoirs were included in the Tack, the rent being payable twice yearly.

Regarding fire insurance, more stringent regulations were laid down

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16. S.R.O., C. of J., G.D. 64/1/126, Contract of Tack, Dec. 1876.



compared with the period of Buchanan's occupancy. The policy had to cover 'the distillery, malt barns, dwelling houses, Excise Officer's house, pier shed and appurtenances' to the extent of at least £3,000. Besides this increase in insurance, the distillers were to be obliged to pay their proportion of the poors' rates as all tenants were expected to do. Greater emphasis was also placed in the new lease upon maintenance -- all external wood surfaces were to be painted 'once every 3 years with two coats of the best oil paint', while the water wheel and canvas roofs were to be coated 'with the best Archangel Tar or pitch'. The Fergusons, like their predecessors, had to agree to supply and deliver waste products to Campbell of Jura throughout the currency of the lease; draff from the distillery was to be given to Campbell's farms at 3s. per bushel, and pot ale or dregs (for use as manure) 'without charge', whenever the distillery was in production. Otherwise, the distillers were to be free to dispose of the by-products as best they could. The impression is given thereby that the lairds of Jura, or their advisers, were learning how to turn their distillery into a more lucrative activity, and that they were becoming more stringent in their demands on tenants to avoid the destruction or depreciation of their capital, which might occur during the use of the premises by careless persons.

Of course, distilling had long been a significant source of income to the landed proprietors, especially in the Highlands and Islands of Scotland. The divided loyalties of the lairds during the phase when illicit distilling was at its height between 1700 and 1830 makes this clear. They found it impossible to reconcile their own interest in securing rents, and a market for their grain, with their duties as Sheriffs, Justices of the Peace, and upholders of law and order. Likewise, post 1850, a period of great agricultural improvement and new construction in the Highlands, income from distilleries would be welcomed.

During the tenancy of Buchanan, the Jura distillery had been a small affair to judge by the inventory of 1852, and by the account of Budge, but the little premises were substantially enlarged and improved by the Fergusons. By 1879, the new tenants were seeking a lease from Campbell of Jura of a small croft, extending to some 4 acres, adjacent to the distillery, for a rent of £6 per annum. Their business appears to have flourished, because in 1883, they were enquiring about an additional 21 years' lease of the distillery.<sup>17</sup> The laird's terms show that he was prepared to consider the proposition, but only if the rent was raised to £90 each year. All the other conditions of tenancy were to remain as they had been, although Campbell took the opportunity of introducing some new requirements.

For example, a pier was to be erected by the Fergusons. In the contract of lease between the laird and the distillers, the latter 'bind themselves and oblige themselves at their own cost and expense to erect and completely finish a good substantial pier, with a depth of not less than ten feet of water at the pier head at low water', and also 'to erect a waiting room and store on the pier with road access and bridge, and all to be sufficiently wide to allow two loaded carts to pass at any point'. The Fergusons were to be permitted to construct the pier 'at such a place and of such materials as may be found most suitable', and they were to make a road to the pier, maintaining it throughout the currency of their lease. Campbell insisted that he should have the final say in the plans for the development, stressing the need for a shed to give shelter to passengers waiting on the steamer, and for the reception of goods, 'liable to damage by bad weather'.<sup>18</sup>

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17. S.R.O., C. of J., G.D. 64/1/129: Petition by James Campbell of Jura ... for authority to grant a lease of Jura Distillery to Messrs. George and James Ferguson.
18. S.R.O., C. of J., G.D. 64/1/129: ibid.

As partial compensation for their investment, Campbell conferred on the Fergusons the right of charging dues, and he bound himself to take the pier over at any time 'at valuation'; should the pier be removed from the distillers' control, Campbell pledged himself to allow them full use of it in return for a rent of £30 a year. That there was some urgency in the need for a pier, and for better transport in general, is clear from the concluding statement in the agreement, namely that Campbell of Jura would cancel the lease unless the pier was completed within two years.

As in the instance of the Stornoway distillery, the necessity for improved communications in remote or island situations was pressing. The Fergusons must have set about the building of the new pier almost immediately, because a legal document of 1885 refers to a piece of ground on the foreshore of Jura where 'there is at present in course of erection the Pier, and other works mentioned in the above said lease', i.e. the Tack of 1883.<sup>19</sup> Budge writes that without the Ferguson's pier, Jura might still be compelled to endure the inconvenience and discomfort which is even yet being suffered in some western islands which lack a pier to this day. The old wooden structure was replaced by a modern concrete one in 1952.<sup>20</sup>

The 1885 petition by James Campbell also states that a yearly rent or tack duty of £135. 5s. was to be paid at Martinmas and Whitsun, in equal portions. At the same time, power was sought by Campbell of Jura, under the Entail Acts of 1868 and 1882, to extend the lease, if it should be desired, for 34 years from 1884.

It is clear that a revision of the 1876 lease occurred in 1884-5, and the new terms specifically laid down that the lease was to cease in

19. S.R.O., C. of J., GD. 64/1/129: 1885, op. cit.

20. Budge, op. cit., p. 152.

1897, if the pier, shed, road and bridges were not kept in repair by the distillers. In return, the Fergusons were to be allowed to cut and carry peats, and to take water from the Craighouse Burn. In the event of their failure to pay rent when it fell due, as a penalty, an extra tack duty of 5 per cent was to be demanded. The insurance policy was to be raised to £3,540, the distillers being obliged to arrange the insurance, while the laird bound himself to repay 5 per cent of the premiums to the Fergusons. This change may be a reflection upon the alteration of the premises, and of the increasing scale of production.

Furthermore, as in previous agreements, the tenants were to pay their portion of the poor and school rates, as well as other public and parish burdens, which were not specified. Druff was to be made available to the estate on the same terms as set out in 1883. With regard to the pier, the laird reserved the right of charging dues on vessels to the Fergusons. There must have been some dispute over the extent of the charges, because 'David MacBrayne, or David Hope MacBrayne', was to be invited to arbitrate about the appropriate rates to be employed. David MacBrayne was the nephew and successor of David Hutcheson & Co. (1851-79), the West Highland steamer owners, and it was said

The Lord made the Earth, and all that it contains,  
Except the West Highland piers, and they're MacBraynes.

Barnard included the Jura distillery in his itinerary, and landed at the 'handsome pier' built by the Fergusons.<sup>21</sup> He explored the lochs which fed the burn beside the distillery, and described the premises as looking more like a castle than distillery, because it was the highest building on the island. The works covered 3 acres of ground, and it is

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21. Barnard, A., The Whisky Distilleries of the United Kingdom (London), 1887, pp. 115-7.

recorded that the Fergusons, when they took possession set about restoring the buildings, and added new buildings, machinery, and appliances 'of the most modern description at a cost of over £25,000' to make the distillery one of the most easily worked in the West Highlands; it had, however, no steam engine, all the processing being done by water power. There were two maltings, a malt kiln, a mill, mash tun, tun room, and still house, with three pot stills -- one was a wash still to hold 6,650 gallons, the other two, spirit stills, with a capacity of 2,350 and 1,200 gallons respectively. Storage space, in four warehouses, could hold 5,500 casks. A boiler house was next to the still house. Barnard noted that the turbine water wheel was erected by Messrs Smith & Co of Glasgow, and although of simple construction had 'wonderful power' and was capable of 'flooding the whole place in ten minutes.'

Like many other Highland distilleries, it is claimed in Barnard's account that Jura distillery had illicit beginnings. The date of founding is given as 1810, and reference is made to an excavation in the burn called the smuggler's hole, which had been filled up, and 'It is the very place where the smuggling founder of the Distillery, a century ago, for many years carried on his operations without discovery; and the tiny stream, tapped from the burn which ran through the centre of the cave, had to be stopped up by the present owners, when the hole was filled up.'

The Fergusons also had a cooperage, and the houses for their employees formed a street in the village of Craighouse, each having a plot of land. There was a farm attached to the distillery of twenty acres extent, to provide pasture for cart horses and some cattle.

The annual output in 1884-5 is given as 60,339 gallons, rising in 1885 to 65,000 gallons, but the productive capacity of the distillery is put at 180,000 gallons, which may be an exaggeration.

Other distilleries (e.g. Glen Grant, and Glen Rothes) are also

cited by Barnard as having productive capacity well in excess of their 1885-6 output, which may indicate a slackening in trade in those years but on the other hand, some premises were being remodelled and enlarged (e.g. Benachie) while others were being built (e.g. Glenfiddich).

Nettleton's list of distillers in Scotland shows that the Fergusons were still operating the Jura distillery about 1893, but two authorities are in dispute about the subsequent history of the distillery.<sup>22</sup> Budge maintains that the Fergusons' lease continued for 34 years from 1884, until it expired in 1918. Although production thereafter went on for a year or two, the lease was not renewed. The years which preceded and followed the First World War found the whisky trade endeavouring to recover from the speculative boom of the nineties. Pre-1914 there was a superfluity of stocks relative to demand, and later world-wide depression in trade. The making of whisky on Jura thus ceased altogether. Budge says that the great buildings were unroofed to avoid taxation, and the machinery and fittings sold for scrap.

In contrast, the present operators of the distillery, the Isle of Jura Distillery Company, state that the old concern went out of production in 1901. They believe that the lease between the Campbells and James Ferguson & Sons ran out in 1899, and as agreement between the two parties could not be reached, the Fergusons removed their machinery leaving an empty building. In order to avoid paying rates, the Campbells then demolished the roofs. If production was stopped about 1901, it may have been as a direct result of the bursting of the whisky bubble, which made prices collapse, and put many distillers, wine and spirit merchants, and publicans in financial difficulties.

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22. Nettleton, J.A., The Manufacture of Spirit, (1893), p. 412



for consumption both at home and for export overseas. The Jura distillery illustrates these phases in the economic history of Scotch whisky from 1852 to the present day. The distillery, being a marginal one, seems to have been vulnerable to the effects of slump in the industry, with a period of over 40 years of non-activity, and has only become viable once more due to the unprecedented levels of activity in Scotch whisky since 1950, and to the availability of grants for industrial development in remote areas in Scotland.